

Code  
of the  
Village of Port Dickinson

COUNTY OF BROOME  
STATE OF NEW YORK

As of September 14, 2021

## **PREFACE**

The Village of Port Dickinson has, like many other municipalities, passed through the struggles characteristic of American communities in their early history. While only a few simple laws were necessary at the time of the incorporation of the village in 1876, subsequent growth of the community, together with the complexity of modern life, has created the need for more and detailed legislation for the proper function and government of the village. The recording of local legislation is an aspect of municipal history and, as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Ordinances and local laws must be more than mere chronological enactments reposing in the pages of old records. They must be available and logically arranged for convenient use, and must be kept up-to-date. It was with thoughts such as these in mind that the Board of Trustees ordered the following codification of ordinances and local laws.

## **Contents of Code**

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Board of Trustees of the Village of Port Dickinson. In accordance with recognized codification procedures used in the State of New York, any revisions or amendments made in existing legislation in the course of codification were enacted by separate legislation prior to the enactment of the local law adopting the Code.

## **Reserve Chapters**

Space has been provided for the convenient insertion, alphabetically, of later enactments. In the Table of Contents such space appears as chapters titled “(Reserved).” In the body of the Code, reserved space is provided by breaks in the page-numbering sequence between chapters.

## **Division of Code**

The Code is divided into two parts. Part I, Administrative Legislation, contains all ordinances and local laws of an administrative nature, namely, those dealing with the administration of government, those establishing or regulating municipal departments, and those affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other ordinances and local laws of a regulatory nature. Ordinances and local laws in this part generally impose penalties for violation of their provisions whereas those in Part I do not.

## **Grouping of Ordinances and Local Laws and Arrangement of Chapters**

Legislation is organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more ordinances or local laws dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation dealing with taxation may be found in Part II, in the chapter entitled “Taxation.” In such chapters, use of part or Article designations has preserved the identity of individual legislation.

### **Table of Contents**

The Table of Contents details the arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more ordinances or local laws have been combined by the editors into a single chapter, titles of the several parts or Articles are listed beneath the chapter title in order to facilitate location of the individual ordinances or local laws.

### **Pagination**

A unique page-numbering system has been used, in which each chapter forms an autonomous unit. One hundred pages have been allotted to each chapter, and the first page of each is the number of that chapter followed by the numerals “01.” Thus, Chapter 22 begins on page 2201, Chapter 49 on page 4901, etc. By use of this system, it is possible to add or to change pages in any chapter without affecting the sequence of subsequent pages in other chapters, and to insert new chapters without affecting the existing organization.

### **Numbering of Sections**

A chapter-related section numbering system is employed in which each section of every ordinance and local law is assigned a number which indicates both the number of the chapter in which the ordinance or local law is located and the location of the section within that chapter. Thus, the first section of Chapter 5 is § 5-1, while the sixth section of Chapter 60 is § 60-6.

## **Scheme**

The Scheme is the list of section titles which precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the Scheme titles are repeated as section headings in the text.

## **General References**

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters.

## **Index**

The Index is a guide to information. Since it is likely that this Code will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index should be supplemented and revised from time to time as new legislation is added to the Code.

## **Appendix**

Certain forms of local legislation do not fall into the categories as established for Parts I and II of the Code, but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this Code is reserved for such legislation and for any other material that the community may wish to include.

## **Supplementation**

Supplementation of the Code will follow the adoption of new legislation. New ordinances and local laws and amendments to existing ordinances and local laws will be included and repeals will be indicated as soon as possible after passage.

## **Acknowledgment**

This Code is the product of much work on the part of the Mayor, Board of Trustees and other village officials. In particular, the assistance of the Village Attorney, John M. Thomas, Esq., is gratefully acknowledged.

The codification of the ordinances, resolutions and local laws of the Village of Port Dickinson reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity, and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code Publishers Corp. that this Code will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, “The law is the last result of human wisdom acting upon human experience for the benefit of the public.”

# **CERTIFICATION**

## **VILLAGE OF PORT DICKINSON**

### **Office of the Village Clerk**

I, **WALTER J. WELCH**, Village Clerk of the Village of Port Dickinson hereby certify that the chapters contained in this volume are based upon the original ordinances, resolutions and local laws of the Board of Trustees of the Village of Port Dickinson and that said ordinances, resolutions and local laws, as revised and codified, renumbered as to sections and rearranged into chapters, constitute the Code of the Village of Port Dickinson, County of Broome, State of New York, as adopted by local law of the Board of Trustees on June 10, 1975.

Given under my hand and the seal of the Village of Port Dickinson, County of Broome, State of New York, this 10th day of June 1975, at Port Dickinson, New York.

**s/WALTER J. WELCH**

Village Clerk

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**GENERAL PROVISIONS**

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- § 1-3. Repeal of local laws, ordinances and resolutions not contained in Code.**
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- § 1-6. Copy of Code on file.**
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- § 1-9. Sale of Code book; supplementation.**
- § 1-10. Publication; filing.**
- § 1-11. Penalties for offenses.**
- § 1-12. Incorporation of provisions into Code.**
- § 1-13. When effective.**

**ARTICLE II  
Legislation Enacted During Codification**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson: Article I, 6-10-75 as Local Law No. 4-1975. Amendments noted where applicable.]**

## PORT DICKINSON CODE

Be it enacted by the Board of Trustees of the Village of Port Dickinson as follows:

### ARTICLE I Adoption of Code [Adopted 6-10-75 as L.L. No. 4-1975)

#### § 1-1. Legislative intent.

The local laws, ordinances and resolutions of the Village of Port Dickinson referred to in § 1-2 of this local law shall be known collectively as the “Code of the Village of Port Dickinson,” and the various parts and sections of such local laws, ordinances and resolutions shall be distributed and designated as provided and set forth in § 1-2 of this local law.

#### § 1-2. Distribution of local laws, ordinances and resolutions.

New Number (Chapter, title, Article, section)	Old Number (Source)	Adoption Date
Chapter 5, Ethics, Code of	L.L. No. 2-1970	12-15-70
Section 5-1	Sec. 1	
Section 5-2	Sec. 2	
Section 5-3	Sec. 3	
Section 5-4	Sec. 4	
Section 5-5	Sec. 5	
Section 5-6	Sec. 6	
	Sec. 7	Omitted*
Chapter 16, Terms of Office	Resolution (unnumbered)	1-4-66
§ 16-1	First unnumbered paragraph	

\*Note: These omitted sections pertained to repeal, severability Or when effective provisions, which are covered by provisions of this local law, or were ordinance title sections which are not necessary in a codification having chapter and/or Article titles for the various ordinances and local laws included therein.

## GENERAL PROVISIONS

<b>New Number (Chapter, title, Article, section)</b>	<b>Old Number (Source)</b>	<b>Adoption Date</b>
§ 16-2	Second un- numbered paragraph	
§ 16-3	Third un- numbered paragraph	
Chapter 22, Animals	L.L. No. 2-1974	7-9-74
§ 22-1	Sec. 22-1	
§ 22-2	Sec. 22-2	
§ 22-3	Sec. 22-3	
§ 22-4	Sec. 22-4	
§ 22-5	Sec. 22-5	
	Sec. 22-6	Omitted*
	Sec. 22-7	Omitted*
§ 22-6	Sec. 22-8	
	Sec. 22-9	Omitted*
Chapter 26, Building Construction		Amended 10-27-2020, LL 9-2020
Chapter 27, Building Code Fees		Repealed 10-27-2020, LL 11-2020
Chapter 33, Firearms	Ordinance (unnumbered)	11-2-31
§ 33-1	First unnumbered paragraph	
§ 33-2	Second unnumbered paragraph	Amended 6-10-75 by L.L. No. 1-1975
Chapter 34, Fire Prevention	L.L. No. 3-1974	7-9-74
§ 34-9	Sec. 34-1	
§ 34-2	Sec. 34-2	
§ 34-3	Sec. 34-3	
§ 34-4	Sec. 34-4	

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<b>New Number (Chapter, title, Article, section)</b>	<b>Old Number (Source)</b>	<b>Adoption Date</b>
§ 34-5	Sec. 34-5	
	Sec. 34-6	Omitted*
§ 34-6	Sec. 34-7	
	Sec. 34-8	Omitted*
	Sec. 34-9	Omitted*
Chapter 43, Peddling and Soliciting	L.L. No. 1-1974	7-9-74
§ 43-1	Sec. 43-1	
§ 43-2	Sec. 43-2	
§ 43-3	Sec. 43-3	
§ 43-4	Sec. 43-4	
	Sec. 43-5	Omitted*
	Sec. 43-6	Omitted*
	Sec. 43-7	Omitted*
Chapter 45, Property Maintenance	L.L. No. 5-1974	7-9-74
§ 45-1	Sec. 45-1	
§ 45-2	Sec. 45-2	
§ 45-3	Sec. 45-3A, B	amended 5/22/18, LL 1-2018
§ 45-3.4 – 45-3.10		added 3-8-11, LL 3-2011
§ 45-4	Sec. 45-3C	
§ 45-5	Sec. 45-4	
	Sec. 45-5	Omitted*
	Sec. 45-6	Omitted*
	Sec. 45-7	Omitted*
Chapter 49, Sewers	Ordinance (unnumbered)	3-3-70
Article I	Article 1	
§ 49-1	Sections 1 through 32	Amended 6-10-75 by L.L. No. 2-1975

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Article II	Article II	
§ 49-2	Sec. 33	
§ 49-3	Sec. 34	
§ 49-4A	Sec. 35	
§ 49-4B	Sec. 36	
§ 49-4C	Sec. 37	
§ 49-5	Sec. 38	
§ 49-6	Sec. 39	
§ 49-7	Sec. 40	
Article III	Article III	
§ 49-8	Sec. 41	
§ 49-9	Sec. 42	
§ 49-10	Sec. 43	
§ 49-11	Sec. 44	
§ 49-12	Sec. 45	
§ 49-13	Sec. 46	
§ 49-14	Sec. 47	
§ 49-15	Sec. 48	
Article IV	Article IV	
§ 49-16A	Sec. 49	
§ 49-16B	Sec. 50	
§ 49-17A	Sec. 51	
§ 49-17B	Sec. 52	
§ 49-18A	Sec. 53	
§ 49-18B	Sec. 54	
§ 49-19A	Sec. 55	
§ 49-19B	Sec. 56	
§ 49-20	Sec. 57	
§ 49-21A	Sec. 58	
§ 49-21B	Sec. 59	
§ 49-22	Sec. 60	
§ 49-23	Sec. 61	
§ 49-24	Article V, Sec. 62	
Article V	Article VIII	Added 6-6-72
§ 49-25	Sec. 67	

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<b>New Number (Chapter, title, Article, section)</b>	<b>Old Number (Source)</b>	<b>Adoption Date</b>
§ 49-26	Sec. 68	
§ 49-27	Sec. 69	Amended 9-4-73
§ 49-28	Sec. 70	
§ 49-29	Sec. 71	
Article VI	Article VI	
§ 49-30	Sec. 63	
Article VII	Article VII	Amended 6-6-72
§ 49-31	Sec. 64	
§ 49-32	Sec. 66	
§ 49-33	Sec. 65	Amended 6-10-75 by L.L. No. 2-1975
Article VIII	Article IX	Renumbered from Article VIII, 6-6-72†
	Sec. 66	Omitted*
§ 49-34	Sec. 67	
§ 49-35	Sec. 68	
	Sec. 69	Omitted*
Chapter 52, Streets and Sidewalks	L.L. No. 6-1974	9-10-74
Article I	Article I	
§ 52-1	Sec. 52-1	

†Note: Original Article VIII contained Sections 66 through 69. The amendment of 6-6-72 renumbered Article VIII as Article IX but did not specifically provide that Sections 66 through 69 should be renumbered as Sections 72 through 75, following Sections 67 through 71 as contained in the new Article VIII. This accounts for certain duplicated section numbers in the table for this chapter.

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## GENERAL PROVISIONS

<b>New Number (Chapter, title, Article, section)</b>	<b>Old Number (Source)</b>	<b>Adoption Date</b>
§ 52-2	Sec. 52-2	
§ 52-3	Sec. 52-3	
§ 52-4	Sec. 52-4	
§ 52-5	Sec. 52-5	
§ 52-6	Sec. 52-6	
§ 52-7	Sec. 52-7	
 Article II	 Article II	
§ 52-8	Sec. 52-8	
§ 52-9	Sec. 52-9	
§ 52-10	Sec. 52-10	
§ 52-11	Sec. 52-11	
§ 52-12	Sec. 52-12	
§ 52-13	Sec. 52-13	
 Article III	 Article III	
§ 52-14	Sec. 52-14	
	Article IV	
	Sec. 52-15	Omitted*
	Sec. 52-16	Omitted*
	Sec. 52-17	Omitted*
 Chapter 54, Swimming Pools, Private	 L.L. No. 4-1974	 7-9-74
§ 54-1	Sec. 54-1	
§ 54-2	Sec. 54-2	
§ 54-3	Sec. 54-3	
§ 54-4	Sec. 54-4	
§ 54-5	Sec. 54-5	
§ 54-6	Sec. 54-6	
§ 54-7	Sec. 54-7	
§ 54-8	Sec. 54-8	

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<b>New Number (Chapter, title, Article, section)</b>	<b>Old Number (Source)</b>	<b>Adoption Date</b>
§ 54-9	Sec. 54-9	
§ 54-10	Sec. 54-10	
	Sec. 54-11	Omitted*
	Sec. 54-12	Omitted*
Chapter 56, Taxation		
Article I	L.L. No. 1-1966	9-13-66
§ 56-1	Sec. 1	
§ 56-2	Sec. 2	Amended 12-15-70 by L.L. No. 1-1970; No. 1-1973
	11-6-73 by L.L. ?	
§ 56-3	Sec. 3	
§ 56-4	Sec. 4	
	Sec. 5	Omitted*
Article II	L.L. No. 1-1968	12-17-68
§ 56-5	Sec. 1	
§ 56-6	Sec. 2	
§ 56-7	Sec. 3	
§ 56-8	Sec. 4	
§ 56-9	Sec. 5	
§ 56-10	Sec. 6	
§ 56-11	Sec. 7	
§ 56-12	Sec. 8	
§ 56-13	Sec. 9	
§ 56-14	Sec. 10	
§ 56-15	Sec. 11	
§ 56-16	Sec. 12	
§ 56-17	Sec. 13	
§ 56-18	Sec. 14	
§ 56-19	Sec. 15	

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## GENERAL PROVISIONS

<b>New Number (Chapter, title, Article, section)</b>	<b>Old Number (Source)</b>	<b>Adoption Date</b>
§ 56-20	Sec. 16	
§ 56-21	Sec. 17	
	Sec. 18	Omitted*
	Sec. 19	Omitted*
Chapter 59, Vehicles, Abandoned	L.L. No. 1-1965	6-15-65; amended in its entirety 7-11-72 by L.L. No. 1-1972
§ 59-1	Sec. 1	
§ 59-2	Sec. 2	
§ 59-3	Sec. 3	
§ 59-4	Sec. 4	
§ 59-5	Sec. 5	
§ 59-6	Sec. 6	
§ 59-7	Sec. 7	
§ 59-8	Sec. 8	
§ 59-9	Sec. 8	
	Sec. 9	Omitted*
	Sec. 10	Omitted*
Chapter 60, Vehicles and Traffic	Ordinance (unnumbered)	1-12-65
Article I	Article I	
§ 60-1	Sec. 1	
Article II	Article II	
§ 60-2	Sec. 20	
Article III	Article VII	
§ 60-3	Sec. 70	
Article IV	Article VIII	
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<b>New Number (Chapter, title, Article, section)</b>	<b>Old Number (Source)</b>	<b>Adoption Date</b>	
§ 60-5	Sec. 81		
Article V	Article IX		
§ 60-6	Sec. 90		
Article VI	Article X		
§ 60-7	Sec. 100		
§ 60-8	Sec. 101	Amended 12-4-73 by L.L. No. 2-1973	
§ 60-9	Sec. 102	Amended 6-7-66; 12-4-67; 7-9-68; 12-4-73 by L.L. No. 2-1973;?	6-
10-75 by L.L.		No. 3-1975	
§ 60-10	Sec. 103		
§ 60-11A	Sec. 104		
§ 60-11B	Sec. 105		
Article VII	Article XII		
§ 60-12	Sec. 120		
§ 60-13	Sec. 121		
§ 60-14	Sec. 122		
Article VIII	Article XIII		
§ 60-15	Sec. 130		
§ 60-15	Sec 7	Amended 1/14/20 by LL1-2020	
§ 60-16	Sec. 131		
Article IX	Article XXX		
§ 60-17	Sec. 300 Article XXXI Sec. 310	Omitted*	
§ 60-24	Sec A	Amended 1/14/20 by LL 1-2020	
§ 60-37	Schedule X	Amended 1/14/20 by LL 1-2020	

\*Note: These omitted sections pertained to repeal, severability or when effective provisions, which are covered by provisions of this local law, or were ordinance title sections which are not necessary in a codification having chapter and/or Article titles for the various ordinances and local laws included therein.



## GENERAL PROVISIONS

<b>New Number (Chapter, title, Article, section)</b>	<b>Old Number (Source)</b>	<b>Adoption Date</b>
	Article XXXII	
	Sec. 320	Omitted*
	Sec. 321	Omitted*
Chapter 62, Water	Ordinance (unnumbered)	7-2-63
§ 62-1	Sec. 1	
§ 62-2	Sec. 2	
§ 62-3	Sec. 3	
§ 62-4	Sec. 4	Amended 2-4-69
§ 62-5	Sec. 5	
§ 62-6	Sec. 6	
§ 62-7	Sec. 7	
§ 62-8	Sec. 8	Amended 9-4-73
§ 62-9	Sec. 9	
§ 62-10	Sec. 10	
§ 62-11	Sec. 11	
§ 62-12	Sec. 12	
§ 62-13	Sec. 13	Amended 6-10-75 by L.L. No. 1-1975
	Sec. 14	Omitted*
Chapter 65, Zoning	Ordinance (unnumbered)	6-10-58; amended in entirety 8-18-74
Article I	Article I	
§ 65-1A	Sec. 101	
§ 65-1B	Sec. 102	
§ 65-2	Sec. 103	
§ 65-3	Article II, Sec. 201	

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# PORT DICKINSON CODE

<b>New Number (Chapter, title, Article, section)</b>	<b>Old Number (Source)</b>	<b>Adoption Date</b>
Article II	Article III	
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§ 65-10	Article IV, Sec. 401	
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§ 65-11	first unnumbered paragraph	
§ 65-12	Sec. 501	
§ 65-13	Sec. 502	
§ 65-14	Sec. 503	
§ 65-15	Sec. 504	
§ 65-16	Sec. 505	
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§ 65-22	Sec. 510.2	
§ 65-23	Sec. 510.3	
§ 65-24	Sec. 510.4	
§ 65-25	Sec. 510.5	
§ 65-26	Sec. 510.6	
§ 65-27	Sec. 510.7	
Article VI	Article VIII	
§ 65-28	Sec. 801	
§ 65-29	Sec. 801.1	
§ 65-30	Sec. 801.2	
§ 65-31	Sec. 801.3	

## GENERAL PROVISIONS

<b>New Number (Chapter, title, Article, section)</b>	<b>Old Number (Source)</b>	<b>Adoption Date</b>
§ 65-32	Sec. 801.4	
§ 65-33	Sec. 801.5	
Article VII	Article VI	
§ 65-34	Sec. 601	
§ 65-35	Sec. 602	
§ 65-36	Sec. 603	
§ 65-37	Sec. 604	
Article VIII	Article VII	
§ 65-38	Sec. 701	
§ 65-39	Sec. 702	
§ 65-40	Sec. 703	
§ 65-41	Sec. 704	
Article IX	Article XI	
§ 65-42	Sec. 1101	
§ 65-43	Sec. 1102	
Article X	Article IX	
§ 65-44	Sec. 901, first, second and fourth unnumbered paragraphs	
§ 65-45	Sec. 901, third unnumbered paragraph	
§ 65-46	Sec. 901, fifth unnumbered paragraph	
	Article X	
	Sec. 1001	Omitted*

\*Note: These omitted sections pertained to repeal, severability or when effective provisions, which are covered by provisions of this local law, or were ordinance title sections which are not necessary in a codification having chapter and/or Article titles for the various ordinances and local laws included therein.

## PORT DICKINSON CODE

New Number (Chapter, title, Article, section)	Old Number (Source)	Adoption Date
	Article XII	
	Sec. 1201	Omitted*
	Sec. 1202	Omitted*

### **§ 1-3. Repeal of local laws, ordinances and resolutions not contained in Code.**

All local laws, ordinances and resolutions of a general and permanent nature adopted by the Board of Trustees of the Village of Port Dickinson and in force on the date of the adoption of this local law and not cited in the table in § 1-2 hereof are hereby repealed as of the effective date of this local law, except as hereinafter provided.

### **§ 1-4. Local laws, ordinances and resolutions saved from repeal; matters not affected by repeal.**

The repeal of local laws, ordinances and resolutions provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, resolutions, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Village of Port Dickinson prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Village of Port Dickinson or any penalty, punishment or forfeiture which may result therefrom.

\*Note: These omitted sections pertained to repeal, severability or when effective provisions, which are covered by provisions of this local law, or were ordinance title sections which are not necessary in a codification having chapter and/or Article titles for the various ordinances and local laws included therein.

- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Village of Port Dickinson.



## GENERAL PROVISIONS

- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Port Dickinson.
- E. Any local law, ordinance or resolution of the Village of Port Dickinson providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Village of Port Dickinson or any portion thereof.
- F. Any ordinance or resolution of the Village of Port Dickinson appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Village of Port Dickinson, or other instruments or evidence of the village's indebtedness.
- G. Local laws, ordinances or resolutions authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The dedication of property.
- J. Any local laws, ordinances or resolutions relating to salaries.
- K. Any ordinance or resolution establishing a water, sewer, lighting, garbage or other special purpose district.
- L. Any local law, ordinance or resolution adopted subsequent to September 10, 1974.
- M. Any ordinance or resolution pertaining to or amending the Zoning Map adopted June 10, 1958, and updated July 29, 1974.
- N. The Police Department Rules and Regulations adopted December 4, 1935.

### **§ 1-5. Severability.**

If any clause, sentence, paragraph, section, Article or part of this local law or of any local law, ordinance or resolution cited in the table in § 1-2 hereof shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, Article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

## PORT DICKINSON CODE

### **§ 1-6. Copy of Code on file.**

A copy of the Code of the Village of Port Dickinson in loose-leaf form, has been filed in the office of the Village Clerk and shall remain there for use and examination by the public until final action is taken on this local law; and if this local law shall be adopted, such copy shall be certified to by the Village Clerk of the Village of Port Dickinson by impressing thereon the seal of the Village of Port Dickinson, and such certified copy shall remain on file in the office of said Village Clerk to be made available to persons desiring to examine the same during all times while the said Code is in effect.

### **§ 1-7. Amendments to Code.**

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the “Code of the Village of Port Dickinson,” or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Board of Trustees to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the “Code of the Village of Port Dickinson,” shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the “Code of the Village of Port Dickinson” shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing the said Code, as amendments and supplements thereto.

### **§ 1-8. Code book to be kept up-to-date.**

It shall be the duty of the Village Clerk or someone authorized and directed by the Village Clerk to keep up-to-date the certified copy of the book containing the “Code of the Village of Port Dickinson” required to be filed in the office of the Village Clerk for the use of the public. All changes in said Code and all local laws, ordinances and resolutions adopted by the Board of Trustees subsequent to the enactment of this Article in such form as to indicate the intention of said Board of Trustees to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of a copy of such changes or local laws, ordinances or resolutions until such change or local laws, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

## GENERAL PROVISIONS

### **§ 1-9. Sale of Code book; supplementation.**

Copies of the Code book containing the “Code of the Village of Port Dickinson” may be purchased from the Village Clerk of the Village of Port Dickinson upon the payment of a fee to be set by resolution of the Board of Trustees, which may also arrange by resolution for procedures for the periodic supplementation thereof.

### **§ 1-10. Publication; filing.**

The Village Clerk of the Village of Port Dickinson, pursuant to law, shall cause to be published, in the manner required, notice of the introduction and adoption of this local law in the official newspaper of the town. A copy of the “Code of the Village of Port Dickinson” shall be maintained in the office of the Village Clerk for inspection by the public at all times during regular office hours. The enactment and application of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

### **§ 1-11. Penalties for offenses.**

Any person who, without authorization from the Village Clerk, changes or amends, by additions or deletions, any part or portion of the “Code of the Village of Port Dickinson” or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Village of Port Dickinson to be misrepresented thereby, or who violates any other provision of this local law shall, upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.

### **§ 1-12. Incorporation of provisions into Code.**

The provisions of this local law are hereby made part of Chapter 1 of the “Code of the Village of Port Dickinson,” to be entitled “General Provisions, Article I, Adoption of Code,” and the sections of this local law shall be numbered 1-1 to 1-13 inclusive.

## PORT DICKINSON CODE

### § 1-13. When effective.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

## ARTICLE II Legislation Enacted During Codification

[During the process of codification and prior to the adoption of the local law appearing as Article I of this chapter, certain amendments to existing ordinances and local laws of the village were adopted by the Board of Trustees for inclusion in the Code of the Village of Port Dickinson. Such amendments are noted in the histories of individual chapters by the phrase, "... amended during codification; see Ch. 1, General Provisions, Article II." During the course of normal supplementation, specific dates of amendment will be inserted where pertinent in the text of the various chapters.

The enumeration appearing below lists each section affected by any such legislation adopted during codification.]

### **Amendment Date/ Chapter/Section**

### **Local Law Number**

Ch. 33, Firearms

§ 33-2

6-10-75 by L.L. No. 1-1975

Ch. 49, Sewers

§ 49-1A

6-10-75 by L.L. No. 2-1975

§ 49-33

6-10-75 by L.L. No. 2-1975

Ch. 59, Vehicles, Abandoned

§ 59-8

6-10-75 by L.L. No. 1-1975

Ch. 60, Vehicles and Traffic

§ 60-9

6-10-75 by L.L. No. 3-1975

Ch. 62, Water

§ 62-13

6-10-75 by L.L. No. 1-1975



# PART I

## ADMINISTRATIVE LEGISLATION



## **GENERAL PROVISIONS**

### **Chapter 1**

## **GENERAL PROVISIONS**

### **ARTICLE I**

#### **Adoption of Code**

**[A local law listing the revised and renumbered ordinances, resolutions and local laws of the Village of Port Dickinson included in this Code and providing for the adoption of this Code as the “Code of the Village of Port Dickinson” is presently proposed before the Board of Trustees. Upon final adoption, it will be included here as Article I of this chapter.]**

### **ARTICLE II**

#### **Legislation Enacted During Codification**

**[During the process of codification, certain substantive revisions, changes and/or additions to various existing ordinances and local laws, and certain complete new local laws, were approved by the Board of Trustees for inclusion in the Code of the Village of Port Dickinson. Such amendments and new enactments are noted in the histories of individual chapters as “... amended (adopted) during codification; see Ch. 1, General Provisions, Article II.” In accordance with required statutory provisions, these amendments and new enactments will be adopted separately and are presently proposed before the Board of Trustees for that purpose. Upon final enactment, a complete enumeration of all chapters and sections in the Code involved in such enactments will be included in this Article along with specific dates of adoption. Until inclusion of this enumeration, consult municipal records for the possible adoption of such legislation.]**





**§2-1      AUTHORIZING THE ISSUANCE OF APPEARANCE TICKETS      §2-3**  
**AND NOTICES OF VIOLATIONS BY PUBLIC SERVANTS**  
**OF THE VILLAGE OF PORT DICKINSON**  
**[Adopted by the Board of Trustees on 4-8-08 as Local Law No. 4-2008]**

Be it enacted by the Board of Trustees of the Village of Port Dickinson as follows:

**§2-1 PURPOSE.**

The purpose of this local law is to authorize public servants of the Village of Port Dickinson to issue and serve notices of violations and appearance tickets in connection with violations of local laws, ordinances, or rules and regulations of the Village.

**§2-2. AUTHORIZATION**

The following public servants of the Village of Port Dickinson are hereby authorized to issue and serve appearance tickets and notices with respect to violations of a local law, ordinance, rule or regulation of the Village of Port Dickinson:

- A. Building Inspector – Building Code matters.
- B. Enforcement Officer – All local laws and ordinances, rules and regulations of the Village of Port Dickinson except building code matters.
- C. Police Officers – All local laws and ordinances, rules and regulations of the Village of Port Dickinson except building code matters.

**§2-3. METHODS OF SERVICE**

An appearance ticket or notice of violation shall be served personally unless the local law, ordinance, rule or regulation authorizes alternative methods of service.

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FOR ALL VILLAGE EMPLOYEES WHO WILL HANDLE  
VILLAGE MONIES BY REASON OF SUCH EMPLOYMENT

[Adopted by the Board of Trustees on 11-13-07 as Local Law No. 6-2007]

Be it enacted by the Board of Trustees of the Village of Port Dickinson as follows:

**§2A-1**

Any person employed by the Village of Port Dickinson (hereinafter the “Village”) after the effective date of this Local Law in a position either as a Village Officer or Village Employee, other than as a duly elected Village officer, who shall have moneys belonging to the Village coming into his or her hands by virtue of such employment, shall be subject to a background investigation to determine the suitability of such applicant for employment. Such investigation shall include but not be limited to the taking of fingerprints of such prospective employees as a prerequisite for employment.

**§2A-2**

Upon receipt of an application for any such employment, the Mayor shall, subject to the rules and regulations of the Division of Criminal Justice Services, initiate a criminal history records search of the person making application. Prior to initiating the fingerprinting process, the Mayor shall furnish the applicant with the form described in **§2A-5** of this Local Law and shall obtain the applicant’s consent to the criminal history records search. The Mayor shall obtain from each applicant two sets of fingerprints and the Mayor shall promptly transmit such fingerprints and the Division of Criminal Justice Services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the Executive Law and any fee imposed by the Federal Bureau of Investigation to the Division of Criminal Justice Services for its full search and returning a report thereon. The Division of Criminal Justice Services is authorized by this local law to submit the fingerprints and the appropriate fee to the Federal Bureau of Investigation for a national criminal history record check. The Division of Criminal Justice Services and the Federal Bureau of Investigation shall forward such criminal history record to the Mayor in a timely manner. For the purposes of this section the term “criminal history record” shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the Division of Criminal Justice Services and the Federal Bureau of Investigation.

**§2A-3**

All such criminal history records processed and sent pursuant to this subdivision shall be confidential pursuant to the applicable federal and state laws, rules and regulations and shall not be published or in any way disclosed by any Village Officer or employee to persons other than the Mayor unless otherwise authorized by law. No cause of action against the Village or the Division of Criminal Justice Services for damages related to the dissemination of criminal history records pursuant to this subdivision shall exist when the Village or Division of Criminal Justice Services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. The provision of such criminal history record by the Division of Criminal Justice Services shall be subject to the provisions of subdivision sixteen of section two hundred ninety-six of the Executive Law. The Mayor shall consider such criminal history record pursuant to article twenty-three-A of the Corrections Law.

**§2A-4**

The Village Mayor, in cooperation with the Division of Criminal Justice Services and in accordance with all applicable provisions of law, shall promulgate rules and regulations for the use of information derived from searches of the records of the Division of Criminal Justice Services and the Federal Bureau of Investigation based on the use of such fingerprints. The Village Mayor shall also develop a form for use by the Village in connection with the submission of fingerprints that contains the specific job title sought and any other information that may be relevant to consideration of the applicant.

**§2A-5**

The Village Mayor, in cooperation with the Division of Criminal Justice Services, shall:

- A. Promulgate a form to be provided to all such prospective Village Officers or employees that shall:
  1. Inform the prospective officer or employee that the Mayor is required to request his or her criminal history information from the Division of Criminal Justice Services and the Federal Bureau of Investigation and review such information pursuant to this section, and provide a description of the manner in which his or her fingerprint cards will be used upon submission to the Division of Criminal Justice Services;
  2. Inform the prospective Officer or employee that he or she has the right to obtain, review and seek correction of his or her criminal history information pursuant to regulations and procedures established by the Division of Criminal Justice Services;
  3. Inform the prospective Officer or employee that his or her failure to consent to such a criminal history investigation shall be deemed a disqualification for appointment to the office or employment for which the person has applied.
- B. The Village Mayor shall obtain the signed informed consent of the prospective employee on such form which indicates that such person has:
  1. Been informed of the right and procedures necessary to obtain, review and seek correction of his or her criminal history information;
  2. Been informed of the reason for the request for his or her criminal history information;
  3. Consented to such request for a report;

4. Supplied on the form a current mailing or home address for the prospective employee;
5. Been informed that he or she may withdraw his or her application for employment pursuant to this section, without prejudice, at any time before employment is offered or declined, regardless of whether the prospective employee or the Village has reviewed such prospective employee's criminal history information;
6. Been informed that in the event his or her employment is terminated, the Village Mayor shall notify the Division of Criminal Justice Services of such termination, and the Division of Criminal Justice Services shall destroy the fingerprints of such person;
7. Been informed of the manner in which he or she may submit to the Mayor any information that may be relevant to the consideration of his or her application for clearance including, where applicable, information in regard to his or her good conduct and rehabilitation.

**§2A-6**

When the Village Mayor determines that employment should be denied by reason of information obtained from the applicant's criminal record history, the applicant shall be afforded written notice thereof and the right to be heard and offer proof in opposition to such determination.



## DEFENSE AND INDEMNIFICATION

### Chapter 3

## DEFENSE AND INDEMNIFICATION

- § 3-1. Definitions.
- § 3-2. Provisions for defense and indemnification.
- § 3-3. Responsibilities of employee.
- § 3-4. Limitation of benefits; effect on Workers' Compensation Law.
- § 3-5. Effect on insurers.
- § 3-6. Effect on other laws.
- § 3-7. Applicability.
- § 3-8. When effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson ?11-20-84 as Local Law No. 2-1984.<sup>1</sup> Amendments noted where applicable.]

### GENERAL REFERENCES

Code of Ethics — See Ch. 5.

#### § 3-1. Definitions.

As used in this chapter, unless the context otherwise requires, the following terms shall have the meanings indicated:

EMPLOYEE — Any Village of Port Dickinson commissioner, member of a Village of Port Dickinson board or commission, Village of Port Dickinson officer, Village of Port Dickinson employee, Village of Port Dickinson volunteer expressly authorized by the Village of Port Dickinson to participate in a publicly sponsored volunteer program or any other person holding a Village of Port Dickinson position by election, appointment or employment in the service of the Village of Port Dickinson, whether or not compensated, but shall not include an independent contractor. The term “employee” shall include a former employee of the Village of Port Dickinson, his estate or judicially appointed personal representative.

VILLAGE — The Village of Port Dickinson.



**§ 3-2. Provisions for defense and indemnification.**

- A. Upon compliance by the employee with the provisions of §3-3 of this Chapter, the Village shall provide for the defense of the employee in:
1. any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged to have occurred while the employee was acting or in good faith purporting to act within the scope of his/her public employment or duties including, without limitation, any civil action or proceeding arising out of any alleged act or omission in which it is alleged that the officer or employee has violated the civil rights of the claimant, petitioner or plaintiff under sections 1981 and 1983 of the U.S. Civil Rights Act (42 U.S.C. sections 1981 and 1983), or
  2. any criminal proceeding in a state or federal court arising out of any act which occurred while the employee was acting within the scope of his public employment or duties, upon his acquittal or the dismissal of criminal charges against him, or
  3. connection with an appearance before a grand jury which returns no indictment against the employee, where the appearance resulted from actions occurring while the employee was acting within the scope of his public employment.

Such defense shall not be provided where such action or proceeding is brought by or on behalf of the Village.

**[Amended May 11, 2004 by LL No. 3-2004]**

- B. Subject to the conditions set forth in this chapter, the employee shall be present by the Village Attorney or an attorney employed or retained by the village for the defense of the employee. The Village Board shall employ or retain an attorney for the defense of the employee whenever the village does not have a Village Attorney; the Village Board determines based upon its investigation and review of the facts and circumstances of the case that representation by the Village Attorney would be inappropriate; or a court of competent jurisdiction determines that a conflict of interest exists and that the employee cannot be represented by the Village Attorney. Reasonable attorney's fees and litigation expenses shall be paid by the village to such attorney employed or retained, from time to time, during the pendency of the civil action or proceeding subject to certification by the Village Mayor that the employee is entitled to representation under the terms and conditions of this chapter. Payment of such fees and expenses shall be made in the same manner as payment of other claims and expenses of the village. Any dispute with respect to representation of multiple employees by the Village Attorney or by an attorney employed or retained for such purposes or with respect to the amount of the fees or expenses shall be resolved by the court.



## DEFENSE AND INDEMNIFICATION

- C. Where the employee delivers and processes a request for a defense to the Village Attorney or the Village Mayor, as required by § 30-3 of this chapter, the Village Attorney or the Mayor, as the case may be, shall take the necessary steps, including the retention of an attorney under the terms and conditions provided in Subsection B of this section on behalf of the employee to avoid entry of a default judgment, pending resolution of any question relating to the obligation of the village to provide a defense.
- D. Subject to the condition set forth in this chapter, the village shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in a state or federal court or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while the employee was acting within the scope of his public employment duties; provided, further, that in the case of a settlement the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the Village Board. The duty to indemnify and save harmless prescribed by this subsection shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee or with respect to punitive or exemplary damages, fines or penalties or money recovered from an employee pursuant to § 51 of the General Municipal Law.

### **§ 3-3. Responsibilities of employee.**

- A. The duties to defend provided in this chapter shall be contingent upon delivery to the Village Attorney or, if none, to the Village Mayor of the original or a copy of any summons, complaint, process, notice, demand or pleading within five (5) days after he is served with such document and the full cooperation of the employee in the defense of such action or proceeding and defense of any action or proceeding against the village based upon the same act or omission and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the village provide for his defense pursuant to this chapter, unless the employee shall state in writing that a defense is not requested.

## PORT DICKINSON CODE

- B. The duty to indemnify and save harmless prescribed by this chapter shall be conditioned upon the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the village based upon the same act or omission and in the prosecution of any appeal.
- C. Upon entry of a final judgment against the employee or upon the settlement of the claim, the employee shall serve a copy of such judgment or settlement, personally or by certified or registered mail within thirty (30) days of the date of entry or settlement, upon the Village Mayor of the village: and if not inconsistent with tile provisions of this section, the amount of such judgment or settlement shall be paid by the village.

### **§ 3-4. Limitation of benefits; effect on Workers' Compensation Law.**

The benefits of this chapter will inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party, nor shall any provision of this chapter be construed to affect, alter or repeal any provisions of the Workers' Compensation Law.

### **§ 3-5. Effect on insurers.**

The provisions of this chapter shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

### **§ 3-6. Effect on other laws.**

As otherwise specifically provided in this chapter, the provisions of this chapter shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unity, entity, officer or employee of the village or any right to defense provided for any governmental officer or employee by, in accordance with or by reason of any other provision of state or federal statutory or common law.

## DEFENSE AND INDEMNIFICATION

### **§ 3-7. Applicability.**

The provisions of this chapter shall apply to all actions and proceedings specified herein which have been commenced, instituted or brought on or after the effective date of this chapter.

### **§ 3-8. When effective.**

This chapter shall take effect immediately.



[Adopted by the Board of Trustees on 1-8-08 as Local Law No. 1-2008]

Be it enacted by the Board of Trustees of the Village of Port Dickinson as follows:

**§3A-1 SCOPE**

- A. Any person having property in the custody of the Police Department, which was confiscated in connection with a case, shall be entitled to the restoration of the property upon the disposition of the case, unless said property is subject to forfeiture or seizure or is being held as evidence for another matter pursuant to law. If property is not claimed within 30 days after the disposition of the case, the Police Department shall serve notice of its holding of said property upon the rightful owner or his/her duly constituted agent or other person entitled to the same by law. Notice shall be sent by certified mail, return receipt requested, to the last known address of the rightful owner and to his/her attorney or agent; should the owner be found to be deceased, then upon the executor or attorney for the estate or next of kin. Any and all property not claimed by its rightful owner or his/her duly constituted agent or other person entitled to the same by law within 90 days after the proper service of notice shall become property of the Village of Port Dickinson and shall be disposed of in accordance with the provisions of Subsection C.
- B. Any and all property turned over to the custody of the Police Department by one who has found property apparently lost or abandoned by its owner shall be disposed of in accordance with Article 7-B of the New York State Personal Property Law.
- C. Any property that has become the property of the Village of Port Dickinson pursuant to §3A-1A or §3A-1B shall be disposed of as follows: all moneys shall be forfeited to the Village; all other property shall be either auctioned publicly, retained for use by the Village, sold to another law enforcement agency or destroyed in a manner determined by the Chief of Police and the Mayor. Any property not disposed of in any of these manners shall, at the discretion of the Chief of Police and the Mayor, be donated to a charitable organization. Any moneys forfeited to the Village or obtained by reason of sale of said property shall be allocated to the General Fund pursuant to local or general law.
- D. Stolen property shall be returned to its rightful owner or disposed of pursuant to § 450.10 of the New York State Penal Law.



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## RULES OF PROCEDURE

### Chapter 4

#### RULES OF PROCEDURE

- § 4-1. Regular Meetings.
- § 4-2. Special Meetings.
- § 4-3. Quorum.
- § 4-4. Executive Sessions.
- § 4-5. Agendas.
- § 4-6. Voting.
- § 4-7. Minutes.
- § 4-8. Order of Business.
- § 4-9. General Rules of Procedure.
- § 4-10. Guidelines for Public Comment.
- § 4-11. Use of Recording Equipment.
- § 4-12. Adjournment.
- § 4-13. Amendments to the Rules of Procedure.

[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson October 14, 1997.]

#### § 4-1. Regular Meetings.

The Board of Trustees shall hold regular meetings on the 2nd Tuesday of each month. Such regular meetings shall commence at 7:30 P.M. and be conducted in the library at the Port Dickinson Elementary School, 770 Chenango Street in the Village. Any deviation of the foregoing paragraph shall be determined by the Board of Trustees.

#### § 4-2. Special Meetings.

Special meetings of the Board of Trustees are all those Board meetings other than regular meetings. A special meeting may be called by the Mayor or any Trustee upon notice to the entire board. Notice shall be given by telephone, in person, or in writing.

## PORT DICKINSON CODE

### **§ 4-3. Quorum.**

A quorum shall be required to conduct business. A quorum of the (5) five member board of trustees shall be (3) three. In the absence of a quorum, a lesser number may adjourn and compel the attendance of absent members.

### **§ 4-4. Executive Sessions.**

Executive sessions shall be held in accordance with the NYS Public Officers Law § 105. All executive sessions shall be commenced in a public meeting.

### **§ 4-5. Agendas.**

The agenda shall be prepared by the Mayor. Any Trustee may have an item placed on the agenda. When possible, items for the agenda shall be given to the Mayor at least 24 hours before the meeting, however, items may be placed on the agenda at any time, including during the meeting.

The agenda shall be prepared by noon on the day of the meeting. If necessary a supplemental agenda shall be distributed at the beginning of the meeting.

### **§ 4-6. Voting.**

Pursuant to Village Law each member of the Board shall have one vote. The Mayor may vote on any matter but must vote in case of a tie. A majority of the totally authorized voting power is necessary to pass a matter unless otherwise specified by State law.

An abstention, silence or absence shall be considered a negative vote for the purposes of determining the final vote on a matter.

A vote upon any question shall be taken by ayes and noes, and the names of the members present and their votes shall be entered in the minutes.

### **§ 4-7. Minutes.**

Minutes shall be taken by the Clerk. Minutes shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon. Minutes shall be taken at executive session of any action that is taken by formal vote which shall consist of a record or summary of the final determination of such action, and the date and vote thereon; provided, however, that such summary need not include any matter which is not required to be made public by the NYS Freedom of Information Law.

## RULES OF PROCEDURE

Minutes shall also include the following:

- Name of the Board;
- Date, place and time of meeting;
- Notation of presence or absence of Board members and time of arrival or departure if different from time of call to order and adjournment;
- Name and title of other village officials and employees present and well approximate number of attendees;
- Record of communications presented to the Board;
- Record of reports made by Board or other village personnel;
- Time of Adjournment;
- Signature of Clerk or person who took the minutes if not the Clerk.

Minutes need not contain a summary of the discussion leading to action taken or include verbatim comments unless a majority of the Board shall resolve to have the Clerk do so.

Minutes shall be approved at the next board meeting. Amendments to the minutes shall require Board approval.

### **§ 4-8. Order of Business.**

The order of business shall be:

Call to Order - Welcome  
Pledge of Allegiance  
Approval of Minutes  
Treasurer's Report  
Reading of Bills Payable  
Approval of Bills Payable  
Invitation for Public Comments & Discussion  
Public Hearings (if any)  
Opening of Bids (if any)

## PORT DICKINSON CODE

### Commissioners' Reports:

Water and Sewers

Public Safety

Administration

Public Works, Parks & Recreation

Planning Board Report

Zoning Board Report

Community Association Report

Resolutions

Discussion Items

Questions & Answers

Adjournment

The order of business need not be followed if the Mayor determines that it is necessary to deviate.

### **§ 4-9. General Rules of Procedure.**

The Mayor shall preside at meetings. In the Mayor's absence the Deputy Mayor shall preside. The presiding officer may debate, move and take other action that may be taken by other members of the Board.

Board members are not required to rise but must be recognized by the presiding officer before making motions and speaking. Motions do not require a second. A member, once recognized shall not be interrupted when speaking unless it be to call the member to order. If a member, while speaking, be called to order, such member shall cease speaking until the question of order be determined, and, if in order, such member shall be permitted to proceed.

There is no limit to the number of times a member may speak on a question.

Motions to close or limit debate may be entertained but shall require a two-thirds vote.

### **§ 4-10. Guidelines for Public Comment.**

The public shall be allowed to speak only during a public hearing or during the Public Comment period of the meeting or at such other time as a majority of the Board shall allow.

## RULES OF PROCEDURE

Speakers must give their name, address and organization, if any.

Speakers must be recognized by the presiding officer.

Board members may, with the permission of the Mayor, interrupt a speaker during their remarks, but only for the purpose of clarification or information.

All remarks shall be addressed to the Board as a body and not to any member thereof.

Speakers shall observe the commonly accepted rules of courtesy, decorum, dignity and good taste.

Interested parties or their representatives may address the Board by written communications. Written communications shall be delivered to the Clerk or Mayor.

Handicapped citizens who require assistance in attending any meeting, or in furnishing comments and suggestions, should contact the Town Clerk to request such assistance.

### **§ 4-11. Use of Recording Equipment.**

All members of the public and all public officials are allowed to tape or video record public meetings. Recording is not allowed during executive sessions. The recording should be done in a manner which does not interfere with the meeting.

### **§ 4-12. Adjournment.**

Meetings shall be adjourned by motion.

### **§ 4-13. Amendments to the Rules of Procedure.**

The foregoing procedures may be amended from time to time by a majority vote of the Board.



## ETHICS, CODE OF

### Chapter 5

## ETHICS, CODE OF

- § 5-1. Purpose; relationship to statutory provisions.**
- § 5-2. Definitions.**
- § 5-3. Standards of conduct.**
- § 5-4. Filing of claims.**
- § 5-5. Distribution of code.**
- § 5-6. Penalties for offenses.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 12-15-70 as Local Law No. 2-1970. Amendments noted where applicable.]**

#### **§ 5-1. Purpose; relationship to statutory provisions.**

- A. Pursuant to the provisions of Section 806 of the General Municipal Law, the Board of Trustees of the Village of Port Dickinson recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Village of Port Dickinson. These rules shall serve as a guide for official conduct of the officers and employees of the Village of Port Dickinson.
- B. The rules of ethical conduct of this chapter, as adopted, shall not conflict with, but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.



## PORT DICKINSON CODE

### § 5-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**INTEREST** — A pecuniary or material benefit accruing to a municipal officer or employee unless the context requires otherwise.

**MUNICIPAL OFFICER OR EMPLOYEE** — An officer or employee of the Village of Port Dickinson, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a Chief Engineer or Assistant Chief Engineer.

### § 5-3. Standards of conduct.

Every officer or employee of the Village of Port Dickinson shall be subject to and abide by the following standards of conduct:

- A. Gifts. He shall not directly or indirectly, solicit any gift; or accept or receive any gift having a value of seventy-five dollars (\$75.) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances to which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part. **(Amended January 14, 1997)**
- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- C. Representation before one's own agency. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

## ETHICS, CODE OF

- E. Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Board of Trustees and any officer or employee of the Village of Port Dickinson, whether paid or unpaid, who participates in the discussion or gives official opinion to the Board of Trustees on any legislation before the Board of Trustees shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.
- F. Investments in conflict with official duties. He shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with his official duties.
- G. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- H. Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Village of Port Dickinson in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

### **§ 5-4. Filing of claims.**

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the Village of Port Dickinson, or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage, or for any lawful benefit authorized or permitted bylaw.

## PORT DICKINSON CODE

### **§ 5-5. Distribution of code.**

The Mayor of the Village of Port Dickinson shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Village of Port Dickinson within twenty (20) days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment.

### **§ 5-6. Penalties for offenses.**

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this chapter may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

### **§5-7. Posting.**

A copy of Article 18 of the General Municipal Law of the State of New York shall be posted in a conspicuous place in each public building of the Town. (Added January 14, 1997)

## EMPLOYMENT DISCRIMINATION AND HARASSMENT POLICY

### Chapter 6

#### EMPLOYMENT DISCRIMINATION AND HARASSMENT POLICY

- § 6-1 Purpose.**
- § 6-2. Policy.**
- § 6-3. Definition of Sexual Harassment.**
- § 6-4. Procedure.**
- § 6-5. Employment Discrimination and Harassment Complaint Procedure.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson February 9, 1999 as Local Law 1-1999.]**

#### **§ 6-1. Purpose.**

The Village of Port Dickinson believes in the dignity of the individual and recognizes the right of any person to equal opportunities. In this regard, the Village has had a long-standing practice of protecting and safeguarding the rights and opportunities of any person who might seek or obtain employment without being subjected to illegal discrimination or harassment in the workplace.

#### **§ 6-2. Policy.**

- A. In addition to prohibiting illegal discrimination on the basis of race, color, sex, religion, age, disability, marital status, military status, national origin, or other unlawful conduct, the Village of Port Dickinson also prohibits the illegal harassment of its employees or officers in any form. The Village will take all steps necessary to prevent and stop the occurrences of any illegal discrimination or harassment in the workplace.
  - 1. This policy applies to all Village officers and employees and all individuals who serve as contractors to the Village. Depending on the extent of the exercise of control, this policy may be applied to the conduct of those who are not officers or employees or contractors of the Village with respect to illegal discrimination or illegal harassment of Village officers or employees in the workplace.

## PORT DICKINSON CODE

2. The Village and this discrimination and harassment policy prohibit conduct that is illegal under State or federal law including, but not limited to, the inappropriate forms of behavior described in Section 6-3 of this policy under the section entitled “Definition of Sexual Harassment.”
3. Department heads and supervisory personnel are responsible for ensuring a work environment free from unsolicited, unwelcome, and intimidating unlawful discrimination or harassment. These individuals must take immediate and, if authorized, appropriate corrective action when allegations of discrimination or harassment come to their attention to assure compliance with this policy. Should a department head or supervisor not be authorized to take corrective action, the matter shall be referred to the individual or body, as the case may be, having the authority to discipline.
4. A person who is found to have committed an act of unlawful discrimination or harassment or other inappropriate behavior will be subject to disciplinary action in accordance with the provisions of a negotiated labor agreement or State law, as may be appropriate. Additionally, retaliation against someone who has complained about prohibited discrimination or harassment is strictly prohibited as is retaliation against an individual who cooperates with an investigation of a discrimination or harassment complaint. Any such retaliatory conduct is illegal and will result in disciplinary action against the retaliator, if that person is an officer or employee of the Village. Intimidation, coercion, threats, reprisals, or discrimination against any person for complaining about unlawful discrimination or harassment, as described in this policy, is prohibited.
5. All Village officers and employees will be held responsible and accountable for avoiding or eliminating the conduct prohibited by this policy. Village employees are encouraged to report violations of this policy to their supervisor or to a member of the employment discrimination/harassment committee. This committee shall consist of two members of the Village Board, to be appointed annually by the Mayor.

### **§ 6-3. Definition of Harassment.**

- A. Sexual advances that are not welcome, requests for sexual favors, and other verbal or physical conduct with sexual overtones constitute sexual harassment when:
  1. submission to such conduct is made, either explicitly, or implicitly, a term or condition of an individual’s employment; or

## EMPLOYMENT DISCRIMINATION AND HARASSMENT POLICY

2. submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions such as promotion, transfer, or termination, affecting such individual;
  3. or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- B. Sexual harassment refers to behavior that an individual does not welcome; that is personally offensive; that fails to respect the rights of others; that lowers morale and that, therefore, interferes with an individual's work performance and effectiveness; or that creates an intimidating, hostile, or offensive working environment. Specific forms of behavior that the Village would consider sexual harassment include, but are not limited to, the following:
1. **VERBAL HARASSMENT** – Abusive verbal language related to a person's sex, including sexual innuendos; slurs; suggestive, derogatory, or insulting comments or sounds; whistling; jokes of a sexual nature; sexual propositions; and threats. Included would be any sexual advance that is unwelcome or any demand for sexual favors.
  2. **NON-VERBAL HARASSMENT** – Abusive written language, showing or displaying pornographic or sexually explicit objects or pictures, graphic commentaries, leering or obscene gestures in the workplace such that it unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.
  3. **PHYSICAL HARASSMENT** – Any physical contact which is not welcome, including touching, petting, pinching, coerced sexual intercourse, assault, or persistent brushing up against a person's body.

### **§ 6-4. Procedure.**

- A. Any Village officer or employee is encouraged to report an incident of suspected employment discrimination or harassment to a department head or to the employment discrimination/harassment committee as soon as possible after an alleged incident. A victim does not have to be the opposite sex of the harasser. The harasser does not have to be victim's immediate supervisor. The harasser could be an agent of a supervisor, another supervisor, a co-worker, or even someone not on the payroll of the Village who might have occasion to appear at a work site or enter a Village building or facility. A victim of sexual harassment does not necessarily have to be the person at whom unwelcome sexual conduct is directed. Such an individual could be someone who is affected by such conduct when it is directed towards another person, thereby creating a hostile work environment. Such conduct is unlawful and is prohibited by the Village and by this policy.

## PORT DICKINSON CODE

- B. Should an officer or employee believe that he or she has been discriminated against or harassed and would like guidance as to how to proceed in filing a complaint, that individual should review the Village's employment discrimination and harassment complaint procedure or contact any member of the employment discrimination/harassment committee.
- C. Should an individual file a complaint, the procedures of the employment discrimination/harassment committee must be followed, including the time limit of 180 days. The procedures describe the steps to be taken when an employee has filed a complaint, details the responsibilities of all involved parties, and provides the time frames for actions to be taken.
- D. All complaints will be handled in a timely and confidential manner. In no event will information concerning a complaint be released by the Village to any third party or to anyone within Village employment who is not directly involved with or in the investigation. A breach of this prohibition will result in disciplinary action.
- E. The investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses. The particular facts of the allegation will be examined individually, with a review of the nature of the behavior and the context in which the incident or incidents occurred. Confidentiality will be maintained throughout the investigatory process. The employment discrimination/harassment committee will also investigate cases in which a supervisor requests or requires assistance.
- F. An individual who believes that he or she has been unjustly charged with employment discrimination or harassment in violation of this policy will be afforded every opportunity to offer and present information in defense of the complaint. Any information will be confidential.
- G. A person who participates in this procedure may do so without fear of retaliation. Retaliation against anyone who has filed a complaint under this policy is prohibited and may well be a violation of federal or State law. Any such retaliation will result in disciplinary action by the Village.
- H. A person who is found to have committed an act of employment discrimination or harassment will be subject to disciplinary action in accordance with the provisions of a negotiated labor agreement or State law, as may be appropriate.

- I. Nothing in this policy should be construed to limit an individual's existing right to file a complaint with the New York State Division of Human Rights or the U.S. Equal Employment Opportunity Commission, or to take any legal action which he or she may deem advisable.

#### **§ 6-5. Employment Discrimination and Harassment Complaint Procedure.**

##### **A. STEP ONE**

1. An aggrieved person, hereafter referred to as the complainant, will meet with his or her department head to discuss an allegation of employment discrimination or harassment and may file a complaint of discrimination or harassment. If a complaint is filed, the department head shall send a signed complaint on a form available from the Village to the employment discrimination/harassment committee. Should an individual feel uncomfortable raising an issue of alleged employment discrimination or harassment with a department head, any other department head or a member of the employment discrimination/harassment committee may be approached. Verbal complaints may be handled informally.
2. Any written complaint must be filed by a complainant within 180 days an alleged act of employment discrimination or harassment on a form available from the Village.
3. The complainant may withdraw his or her complaint at any time by filing a notice in writing on a form available from the Village.

##### **B. STEP TWO**

1. When a written complaint is filed, the department head or committee member shall have 15 working days to try to resolve the allegation informally by 1) gathering and assessing the facts deemed necessary to resolve it; 2) meeting with the alleged abuser and the complainant separately; and 3) using whatever other methods deemed necessary or appropriate to attempt to resolve the complaint.
2. Regardless of whether the complaint is written or verbal, if a resolution is achieved by a department head, he or she will prepare a statement that the complaint has been resolved. All parties must sign the statement which shall be sent to the employment discrimination/harassment committee. The case will be considered closed.
3. If a complaint is not resolved, it will be turned over to the employment discrimination/harassment committee. The committee will investigate the complaint, call witnesses to appear before the committee, and review any other evidence the committee feels credible and probative of the allegation or allegations. Notice of the complaint must be given to the accused, who shall also be afforded an opportunity to appear before the committee, with or without counsel, if he or she so desires. The committee will have ten (10) working days to investigate the complaint and an additional ten (10) working days to render a decision.



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4. Written notice of the committee's decision will be given to both the complainant and the accused.

## TAX SEARCH CERTIFICATES

### Chapter 7

## TAX SEARCH CERTIFICATES

**[HISTORY: Adopted by the Board of Trustees on June 10, 2003 as Local Law 3-2003]**

#### **§ 7-1. Authority.**

The Village Clerk, as custodian and in charge of the records and files of the Village, be and hereby is authorized upon receipt in advance of a fee of Five Dollars (\$5.00) to search such records and files and issue certificates attesting to the payment or lack of payment of Village taxes.

#### **§ 7-2. Liability.**

While the Village Clerk shall use due diligence in such search and preparation of such certificate, neither the Village Clerk nor the Village of Port Dickinson shall be responsible for any errors or omissions.

## VILLAGE NEWSLETTER

### Chapter 8

## VILLAGE NEWSLETTER

**[HISTORY: Adopted by the Board of Trustees on February 10, 2004 as Local Law 1-2004]**

#### **§ 8-1. Authority.**

This local law is enacted pursuant to the authority of section 10 of the Municipal Home Rule Law authorizing villages to adopt a local law which may amend or supercede any provision of State Law in relation to the property, affairs or government of the town unless there is a State legislative restriction on such amendment or supercession.

#### **§ 8-2. Newsletter Distribution.**

Section I826 of the Tax Law of the State of New York is hereby amended in its application to the Village of Port Dickinson, Broome County, New York, to read as follows:

Section I826. Use tax or other notices to distribute advertising and propaganda material

a and b: Remain the same

c: Notwithstanding the foregoing provisions of this section, it shall be lawful for the Board of Trustees of the Village of Port Dickinson, Broome County, New York, to designate a particular written notice relating to worthwhile items or information regarding the affairs of said Village (other than advertisements or propaganda) to be included with said tax bill or water bill, sewer rent bill or notification of a tax to be assessed or levied.

FREEDOM OF INFORMATION

**Chapter 9**

**FREEDOM OF INFORMATION**

**Rules and Regulations Pertaining to the Public Inspection, Copying,  
Availability, Location and Nature of Such  
Village of Port Dickinson Records As Are Subject to Public Inspection  
by Law**

**§ 9-1. Promulgation**

**§ 9-2. Definitions**

**§ 9-3. Purpose and Scope**

**§ 9-4. Designation of Records Access Officer**

**§ 9-5. Location**

**§ 9-6. Hours for Public Inspection**

**§ 9-7. Requests for Public Access to Records**

**§ 9-8. Subject Matter List**

**§ 9-9. Denial of Access to Records**

**§ 9-10. Fees**

**§ 9-11. Public Notice**

**§ 9-12. Severability**

**[HISTORY: Resolution adopted by the Board of Trustees of the Village of Port Dickinson 3-14-06]**

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**§ 9-1. Promulgation**

Pursuant to, and in accordance with, the provisions of Section 89 of the Public Officers Law and the Regulations of the New York State Committee on Open Government (promulgated on January 10, 1978) as amended, the Board of Trustees of the Village of Port Dickinson hereby makes, establishes and adopts the following rules and regulations pertaining to the public inspection, copying, availability, location and nature of such Village of Port Dickinson records as are subject to public inspection by law:

**§ 9-2. Definitions**

Definitions. As used in this Resolution, unless the context requires otherwise:

- (a) “Village” means the Village of Port Dickinson, a municipal corporation organized and existing under and by virtue of the laws of the State of New York and with offices and principal place of business at 786 Chenango Street, Port Dickinson (mailing address Binghamton, NY 13901)
- (b) “ Board of Trustees ” means the Board of Trustees of the Village of Port Dickinson
- (c) “Mayor” means the Mayor of the Village of Port Dickinson
- (d) “Village Clerk” means the Village Clerk of the Village of Port Dickinson
- (e) “Regulations” means the Regulations promulgated by the Committee on Open Government on January 10, 1978 pursuant to the New York Freedom of Information Law as amended.

**§ 9-3. Purpose and Scope**

- (a) The people’s right to know the process of government decision-making and the documents and statistics leading to determination is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- (b) These regulations provide information concerning the procedures by which records may be obtained from the Village
- (c) Village personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.



## FREEDOM OF INFORMATION

- (d) Any conflicts among laws governing public access to records shall be construed favor of the widest possible availability of public records.

### **§ 9-4. Designation of Records Access Officer**

- (a) The Village Board of Trustees and the Mayor shall be responsible for insuring compliance with the regulations herein, and hereby designate the following persons as records access officers, who shall have the duty of coordinating Village response to public requests for access to records:

Village Clerk of the Village of Port Dickinson  
786 Chenango Street  
Port Dickinson (mailing address Binghamton, NY 13901)

- (b) Records access officers are responsible for insuring appropriate Village response to public requests for access to records. However, this designation shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.
- (c) Records access officers are responsible for assuring that Village personnel:
  - 1. Maintain a reasonably detailed current subject matter list.
  - 2. Assist the requester in identifying requested records, if necessary, and when appropriate, indicate the manner in which the records are filed, retrieved or generated to assist persons in reasonably describing records.
  - 3. Contact persons seeking records when a request is voluminous or when locating the records involves substantial effort, so that personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested.
  - 4. Upon locating the records, take one of the following actions:
    - (i) Make records available for inspection; or
    - (ii) Deny access to the records in whole or in part and explain in writing the reasons therefor.
  - 5. Upon request for copies of records:
    - (i) Make a copy available upon payment or offer to pay established fees, if any, in accordance with Section 10 or

## PORT DICKINSON CODE

- (ii) Permit the requester to copy these records.
- 6. Upon request, certify that a record is a true copy, and
- 7. Upon failure to locate records, certify that:
  - (i) The Village is not the legal custodian for such records, or
  - (ii) The records of which the Village is a custodian cannot be found after diligent search.

### **§ 9-5. Location**

Records shall be available for public inspection and copying at:

Village Hall  
786 Chenango Street,  
Village of Port Dickinson

or at the location where they are kept.

### **§ 9-6. Hours for Public Inspection**

Requests for public access to records shall be accepted and records produced during all hours the Village Hall is regularly open for business. These hours are: on regular business days, Monday through and including Friday, between the hours of 9:00 AM and 4:00 PM.

### **§ 9-7. Requests for Public Access to Records**

- (a) The Village may require that a request be made in writing. Oral requests may be accepted when records are readily available.
- (b) If records are maintained on the Internet, the requester shall be informed that the records are accessible via the Internet and in printed form either on paper or other information storage medium.
- (c) The Village shall respond to any request reasonably describing the record or records sought within five business days of receipt of the request by:
  - (1) informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;



## FREEDOM OF INFORMATION

- (2) granting or denying access to records in whole or in part;
  - (3) acknowledging the receipt of a request in writing, including an appropriate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than twenty business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure, within twenty business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or
  - (4) if the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within twenty business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgment specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.
- (d) In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.
- (e) A failure to comply with the time limitations described herein shall constitute a denial of a request that may be appealed. Such failure shall include situations in which an officer or employee:
- (1) Fails to grant access to the records sought, deny access in writing or acknowledge the receipt of a request within five business days of the receipt of a request;
  - (2) Acknowledges the receipt of a request within five business days but fails to furnish an approximate date when the request will be granted or denied in whole or in part:

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- (3) Furnishes an acknowledgment of the receipt of a request within five business days with an approximate date for granting or denying access in whole or in part that is unreasonable under the circumstances of the request;
- (4) Fails to respond to a request within a reasonable time after the approximate date given or within twenty business days after the date of the acknowledgment of the receipt of a request;
- (5) Determines to grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request, but fails to do so, unless the agency provides the reason for its inability to do so in writing and a date certain within which the request will be granted in whole or in part;
- (6) Does not grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request and fails to provide the reason in writing explaining the inability to do so and a date certain by which the request will be granted in whole or in part; or
- (7) Responds to a request, stating that more than twenty business days is needed to grant or deny the request in whole or in part and provides a date certain within which that will be accomplished, but such date is unreasonable under the circumstances of the request.

### **§ 9-8. Subject Matter List**

- (a) The records access officer shall maintain a reasonable detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to subdivision two of section eighty-seven of the Public Officers Law.
- (b) The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- (c) The subject matter list shall be updated annually. The most recent update shall appear on the first page of the subject matter list.

### **§ 9-9. Denial of Access to Records**

- (a) Denial of access shall be in writing stating the reason therefor and advising the person denied access of his or her right to appeal to the person or body established to hear appeals, and that person or body shall be identified by name, title, business address and business telephone number. The records access officer shall not be the appeals officer.

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- (b) The Village Board of Trustees shall hear appeals or shall designate a person or body to hear appeals regarding denial of access to records under the Freedom of Information Law.
- (c) If the Village fails to respond to a request as required in section 7 of these Regulations, such failure shall be deemed a denial of access by the Village.
- (d) Any person denied access to records may appeal within thirty days of a denial.
- (e) The time for deciding an appeal by the individual or body designated to hear appeals shall commence upon receipt of written appeal identifying:
  - (1) The date and location of a request for records;
  - (2) The records that were denied; and
  - (3) The name and return address of the appellant.
- (f) A failure to determine an appeal within ten business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.
- (g) The Village shall transmit to the Committee on Open Government copies of all appeals upon receipt of an appeal. Such copies shall be addressed to:

Committee on Open Government  
Department of State  
41 State Street  
Albany, New York 12231
- (h) The person or body designated to hear appeals shall inform the appellant and the Committee on Open Government of its determination in writing within ten business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in subdivision (g) of this section.
- (i) A final denial of access to a requested record, as provided for in subdivision (h) of this section, shall be subject to court review, as provided for in subdivision (g) of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law and Rules.

## PORT DICKINSON CODE

### **§ 9-10. Fees.**

Except when a different fee is otherwise prescribed by law:

- (a) There shall be no fee charged for the following:
  - (1) Inspection of records;
  - (2) Search for records; or
  - (3) Any certification pursuant to the Regulations or pursuant to the Resolution.
- (b) Copies may be provided without charging a fee.
- (c) Fees for copies may be charged, provided that:
  - (1) The fee for copying records shall not exceed 25 cents per page for photocopies not exceeding 9 by 14 inches. This section shall not be construed to mandate the raising of fees where agencies or municipalities in the past have charged less than 25 cents for such copies;
  - (2) The fee for copies of records not covered by paragraphs (1) and (2) of this subdivision, shall not exceed the actual reproduction cost which is the average unit cost for copying a record, excluding fixed costs of the agency such as operator salaries.

### **§ 9-11. Public Notice**

The Village shall publicize by posting in a conspicuous location and/or by publication in a local newspaper of general circulation:

- (a) The location where records shall be made available for inspection and copying.
- (b) The name, title, business address and business telephone number of the designated records access officer.
- (c) The right to appeal by any person denied access to a record and the name and business address of the person or body to whom an appeal is to be directed.

### **§ 9-12. Severability**

If any provision of this Resolution or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Resolution or the application thereof to other persons and circumstances.

## FREEDOM OF INFORMATION

# CYBER SECURITY CITIZENS' NOTIFICATION POLICY

## Chapter 10

### CYBER SECURITY CITIZENS' NOTIFICATION POLICY

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson  
3-14-06]**

#### **§ 10-1 Definitions**

**CONSUMER REPORTING AGENCY:** Any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. The state attorney general is responsible for compiling a list of consumer reporting agencies and furnishing the list upon request to the municipality.

**DATA:** Any information created, stored (in temporary or permanent form), filed, produced or reproduced, regardless of the form or media. Data may include, but is not limited to personally identifying information, reports, files, folders, memoranda, statements, examinations, transcripts, images, communications, electronic or hard copy.

**INFORMATION:** The representation of facts, concepts, or instructions in a formalized manner suitable for communication, interpretation, or processing by human or automated means.

**PERSONAL INFORMATION:** Any information concerning a natural person which, because of name, number, personal mark or other identifier, can be used to identify such natural person.

**PRIVATE INFORMATION:** Personal information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted or encrypted with an encryption key that has also been acquired:

social security number; or

1. driver's license number or non-driver identification card number; or

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2. account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account

“Private information” does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

THIRD PARTY: Any non-municipal employee such as a contractor, vendor, consultant, intern, other municipality, etc.

**§ 10-2. This policy is consistent with the State Technology Law, § 208 as added by Chapters 442 and 491 of the Laws of 2005.**

**§ 10-3.** The Village of Port Dickinson ( the “Village”) shall notify an individual, in compliance with the Information Security Breach and Notification Act and this policy when there has been or is reasonably believed to have been a compromise of the individual's private information, as defined in Section C below, after consulting with the State's Office of Cyber Security and Critical Infrastructure Coordination ICSCIC) to determine the scope of the breach and restoration measures.

**§ 10-4.** A compromise of private information means the unauthorized acquisition of unencrypted computerized data with private information from the Village or from any third party maintaining such information from the Village.

**§ 10-5.** If encrypted data is compromised along with the corresponding encryption key, the data is considered unencrypted and thus falls under the notification requirements.

**§ 10-6.** Notification by the Village may be delayed if a law enforcement agency determines that the notification may impede a criminal investigation. In such case, the Village shall delay the notification only as long as needed to determine that notification no longer compromises any investigation.

**§ 10-7.** The Village will notify the affected individual directly by one of the following methods:

1. Written notice;
2. Electronic notice, provided that the person to whom notice is required has expressly consented to receiving notice in electronic form and a log of each notification is kept by the Village-that notifies affected persons in such form;

## CYBER SECURITY CITIZENS' NOTIFICATION POLICY

3. Telephone notification, provided that a log of each notification is kept by the Village-that notifies affected persons; or
4. Substitute notice, if the municipality demonstrates to the state Attorney General that the cost of providing notice would exceed \$250,000, that the affected class of persons to be notified exceeds 500,000, or that the Village does not have sufficient contact information. The following constitute sufficient substitute notice:
5. E-mail notice when the municipality has an e-mail address for the subject persons;
6. Conspicuous posting of the notice on the municipality's web site page, if the municipality maintains one; and
7. Notification to major statewide media.

**§ 10-8.** The Village must notify CSCIC, the Attorney General and the Consumer Protection Board as to the timing, content and distribution of the notices and approximate number of affected persons.

**§ 10-9.** Regardless of the method by which notice is provided, the notice shall include contact information for the Village and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are reasonably believed to have been, so acquired.

**§ 10-10.** This Policy also applies to information maintained on behalf of the Village by a third party.

When more than 5,000 New York residents must be notified at one time, then the Village shall notify the consumer reporting agencies as to the timing, content and distribution of the notices and the approximate number of affected individuals. This notice, however, will be made without delaying notice to the individuals.



## **SALARIES AND COMPENSATION**

### **Chapter 14**

## **SALARIES AND COMPENSATION**

**[The compensation of village officers and employees is set by resolution of the Board of Trustees and a schedule of wages and salaries is included in the annual budget, as required by § 5-506 of the Village Law. Copies of the annual budget, including the schedule of wages and salaries, are available at the office of the Village Clerk for inspection, during office hours, by any interested person.]**

### **§14-1 Payroll Deductions**

**[HISTORY: Adopted by the Board of Trustees 2-8-05 as Local Law 2 - 2005]**

### **§14-1 Payroll Deductions**

The Board of Trustees may by resolution authorize the Mayor to deduct from the salary or wage of any village officer or employee an amount specified in writing by such officer or employee for transmittal of the same to any bank or credit union having a place of business in Broome County, New York or Susquehanna County, Pennsylvania, including but not limited to State Employees Federal Credit Union, (SEFCU), Partaners Trust Bank, HSBC Bank, M&T Bank, GHS Credit Union, BCT Credit Union, Horizon Credit Union, Visions Federal Credit Union, People's National Bank, NBT Bank, Charter 1 Bank, Chemung Canal Trust Company, Sidney Federal Credit Union, Empire Federal Credit Union.

## TERMS OF OFFICE

### Chapter 16

## TERMS OF OFFICE

**§ 16-1. Terms of office: Mayor, Board of Trustees.**

**§ 16-2. Elections to be held biennially.**

**§ 16-3. Transitional elections.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 1-4-66 by resolution. Amendments noted where applicable.]\***

**§ 16-1. Terms of office: Mayor, Board of Trustees.\***

The terms of the Mayor and four (4) Trustees of the Village of Port Dickinson, New York, shall be four (4) years, beginning with the official year commencing April 4, 1966, at 12:00 noon.

The term of the Mayor shall be two (2) years (commencing January 1, 1976 by reason of 1975 referendum).

**§ 16-2. Elections to be held biennially.\***

The general village election shall be held biennially in even-numbered years.

**§ 16-3. Transitional elections.\***

The transition to biennial elections in even-numbered years shall be accomplished by the election of two (2) Trustees in 1966 for four-year terms to expire in 1970, and by the election of a Mayor and two (2) Trustees in 1967 for five-year terms to expire in 1972.

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\*The above listed revisions did not become effective because of a failure of the Village to hold a required public referendum. Therefore, the present terms of office of the Mayor and Trustees of the Village is two (2) years each. The general Village Election is held annually, all pursuant to provisions of Section 3-302 of the Village Law of the State of New York.

## Chapter 17

### Eligibility of Village Treasurer And Deputy Village Clerk.

#### **§17-1. Eligibility of Village Treasurer**

#### **§17-2. Compensation of Village Treasurer**

**[History: Adopted by the Board of Trustees of the Village of Port Dickinson 5-8-01 by Local Law 3-2001]**

#### **§ 17-3. Eligibility of Deputy Village Clerk**

**[History: Adopted by the Board of Trustees April 8, 2003 by Local Law 2-2003]**

#### **§17-1. ELIGIBILITY OF VILLAGE TREASURER**

Section 300 of the Village Law is hereby amended and superseded in its application to the Village of Port Dickinson to provide that the Treasurer of the Village of Port Dickinson at the time of his appointment and throughout his term of office need not be an elector of the Village of Port Dickinson so long as he is a resident of the County of Broome and the State of New York on an abutting or adjacent county. A new sentence is hereby inserted at the end of Section 300 of the Village Law to read and provide as follows: "The Treasurer of the Village of Port Dickinson at the time of his appointment and throughout his term of office need not be an elector of the Village of Port Dickinson so long as he is a resident of the County of Broome of the State of New York or an abutting or an adjacent county."

#### **§17-2. COMPENSATION OF VILLAGE TREASURER**

(a) The Village Treasurer shall be compensated by a fixed salary for the duties set forth in Section 4-408 of the Village Law.

(b) The Village Treasurer shall be compensated at an hourly rate to be set from time to time by the Board of Trustees for the performance of additional fiscal services not enumerated which do not occur on a regular basis regarding which the Board of Trustees requests the Village Treasurer's assistance.

(c) All salary payments to the Village Treasurer made pursuant to paragraphs a of this Section 17.2 of this Local Law and all hourly payments to the Village Treasurer made pursuant to paragraph b of this Section 17.2 of this Local Law shall be made on the payroll method so that all of such payments shall be subject to payroll withholdings, and the Village shall make social security contributions in connection therewith; and the Village shall take all of those salary and hourly payments into account in calculating the Village Treasurer's salary for salary, payroll and retirement system purposes, and the totals thereof shall respectively be the basis for the Village's contribution on behalf of the Village Treasurer to the New York State Employee's Retirement System. The Mayor of the Village of Port Dickinson and the Village Clerk of the Town of Port Dickinson are hereby authorized to take appropriate steps and to prepare and file all appropriate forms and statements in order to carry out said purposes.

**§ 17-3 ELIGIBILITY OF DEPUTY VILLAGE CLERK**

Section 300 of the Village Law is hereby amended and superseded in its application to the Village of Port Dickinson to provide that the Deputy Village Clerk of the Village of Port Dickinson at the time of his appointment and throughout his term of office need not be an elector of the Village of Port Dickinson so long as he is a resident of the County of Broome and the State of New York on an abutting or adjacent county. A new sentence is hereby inserted at the end of Section 300 of the Village Law to read and provide as follows: “The Deputy Village Clerk of the Village of Port Dickinson at the time of his appointment and throughout his term of office need not be an elector of the Village of Port Dickinson so long as he is a resident of the County of Broome of the State of New York or an abutting or an adjacent county.”

**§ 17-3.1 COMPENSATION OF DEPUTY VILLAGE CLERK**

- (a) The Deputy Village Clerk shall be compensated by a fixed salary for the performance of the duties set forth in Section 4-402 of the Village Law in the absence of the Village Clerk.

(b) All salary payments to the Deputy Village Clerk made pursuant to paragraphs (a) of this Section 3 of the Local Law shall be made on the payroll method so that all of such payments shall be subject to payroll withholdings, and the Village shall make social security and retirement system contributions in connection therewith. The Mayor to the Village of Port Dickinson, the Village Clerk and the Village Treasurer of the Town of Port Dickinson are hereby authorized to take appropriate steps and to prepare and file all appropriate forms and statements in order to carry out said purposes.

# PART II

## GENERAL LEGISLATION

## ANIMALS

### Chapter 22

## ANIMALS

- § 22-1. Purpose.
- § 22-2. Definitions.
- § 22-3. Restrictions.
- § 22-3A. Canine waste.
- § 22-4. Seizure and impoundment.
- § 22-5. Existing violations.
- § 22-6. Penalties for offenses.

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 7-9-74 as Local Law No. 2-1974. Amendments noted where applicable.]**

#### § 22-1. Purpose.

The purpose and intent of this chapter shall be to preserve the public peace and good order in the Village of Port Dickinson and to contribute to the public welfare and the preservation and protection of the property and the person of the inhabitants of said village by declaring and enforcing certain regulations and restrictions on activities of animals and other pets and their owners within the Village of Port Dickinson.

#### § 22-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ANIMAL or ANIMALS — Horses, cattle, rabbits, goats, sheep, swine, poultry, pigeons, any animal generally considered by species to be wild, poisonous insects, poisonous reptiles or any reptile over three (3) feet in length.

PETS — Shall include dogs, cats or any other animal or reptile not included in the term of animal as hereinbefore defined.

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### § 22-3. Restrictions.

It shall be unlawful and a violation of this chapter for any person, firm or corporation to:

- A. Hereafter keep, house or maintain any animals, as defined by § 22-2 of this chapter, within the limits of the Village of Port Dickinson without a special permit in writing from the Board of Trustees, signed by the Mayor and one (1) Trustee. Said permit may be granted at the discretion of the Board of Trustees and shall remain valid until such time as it shall appear from the complaints of the neighbors or otherwise that the keeping of such animals is objectionable or offensive by reason of noise, smell or other cause.
- B. Permit or allow any pet to run at large unless restrained by a collar and leash or unless accompanied by its owner or a responsible person able to control the pet. This subsection shall not apply to house cats.
- C. Permit a pet to engage in habitual howling, barking or production of noise or conducting itself in such manner as to habitually annoy any person.
- D. Permit a pet or fail to curb or control such pet so that it causes damage or destruction to property or to commit a nuisance upon the premises of a person other than the owner or person harboring such pet.
- E. Permit or fail to curb or control such pet so that it shall chase, bite, snap at, jump upon or otherwise harass any person in such a manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.
- F. Permit or to so fail to control the pet that it shall habitually chase or bark at motor vehicles.
- G. Board to keep pets owned by other persons for pay, whether in money or money's worth.
- H. Maintain kennels or pet harborage in such a manner as to be unsanitary or order bearing.
- I. **[Deleted 4/28/2020, LL4-2020]**
- J. Permit a dog to engage in continuous barking for a period of 15 minutes or more.  
[added by LL4-2021, 8/10/2021]

## ANIMALS

**§ 22-3A. Canine waste.**

- A. Any person owning, harboring, walking or in charge of a dog who allows the dog to defecate on public property, or on any private property without the permission of the property owner, shall remove all feces immediately after it is deposited by the dog. All feces removed in accordance with this section shall be placed in a suitable bag or other container which closes. The bag or closed container shall then be deposited in a receptacle for the disposal of refuse.
- B. The provisions of this section shall not apply to blind persons using dogs as guides.
- C. Any police officer of the Village of Port Dickinson or other designee of the Village Board who observes a violation of this section is hereby authorized to issue an appearance ticket setting forth a brief description of the circumstances of the violation.
- D. Any person who observes a violation of this section may appear before the Town Justice of the Town of Dickinson and sign an Information (criminal complaint). The Town Justice shall summon the person who allegedly violated this section of the local law to appear in person before him at a hearing, at which both the complainant and the alleged violator shall have an opportunity to be represented by counsel and to present evidence.
- E. The provisions of sections 22-4 and 22-5 of this chapter shall not apply to violations of this section.

**§ 22-4. Seizure and impoundment.**

- A. Any animal or pet in violation of any of the provisions of this chapter shall be subject to seizure and impounding by any police officer or by any other person or agency designated by the village or authorized by law to seize and impound such animal or pet. Any such warden, police officer or other person or agency so seizing such animal or pet hereunder shall be empowered to exercise such degree of force as shall be necessary to effect such seizure.
- B. After such seizure and impounding as above provided, the resident owner of such animal or pet, if ascertainable, shall be notified thereof personally or by affixing a written notice to such owner's last known place of residence. Such animal or pet so seized and impounded shall be delivered to the Broome County Dog Shelter and shall thereafter be subject to the rules and regulations of such shelter, including the destruction and/or sale of such animal or pet pursuant to the provisions of the Agricultural and Market Law of the State of New York or other applicable law in effect at the time of such impounding.



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**§ 22-5. Existing violations.**

Any person, firm or corporation in violation of this chapter at the date of its enactment shall have thirty (30) days from such enactment date to cure such violation and conform to the provisions of this chapter.

**§ 22-6. Penalties for offenses.**

The violation of this chapter and conviction thereof shall be punishable by a fine not to exceed fifty dollars (\$50.) for each and every offense, unless the amount of any such fine is specifically prescribed or limited by the Agricultural and Market Law of the State of New York. In addition to the above prescribed penalties, the Village may also seek restitution for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. [Amended 5/8/12, LL3-2012, Amended 4/28/2020, LL4-2020]

ASSESSMENT

**Chapter 23**

ASSESSMENT

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson April 13, 1993 as Local Law No. 1-1993.]**

**§ 23-1. Legislative intent.**

The intent of the Board of Trustees of the Village of Port Dickinson is to implement section 1402(3) of the Real Property Tax Law providing for the voluntary termination of the Village's status as an assessing unit, as provided in the Village Law and the Real Property Tax Law. It is also the intent of this local law to abolish the position of Assessor and to terminate any and all responsibility as provided by law for the review of the assessments of real property located within the Village of Port Dickinson.

**§ 23-2.** On or after the effective date of this local law, the Village of Port Dickinson shall cease to be an assessing unit.

**§ 23-3.** The position of Assessor in the Village of Port Dickinson is hereby abolished.

**§ 23-4.** The Board of Assessment Review in the Village of Port Dickinson is hereby abolished.

**§ 23-5.** On or after the effective date of this local law, taxes in the Village of Port Dickinson shall be levied on a copy of the applicable part of the assessment roll of the Town of Dickinson with the taxable status date of such town controlling for village purposes.

**§ 23-6.** Within five days of the effective date of this local law, the Board of Trustees of the Village of Port Dickinson shall file a copy of such local law with the Clerk and Assessor of the Town of Dickinson and with the State Board of Equalization and Assessment.

**§ 23-7.** This local law shall take effect immediately upon filing with the Secretary of State, provided, however, that such local law is subject to a permissive referendum and the village clerk shall forthwith proceed to notice such fact and conduct such referendum if required by petition.



**BRUSH, GRASS AND WEEDS**

- § 24-1. Removal required.**
- § 24-2. Determination of Enforcement Officer.**
- § 24-3. Notice to owner.**
- § 24-4. Compliance.**
- § 24-5. Removal by village.**
- § 24-6. Enforcement.**
- § 24-7. Severability.**
- § 24 -8. When effective.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 4-7-87 as Local Law No. 1-1987. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Property maintenance — See Ch. 45.  
Subdivision of land — See Ch. 53.  
Zoning — See Ch. 65.

**§ 24-1. Removal required.**

Every owner of any lot, plot or property in the Village of Port Dickinson is hereby required to cut, trim or otherwise remove, or to cause to be cut and trimmed to a height of no greater than eight (8) inches on all parts of said lots, plots and property, or otherwise removed, all weeds. grass. brush or other uncultivated vegetation or accumulation of dead weeds. grass or brush which are hereby deemed detrimental to the public health of the community. It shall be unlawful for the owner of any real property in the Village of Port Dickinson to allow such property to become and remain overgrown with brush, grass and weeds in violation of this chapter.

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### **24-2. Determination of Enforcement Officer.**

The Enforcement Officer shall determine if any such growth of weeds, grass, brush or other such uncultivated vegetation or accumulation of dead weeds, grass or brush exceeds the requirements of § 24-1.

### **§ 24-3. Notice to owner.**

After it has been determined that the requirements of § 24-1 have not been complied with, the Enforcement Officer shall give notice to the owner of such lot, plot or property that such condition exists by causing to be served upon such person, a written notice of violation. In the event that the owner cannot reasonably be located, then said notice shall be served by certified mail, return receipt requested to such person's last known address. [Amended 12-8-92 By L.L. No. 4-1992]

### **§ 24-4. Compliance.**

#### **A. Section 24-4 entitled "Compliance" is amended to provide as follows:**

A person upon whom notice has been served to cut, trim or remove such long grass, weeds or brush and who for five (5) days after the date of personal service or ten (10) days from the date of service by mailing neglects or fails to comply with the provisions of such notice, shall be deemed to have violated this chapter. (amended 7/9/2013, LL 9-2013)

#### **B. Section 24-5 entitled "Removal by village" is amended to provide as follows:**

If after the expiration of five (5) days from the date of personal service or ten (10) days from the date of service by mailing, the owner neglects or fails to comply with the requirements of § 24-1, the Department of Public Works at the order of the Enforcement Officer shall have the power to cut, trim or remove such weeds, grass, brush or other uncultivated vegetation or accumulation of dead weeds, grass or brush on any such lot, plot or property in the Village of Port Dickinson. If in the judgment of the Commissioner of Public Works the employees of the Department of Public Works, by reason of their work schedule, will be unable to attend to such cutting activities within seven (7) days from receipt of said order, the Enforcement Officer may direct a private contractor previously approved by the Board of Trustees to perform such services at the pay schedule previously approved. In either such event the expense thereof shall become a lien upon the real property involved and be added to and become a part of the tax next so assessed by including such expense in the next annual tax levy against the property, pursuant to the Village Law of New York. In addition to the above prescribed penalties, the Village may also seek restitution for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. (amended 7/9/2013, LL 9-2013)

### **§ 24-5. Removal by village.**

If after the expiration of ten (10) days from the date of personal service or fifteen (15) days from the date of service by mailing, the owner shall fail to comply with the requirements of § 24-1, the Department of Public Works at the order of the Enforcement Officer shall have the power to cut, trim or remove such weeds, grass, brush or other uncultivated vegetation or accumulation of dead weeds, grass or brush on any such lot, plot or property in the Village of Port Dickinson. If in the judgement of the

Commissioner of Public Works the employees of the Department of Public Works, by reason of their work schedule, will be unable to attend to such cutting activities within seven (7) days from receipt of said order, the Enforcement Officer may direct a private contractor previously approved by the Board of Trustees to perform such services at the pay schedule previously approved. In either such event the expense thereof shall become a lien upon the real property involved and be added to and become a part of the tax next so assessed by including such expense in the next annual tax levy against the property, pursuant to the Village Law of New York. In addition to the above prescribed penalties, the Village may also seek restitution for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. **[Amended 8-8-00 by L.L. No. 4-2000 and 5/8/12 by LL 3-2012]**

Amended 8-8-00

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## BRUSH, GRASS AND WEEDS

### **§ 24-6. Enforcement.**

The Enforcement Officer of the Village of Port Dickinson is hereby empowered to enforce the provisions of this chapter.

### **§ 24-7. Severability.**

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

### **§ 24-8. When effective.**

This chapter shall take effect immediately.

**Chapter 26 (adopted 10-27-2020, LL 9-2020)**

**BUILDING CONSTRUCTION**

**ADMINISTRATION AND ENFORCEMENT OF THE  
UNIFORM FIRE PREVENTION AND BUILDING CODE**

**SECTION 1. PURPOSE AND INTENT.**

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in the Village of Port Dickinson (the Village). This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

**SECTION 2. DEFINITIONS.**

In this local law:

“Building Permit” shall mean a permit issued pursuant to section 4 of this local law. The term “Building Permit” shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Certificate of Occupancy” shall mean a certificate issued pursuant to subdivision (b) of section 7 of this local law.

“Code Enforcement Officer” shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this local law.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors.

“Energy Code” shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

“Inspector” shall mean an inspector appointed pursuant to subdivision (d) of section 3 of this local law.

“Operating Permit” shall mean a permit issued pursuant to section 10 of this local law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Order to Remedy” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 16 of this local law.

“Permit Holder” shall mean the Person to whom a Building Permit has been issued.

“Person” shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

“Stop Work Order” shall mean an order issued pursuant to section 6 of this local law.

“Temporary Certificate” shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

“Village” shall mean the Village of Port Dickinson.

### **SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS.**

(A) The Office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

(3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy, Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;



- (4) to issue Stop Work Orders;
- (5) to review and investigate complaints;
- (6) to issue orders pursuant to subdivision (a) of section 16 (Violations) of this local law;
- (7) to maintain records;
- (8) to collect fees as set by the Village Board of this Village;
- (9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this Village's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(B) The Code Enforcement Officer shall be appointed by the Mayor, subject to Village Board approval. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

(C) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Mayor, subject to Village Board approval, to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(D) One or more Inspectors may be appointed the Mayor, subject to Village Board approval, to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

(E) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Village Board of this Village.

#### **SECTION 4. BUILDING PERMITS.**

(A) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.

(B) Exemptions. No Building Permit shall be required for work in any of the following categories:

(1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);

(2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(3) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;

(4) installation of fences which are not part of an enclosure surrounding a swimming pool;

(5) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;

(6) construction of temporary motion picture, television and theater stage sets and scenery;

(7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(8) installation of partitions or movable cases less than 5'-9" in height;

(9) painting, wallpapering, tiling, carpeting, or other similar finish work;

(10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(12) repairs, provided that such repairs do not involve (i) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time.

(C) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(D) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

(1) a description of the proposed work;

(2) the tax map number and the street address of the premises where the work is to be performed;

(3) the occupancy classification of any affected building or structure;

(4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

(5) at least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

(E) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

(F) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(G) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(H) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

(I) Time limits. Building Permits shall become invalid unless the authorized work is commenced within [6] months following the date of issuance. Building Permits shall expire [12] months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

(J) Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in

compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(K) Fee. The fee specified in or determined in accordance with the provisions set forth in section 17 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

## **SECTION 5. CONSTRUCTION INSPECTIONS.**

(A) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

(B) Elements of work to be inspected. The following elements of the construction process shall be inspected made, where applicable:

- (1) work site prior to the issuance of a Building Permit;
- (2) footing and foundation;
- (3) preparation for concrete slab;
- (4) framing;
- (5) building systems, including underground and rough-in;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

(C) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(D) Fee. The fee specified in or determined in accordance with the provisions set forth in section 17 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

## **SECTION 6. STOP WORK ORDERS.**

(A) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

(1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(B) Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(C) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by registered mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by registered mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(D) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

(E) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 16 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

## **SECTION 7. CERTIFICATES OF OCCUPANCY.**

(A) Certificates of Occupancy required. A Certificate of Occupancy shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy.

(B) Issuance of Certificates of Occupancy. The Code Enforcement Officer shall issue a Certificate of Occupancy if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the

applicant for the Certificate of Occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy:

- (1) a written statement of structural observations and/or a final report of special inspections, and
- (2) flood hazard certifications.

(C) Contents of Certificates of Occupancy. A Certificate of Occupancy shall contain the following information:

- (1) the Building Permit number, if any;
- (2) the date of issuance of the Building Permit, if any;
- (3) the name, address and tax map number of the property;
- (4) if the Certificate of Occupancy is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy is issued;
- (5) the use and occupancy classification of the structure;
- (6) the type of construction of the structure;
- (7) the assembly occupant load of the structure, if any;
- (8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) any special conditions imposed in connection with the issuance of the Building Permit; and
- (10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy and the date of issuance.

(D) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed [6] months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

(E) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(F) Fee. The fee specified in or determined in accordance with the provisions set forth in section 17 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy or for Temporary Certificate.

## **SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.**

The chief of any fire department providing firefighting services for a property within this Village shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

## **SECTION 9. UNSAFE BUILDING AND STRUCTURES.**

Unsafe structures and equipment in this Village shall be identified and addressed in accordance with the procedures established in Chapter 58 of the Village Code, as now in effect or as hereafter amended from time to time.

## **SECTION 10. OPERATING PERMITS.**

(A) Operation Permits required. Operating Permits shall be required for conducting any activity listed in paragraphs (1), (2), or (3) below or operating any type of building or structure listed in paragraphs (4), (5), or (6) below:

(1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 5003.1.1(1), 5003.1.1(2), 5003.1.1(3), 5003.1.1(4) of the 2015 edition of the International Fire Code (a publication currently incorporated by reference in 19 NYCRR Part 1225);

(2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(3) use of pyrotechnic devices in assembly occupancies;

(4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more;

(5) parking garages as defined in subdivision (a) of section 13 of this local law; and

(6) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Village Board of this Village.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(B) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(C) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.

(D) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

(E) Duration of Operating Permits. Operating Permits shall remain in effect until reissued, renewed, revoked, or suspended.

(F) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(G) Fee. The fee specified in or determined in accordance with the provisions set forth in section 17 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

## **SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS.**

(A) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

(1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every thirty-six (36) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every thirty-six (36) months.

(3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every thirty-six (36) months.

(B) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(C) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive



Law section 156-e and Education Law section 807-b. Notwithstanding any other provision of this section to the contrary:

(1) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(2) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(3) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and

(4) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.

(D) Fee. The fee specified in or determined in accordance with the provisions set forth in section 17 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

## **SECTION 12. COMPLAINTS.**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

(A) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

(B) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 16 (Violations) of this local law;

(C) if appropriate, issuing a Stop Work Order;

(D) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

## **SECTION 13. CONDITION ASSESSMENTS OF PARKING GARAGES.**

(A) Definitions. For the purposes of this section:

(1) the term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;

(2) the term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;

(3) the term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

- (i) buildings in which the only level used for parking or storage of motor vehicles is on grade;
- (ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
- (iii) a townhouse unit with attached parking exclusively for such unit;

(4) the term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;

(5) the term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.

(6) the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the 2015 edition of the International Property Maintenance Code (a publication currently incorporated by reference in 19 NYCRR Part 1226); and

(7) the term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(B) Condition Assessments – general requirements. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision (c) of this section, periodic condition assessments as described in subdivision (d) of this section, and such additional condition assessments as may be required under subdivision (e) of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the Village, in accordance with the requirements of subdivision (f) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

(C) Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:

(1) New parking garages shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure,

(2) Existing parking garages shall undergo an initial condition assessment as follows:

(i) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;

(ii) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and

(iii) if originally constructed between January 1, 2003 and the effective date of the rule adding this subdivision to 19 NYCRR section 1203.3, then prior to October 1, 2021.

(D) Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three (3) years.

(E) Additional Condition Assessments.

(1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the Village shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.

(2) If the Village becomes aware of any new or increased deterioration which, in the judgment of the Village, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the Village shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Village to be appropriate.

(F) Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Village within thirty days, or as soon thereafter as reasonably possible upon written request to the Village and explanation of the need for additional time. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

(1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;

(2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;

(3) an evaluation and description of the unsafe conditions;

(4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;

(5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;

(6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;

(7) the responsible professional engineer's recommendation regarding preventative maintenance;

(8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and

(9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in his or her professional judgment.

(G) Review Condition Assessment Reports. The Village shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Village shall, by Order to Remedy or such other means of enforcement as the Village may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Village to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

(H) The Village shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Village with a written statement attesting to the fact that he or she has been so engaged, the Village shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Village shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

(I) This section shall not limit or impair the right or the obligation of the Village:

(1) to perform such construction inspections as are required by section 5 of this local law;

(2) to perform such periodic fire safety and property maintenance inspections as are required by section 11 of this local law; and/or

(3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Village by means of its own inspections

or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

#### **SECTION 14. RECORD KEEPING.**

(A) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

- (1) all applications received, reviewed and approved or denied;
- (2) all plans, specifications and construction documents approved;
- (3) all Building Permits, Certificates of Occupancy, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all condition assessment reports received;
- (9) all other features and activities specified in or contemplated by sections 4 through 13, inclusive, of this local law, including; and
- (10) all fees charged and collected.

(B) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

#### **SECTION 15. PROGRAM REVIEW AND REPORTING.**

(A) The Code Enforcement Officer shall annually, or on more frequent intervals as directed, submit to the Village Board of this Village a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 14 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(B) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Village, on a form prescribed by the Secretary of State, a report of the activities of this Village relative to administration and enforcement of the Uniform Code.

(C) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Village is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Village in connection with administration and enforcement of the Uniform Code.

#### **SECTION 16: VIOLATIONS.**

(A) Orders to Remedy. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. An Order to Remedy

shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following:

“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by \_\_\_\_\_ [specify date], which is thirty (30) days after the date of this Order to Remedy.”

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(B) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(C) Criminal Penalties. Violations of the Uniform Code, the Energy Code, or this chapter shall be deemed criminal violations for purposes of prosecution. Any person who violates any provision of the Uniform Code, the Energy Code, or this chapter, or any term or condition of any building permit, certificate of occupancy or compliance, temporary certificate, stop-work order, operating permit or other notice or order issued pursuant to this chapter, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of law or any lawful order, notice, directive, permit or certificate made hereunder or thereunder, shall be punished by a fine of not more than \$250 per day of violation or imprisonment not exceeding 15 days, or both. Each day that a violation continues shall be deemed a separate offense.

(D) Civil Penalties. In addition to those penalties prescribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$100 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Village.

(E) Injunctive Relief. An action or proceeding may be instituted in the name of this Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit, Order to Remedy, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Village, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Mayor of this Village.

(F) Restitution. The Village may seek restitution for costs incurred by the Village in identifying and remedying each violation, including, but not limited to, reasonable attorneys' fees.

(F) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

## **SECTION 17: FEES.**

A fee schedule shall be established by resolution of the Village Board of this Village. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

## **SECTION 18. INTERMUNICIPAL AGREEMENTS.**

The Village Board of this Village may, by resolution, authorize the Mayor of this Village to enter into an agreement, in the name of this Village, with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

## **SECTION 19. PARTIAL INVALIDITY.**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

## **SECTION 20. EFFECTIVE DATE.**

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

### Section 2.     Remainder

Except as hereinabove amended, the remainder of the Code of the Village of Port Dickinson shall remain in full force and effect.

### Section 3.     Separability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this local law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the local law or part thereof is held inapplicable, had been specifically exempt therefrom.

### Section 4.     Effective Date

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

## **Chapter 27**

### **Building Code Fees**

**(repealed 10-27-2020, LL 11-2020)**



## Chapter 29

### DEFECTS, NOTIFICATION OF

**§ 29-1. Notification required.**

**§ 29-2. Maintenance of records; notification of receipt of notice.**

**§ 29-3. Effect on existing requirements; severability.**

**§ 29-4. When effective.**

**[HISTORY: Adapted by the Board of Trustees of the Village of Port Dickinson 8-6-85 as Local Law No. 2-1985. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Streets and sidewalks—See Ch. 52.

**§ 29-1. Notification required.**

No civil action shall be maintained against the Village of Port Dickinson (hereinafter referred to as the “Village”) for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed or for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any sidewalk, crosswalk, street, highway, bridge or culvert unless written notice of the defective, unsafe, dangerous or obstructed condition or of the existence of the snow or ice, relating to the particular place, was actually given to the Village Clerk and there was a failure or neglect within a reasonable time after the receipt of such notice to repair or remove the defect, danger or obstruction complained of, or to cause the snow or ice to be removed, or the place otherwise made reasonably safe. **[Amended by Local Law No. 2 - 2002 on September 10, 2002]**

**§ 29-2. Maintenance of records; notification of receipt of notice.**

The Village Clerk of the village shall keep an index record, in a separate book, of all written notices which the Village Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of any accumulation of ice and snow upon, any village street, highway, bridge, culvert or sidewalk or any other property owned by the village, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a period of five (5) years from the date it is received. The Village Clerk, upon receipt of such written notice, shall immediately and in writing notify the Public Works Superintendent and Mayor of the village of the receipt of such notice.

**§ 29-3. Effect on existing requirements; severability.**

- A. Nothing contained in this chapter shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these causes of action but, on the contrary, shall be held to be additional requirements to the rights to maintain such action; nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence nor to impose upon the village and its officers and employees any greater duty or obligations than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.
- B. If any clause, sentence, phrase, paragraph of any part of this chapter for any reason shall be adjudged finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this chapter would have been adopted had any such provisions not been included.

**§ 29-4. When effective.**

This chapter shall take effect immediately upon its filing with the Secretary of State.

## **Chapter 30**

### **DUMPING**

- § 30-1. Legislative Intent and Title.**
- § 30-2. Definitions.**
- § 30-3. Prohibitions and Restrictions.**
- § 30-3A. Garbage and Rubbish Removal. (amended 1-8-13, LL2-2013)**
- § 30-4. Enforcement and Penalties.**
- § 30-5. Amendments.**

**[HISTORY: Adopted by The Board of Trustees of the Village of Port Dickinson January 13, 1998 as Local Law No. 1-1998. Amendments noted where applicable.]**

#### **§ 30-1. Legislative Intent and Title.**

This local law is adopted in view of the increase in illegal dumping of garbage, rubbish, and other offensive materials, together with toxic materials due in part to the increasing costs associated with disposing of such materials at the Broome County landfill. It is the intent of the Board of Trustees of the Village of Port Dickinson to restrict and regulate, in a manner consistent with the interests of the residents of the Village of Port Dickinson, the dumping and/or other disposal of various wastes in order to promote the health, safety and general welfare of persons and property within the Village of Port Dickinson. This local law shall be known and cited as “The Dumping Local Law of the Village of Port Dickinson.” Therefore, pursuant to the authority contained in the Municipal Home Rule Law, and pursuant to its police power as contained in the Village Law, Sections 20-2000, the Board of Trustees of the Village of Port Dickinson does hereby enact the following local law as Chapter 30 of the Code of the Village of Port Dickinson.

#### **§ 30-2. Definitions.**

- A. **COMPOST** — Means to heap or pile matter capable of decay, including but not limited to grass cuttings, leaves, brush, decaying foods, or paper products for use as fertilizer.
- B. **Construction and demolition debris** — Any matter which is defined as construction and demolition debris in 6 NYCRR Part 360.

- C. Garbage — Includes but is not limited to:
1. Food waste of all kinds, whether for human or animal consumption.
  2. Used food containers or parts thereof, whether fabricated of metal, paper, wood, glass, plastic or synthetics.
  3. Paper materials used in food packaging.
  4. Dead animals or parts thereof.
  5. Any other matter which shall be capable of fermentation or decay, except:
    - a. Lumber as defined herein, and
    - b. Composted garbage used as fertilizer upon farms or gardens.
- D. Litter — Any matter capable or incapable of fermentation or decay.
- E. Lumber — Includes but is not limited to:
1. Wood of growing trees sawed or split into boards or planks.
  2. Wood pallets.
  3. Wood used in packing and/or shipping.
  4. The term “lumber” does not include untreated wood products formerly used in construction or packing and/or shipping to be used as firewood pursuant to the provisions of Section 3(B)(2) herein.
- F. Rubbish — Includes but is not limited to:
1. Waste material.
  2. Garden refuse, grass and leaves.
  3. Tires.
  4. Glass, metal, tins, cans, ashes, cinders, pottery, crockery, aluminum, plastics, styrofoam and synthetics, except matters defined herein as “garbage”.
- G. Sludge — Solids removed during the treatment of:
1. Domestic or sanitary sewage.
  2. Stormwaters.
  3. Industrial wastewaters, or
  4. From any combination of these.

## DUMPING

- H. Solid Waste — Any matter which is defined as solid waste in either of the following:
  - 1. Broome County Local Law No. 9, 1991, or
  - 2. 6 New York Code, Rules and Regulations, Part 360 (hereinafter “6 NYCRR Part 360”).
- I. Toxic materials — Material listed or defined as hazardous by either of the following:
  - 1. New York State Department of Environmental Conservation, or
  - 2. U.S. Environmental Protection Agency.
- J. Village — Means the Village of Port Dickinson.
- K. Scavenging – The picking, sorting, salvaging, or collecting of any materials which have been placed at the curb or edge of road pavement for the purpose of removal by authorized persons or companies. (added 11/8/11, LL 5-2011)
- L. Dumpster – any receptacle of garbage, compost, construction and demolition debris, litter, lumber, rubbish, solid waste, or other waste material, which is designed to be hoisted and emptied into a garbage collection vehicle. (added 7/14/15, LL 2-2015)

### **§ 30-3. Prohibitions and Restrictions.**

- A. Dumping, disposing, burying, burning, or littering of any of the following on any public or private lands in the Village of Port Dickinson is prohibited:
  - 1. Garbage or rubbish, subject to the following:
    - a. The storage of garbage or rubbish which is awaiting collection and removal in a durable container in a manner which does not impair the public health or safety shall not be deemed to be prohibited by this section.
    - b. The owner of a single family residence may compost on the property comprising said residence matter capable of decay (as specified in Section 2(A) herein) generated from that residence or farm to be used as fertilizer so long as the disposal and composting is done in a nuisance-free manner which does not impair public health, safety or general welfare and is in conformity with the provisions of Code Section 45-3.1.
  - 2. Sludge. However, the disposal of sludge in accordance with the regulations and licensing requirements set forth in Broome County Local law No. 9, 1991, and by the Department of Environmental Conservation shall not be deemed to be prohibited by this section.
  - 3. Toxic material.

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4. Solid waste. However, the disposal of solid waste at a disposal facility authorized and licensed in accordance with the regulations set forth in Broome County Local Law No. 9, 1991 and 6 NYCRR Part 360 shall not be deemed to be prohibited by this section.

5. Construction and demolition debris, subject to the following:

The storage of construction and demolition debris which is awaiting collection and removal in a manner which does not impair the public health or safety shall not be deemed to be prohibited by this section; provided, however, that said debris is removed from the site within sixty (60) days from the issuance of a building demolition permit pursuant to Code Chapter 26.

- B. Dumping, disposing or burying of lumber is prohibited, except:

1. Lumber awaiting use in any construction project stored in a manner which does not impair the public health or safety.
2. This section shall not be deemed to prevent the storage of untreated lumber intended for use as firewood so long as the same shall not be stored in the following manner:
  - a. on any highway right-of-way, or
  - b. at or near any intersection in such a manner as to obstruct or impair the line of sight for vehicular or pedestrian traffic.

- C. Scavenging. The act of scavenging is prohibited in the Village of Port Dickinson. However, pursuant to paragraph A of § 30-3A of this Chapter, any person or company authorized by the person in charge of any private lands in the Village to remove garbage, rubbish, or recyclables from the curb line shall not be found in violation of this paragraph. (added 11/8/11, LL 5-2011)

**§ 30-3A. Garbage and Rubbish Removal.**

- A. The person in control of any private lands in the Village shall arrange at his own cost and expense for the removal at least once per week of all garbage and rubbish, including but not limited to furniture and appliances generated from said lands, which shall be placed at the curb line not earlier than 2:00 PM on the day preceding the collection day in suitable containers including garbage cans, recycling bins, and lawn debris containers, or securely stacked in bundles so as to prevent blowing and scattering. All of such containers must be removed from the curb area not later than 8:00 p.m. on collection day, and shall be placed and stored behind the building and out of view from the street or roadway. In no event may garbage or rubbish containers be stored in front of, in the front yard, or on the front porches of buildings. Garbage and rubbish containers shall be stored in a manner as to prevent blowing about or scattering. In the event that any garbage can, recycling bin, or debris container or other related items cannot be stored out of view from the street or roadway, the property owner shall screen such areas of storage by opaque fencing and or plantings.  
[Amended 7/14/15, LL2-2015]

- B. If the person in charge of said lands shall fail to comply with the provisions of this section, any accumulated garbage or rubbish the Village, after making a reasonable effort to notify the property owner to remove the same, shall have the power to have the same removed by the Village Department of Public Works. If in the judgment of the Commissioner of Public Works the employees of the

Department of Public Works, by reason of their work schedule, will be unable to attend to such activities within forty-eight (48) hours from the time that the person in charge of said lands had failed to do so, the Commissioner of Public Works may direct a private contractor previously approved by the Board of Trustees to perform such service at the pay schedule previously approved. In either such event the expense thereof shall become a lien upon the real property involved and be added to and become a part of the tax next so assessed by including such expense in the next annual tax levy against the property pursuant to the Village Law of New York. In addition to such billing, the Village is authorized to proceed for a violation of this section pursuant to S 30-4 of the Village Code. **[Added 8-14-01 by L.L. No. 9-2001]**

- C. There shall be no open storage of any household items, garbage, litter, rubbish, or any and all other types of refuse on or near any parcel, household unit, or non-household unit. Any storage of these types of items must be done in accordance with the provisions of this Chapter. [Added 7/14/15, LL 2-2015]
- D. When the person in control of private lands in the Village regularly uses a dumpster for the collection and disposal of garbage, rubbish, or other waste material, said dumpster shall not be stored in front of, in the front yard, or on the front porches of buildings, but may be stored in a location that will allow access to the dumpster by a garbage collection vehicle for the purposes of collecting the contents of said dumpster, provided that all efforts are made to store said dumpster out of view from the street or roadway. In the event that any dumpster cannot be stored out of view from the street or roadway, the property owner shall screen such areas of storage by opaque fencing and or plantings. Assessments of the storage locations of dumpsters shall be considered by the Village Board or its designee on a case by case basis. This section does not apply to the use of a rented dumpster for a temporary purpose, such as a home-improvement or construction project, provided that said dumpster does not remain on said private land for a period longer than thirty days. The person in control of said private lands alone may seek from the Village Board an extension to the thirty day limit stated herein, which the Village Board or its designee shall consider on a case by case basis. [Added 7/14/15, LL 2-2015]

## DUMPING

### **§ 30-4. Enforcement and Penalties.**

- A. Conviction under this local law shall be a violation as defined by Section 55.10(3) of the Penal Law of the State of New York.
- B. Each day during which a violation continues may be deemed to be a separate violation.
- C. Conviction of an offense as provided by this local law shall be punishable by the following:
  - 1. Fine of not more than \$250 or in the case of a corporation an amount in accordance with Penal Law Section 80.10, and/or

2. In the case of an individual(s), a term of imprisonment not to exceed fifteen (15) days, and/or
3. Restitution based on avoided disposal fees and the costs of collection and hauling, and/or
4. Community service.

D. In addition to the above provided penalties and punishment, the Board of Trustees may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with this local law by injunction, abate or otherwise compel cessation of each violation, or obtain restitution to the Village for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees and environmental testing.

#### **§ 30-5. Amendments.**

Any reference herein to any state, county and/or local law, rule or regulation shall include any future amendments thereto which become effective after the adoption of this local law.



## ENVIRONMENTAL QUALITY REVIEW

### Chapter 31

## ENVIRONMENTAL QUALITY REVIEW

**[Pursuant to Local Law No. 6-1990, adopted 12-11-1990, Local Law No. 1-1977, adopted on March 30, 1977, pursuant to Article 8 of the New York Environmental Conservation Law, whereby the Village of Port Dickinson undertook and exercised the regulatory authority with regard to activities subject to regulation under said Article, was repealed. Hereafter, the regulations set forth in 6 NYCRR 617 implementing the provisions of the State Environmental Quality Review Act (SEQR) shall provide the regulatory framework for and govern the implementation of SEQR by all agencies of the Village of Port Dickinson.]**

**Chapter 32**  
**ENFORCEMENT PROCEDURES (Added 10-13-09, LL 7-2009)**

**§ 32-1 ENFORCEMENT PROCEDURES**

- A. Whenever an enforcement officer determines that there is or has been a violation of any provision of any chapter of the Code of the Village of Port Dickinson other than the provisions of Chapter 26 of said Code (Building Construction), and Chapter 58 (Unsafe Buildings and Collapsed Structures), he shall give notice of such violation to the person, persons or entities responsible therefore. Such notice shall be in writing and shall include a concise statement of the reasons for the issuance. Such notice shall be deemed to be properly and sufficiently served when sent to the last known address of the person or entity upon which the same is served, as shown by the most recent tax records of the Village or a copy thereof handed to said person or entity. Notice shall be given as aforesaid within or without the Village. The notice shall also state that unless the violation is abated, removed, cured, prevented or desisted within 30 days of the date of service of such notice (exclusive of the date of service), appropriate legal action may be taken relating to such violation.
- B. Notwithstanding the foregoing:
- (1) with respect to violations of Chapter 24 (Brush, Grass and Weeds), the time for compliance shall be as set forth in §24-5, and
  - (2) with respect to violations of Chapter 30 (Dumping), the time for compliance shall be as set forth in §30-3A, and
  - (3) with respect to violations of §45-3(10) of Chapter 45 (Property Maintenance) relating to untreated standing water, the time for compliance shall be as set forth in §45-3, and
  - (4) with respect to violations of §45(3-A)(1) and (9) and (10) of Chapter 45 (Property Maintenance), the time for compliance shall be as set forth in §45-4.
- C. The enforcement officer may extend the aforesaid applicable period for compliance if, in his judgment, the abatement, removal, prevention, cessation or cure of the condition violated cannot reasonably be effected within the applicable period; and in such cases, the enforcement officer shall state such reasonably required extended period in the notice, which shall then be applicable instead of the aforesaid periods. Any extension beyond 60 days must be approved by the Village Board of Trustees. In the event the violation is not abated, removed, cured, prevented or desisted from or otherwise fully remedied within the applicable period or within such extended period as set forth in the notice, pursuant to the foregoing, appropriate legal action may be taken relating to such violation.

## **FIREARMS**

### **Chapter 33**

## **FIREARMS**

#### **§ 33-1. Rules and regulations; exceptions.**

#### **§ 33-2. Penalties for offenses.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson ?11-2-31. Section 33-2 amended during codification; see Ch. 1, General Provisions, Article II. Other amendments noted where applicable.]**

#### **§ 33-1. Rules and regulations; exceptions.**

Hunting, shooting or the discharge of any firearm loaded with shells, cartridges, bullets or gunpowder, the propelling of any arrow by means of a bow and the discharge of any air-gun or spring- gun, the use of which would endanger the life or property of any person or thing, is hereby prohibited within the corporate limits of the Village of Port Dickinson; however, the provisions of this chapter shall not apply to police officers or peace officers or to duly authorized organizations in the performance of any duty imposed upon them by law, nor shall it apply to citizens in the exercise of their rights under the laws of the state in the protection of life or property. [Amended 11-11-03 by Local Law 4-2003]

#### **§ 33-2. Penalties for offenses.<sup>1</sup>**

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.

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<sup>1</sup> Editor's Note: Amended during codification; see Ch. 1, General Provisions, Article II.



## **FIRE PREVENTION**

### **Chapter 34**

## **FIRE PREVENTION**

**Pursuant to Local Law No. 1-1992, adopted December 8, 1992, Section 34-1, 34-2, ?34-3 and 34-4 of Local Law 3-1974 adopted July 9, 1974 was repealed.**

Hereafter, the regulations set forth in 9 NYCRR Part 1191 implementing the provisions of the New York State Uniform Fire Prevention and Building Code and Part V of the Broome County Sanitary Code shall provide the regulatory framework for and govern the prevention of fire and the safeguarding of human life and property from fire in the Village of Port Dickinson.

#### **§ 34-5. Fireworks.**

- A. No person shall fire or discharge, offer for sale or solicit orders for any fireworks or any other explosive combustible within the Village of Port Dickinson limits without a written permit from the Fire Marshal.
- B. Pursuant to § 405.00 of the Penal Law of the State of New York, any person desiring to procure a permit for a public display of fireworks in the Village of Port Dickinson shall make written application to the Fire Marshal of the Village of Port Dickinson, at least ten (10) days in advance of the date of the display, on an application form to be provided by the Fire Marshal, setting forth therein the information required by § 405.00 of the Penal Law of the State of New York.
- C. At the time of application evidence shall be submitted of a current insurance policy, with liability coverage and indemnity protection, or a bond with equivalent provisions conditioned for the payment of all damages which may be caused to a person or persons or to property by reason of the display so permitted and arising from any acts of the permittee, his agents, employees, contractors or subcontractors. The bond or policy shall not be in less sum than the following: liability for any one person, two hundred fifty thousand dollars (\$250,000.); limits for any one occurrence, five hundred thousand dollars (\$500,000.); and property damage with limits of three hundred thousand dollars (\$300,000.). The bond or policy shall name the Village of Port Dickinson as a named insured, shall conform with § 405.00 of the Penal Law of the State of New York and shall first be approved by the insurance agent designated by the Village Board.

- D. The Fire Marshal upon receipt of such application shall cause to be made an inspection of the premises named in the application as the place where it is proposed to give the public display of fireworks. If, in the judgment of the Fire Marshal, it would not be hazardous to surrounding property or dangerous to persons to permit such public display of fireworks at such location, he shall approve and return such application to the Village Clerk. Such application is then approved and the Village Clerk shall issue a permit in writing to the applicant upon the payment of the permit fee of twenty dollars (\$20.) and submission of evidence of insurance coverage required herein.
- E. No permit shall be granted by the Fire Marshal or Village Clerk for the use of floating or parachute fireworks or bombs.
- F. No permit shall license the use of fireworks beyond 12:00 p.m.
- G. The applicant for a permit shall, at his own expense, employ not less than two (2) police officers or special policemen of the Village of Port Dickinson to maintain traffic control, peace and good order in the area to be used by the applicant. The officers so hired shall have the authority to prevent the use of fireworks which do not conform to this chapter and/or § 405.00 of the Penal Law of the State of New York.

#### **§ 34-6. Penalties for offenses.**

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.

~~Section 1.~~

~~Section 2.~~

~~Section 3.~~

- A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- C. To prohibit Illicit Connections, Activities and Discharges to the MS4;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and

- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

## **§37-2. DEFINITIONS.**

Whenever used in this law, unless a different meaning is stated in a definition applicable to only a portion of this law, the following terms will have the meanings set forth below:

- A. Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment



practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

- B. Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- C. Construction Activity Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- D. Department. The New York State Department of Environmental Conservation.
- E. Design Professional. New York State licensed professional engineer or licensed architect.
- F. Hazardous Materials Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial, present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- G. Illicit Connections Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:
1. Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
  2. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- H. Illicit Discharge. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 6 of this local law.
- I. Individual Sewage Treatment System A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats

sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

- J. Industrial Activity. Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.
- K. MS4. Municipal Separate Storm Sewer System.
- L. Municipal Separate Storm Sewer System. A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
1. Owned or operated by the Village of Port Dickinson;
  2. Designed or used for collecting or conveying stormwater;
  3. Which is not a combined sewer; and
  4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40CFR122.2.
- M. Municipality. The Village of Port Dickinson.
- N. Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.
- O. Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- P. Pollutant. Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.
- Q. Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**R. Special Conditions**

1. Discharge Compliance with Water Quality Standards The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
2. 303(d) Listed Waters. The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
3. Total Maximum Daily Load (TMDL) Strategy. The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
4. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

S. State Pollutant Discharge Elimination System (SPDES) Stormwater Discharge Permit. A permit issued by the Department that authorizes the discharge of pollutants to waters of the State.

T. Stormwater. Rainwater, surface runoff, snowmelt and drainage.

- U. Stormwater Management Officer (SMO). An employee, the municipal engineer or other public official(s) designated by the Village of Port Dickinson to enforce this local law. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.
- V. 303(d) List. A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.
- W. TMDL. Total Maximum Daily Load.
- X. Total Maximum Daily Load. The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.
- Y. Wastewater. Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

**§37-3. APPLICABILITY.**

This law shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

**§37-4. RESPONSIBILITY FOR ADMINISTRATION.**

The Stormwater Management Officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this law. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

**§37-5. DISCHARGE PROHIBITIONS.****A. Prohibition of Illegal Discharges.**

No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in **§37-5A1**. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this local law, unless the Department or the municipality has determined them to be substantial contributors of pollutants:
  - a. Water line flushing or other potable water sources,
  - b. Landscape irrigation or lawn watering,
  - c. Existing diverted stream flows,
  - d. Rising ground water,
  - e. Uncontaminated ground water infiltration to storm drains,
  - f. Uncontaminated pumped ground water,
  - g. Foundation or footing drains,
  - h. Crawl space or basement sump pumps,
  - i. Air conditioning condensate,
  - j. Irrigation water,
  - k. Springs,
  - l. Water from individual residential car washing,
  - m. Natural riparian habitat or wetland flows
  - n., Dechlorinated swimming pool discharges,

- o. Residential street wash water,
- p. Water from fire fighting activities, and
- q. Any other water source not containing pollutants.

Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

- 2. Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this local law.
- 3. Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.
- 4. The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

#### **B. Prohibition of Illicit Connections.**

- 1. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- 2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- 3. A person is considered to be in violation of this local law if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

**§37-6. PROHIBITION AGAINST FAILING INDIVIDUAL SEWAGE TREATMENT SYSTEMS**

No persons shall operate a failing individual sewage treatment system in areas tributary to the municipality's MS4. A failing individual sewage treatment system is one which has one or more of the following conditions:

- A. The backup of sewage into a structure.
- B. Discharges of treated or untreated sewage onto the ground surface.
- C. A connection or connections to a separate stormwater sewer system.
- D. Liquid level in the septic tank above the outlet invert.
- E. Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.
- F. Contamination of off-site groundwater.

**§37-7. PROHIBITION AGAINST ACTIVITIES CONTAMINATING STORMWATER**

- A. Activities that are subject to the requirements of this section are those types of activities that:
  - 1. Cause or contribute to a violation of the municipality's MS4 SPDES permit.
  - 2. Cause or contribute to the municipality being subject to the Special Conditions as defined in §37-2 (Definitions) of this local law.
- B. Such activities include failing individual sewage treatment systems as defined in §37-6, improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.
- C. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

**§37-8. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER  
POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

- A. Best Management Practices: Where the SMO has identified illicit discharges as defined in **§37-2** or activities contaminating stormwater as defined in **§37-7**, the municipality may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.
1. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.
  2. Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in **§37-2** or an activity contaminating stormwater as defined in **§37-7**, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
  3. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.
- B. Individual Sewage Treatment Systems - Response to Special Conditions Requiring No Increase of Pollutants or Requiring a Reduction of Pollutants

Where individual sewage treatment systems are contributing to the municipality's being subject to the Special Conditions as defined in **§37-2** of this local law, the owner or operator of such individual sewage treatment systems shall be required to:

1. Maintain and operate individual sewage treatment systems as follows:
  - a. Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within ten inches of the bottom of the outlet baffle or sanitary tee.
  - b. Avoid the use of septic tank additives.



- c. Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals; and
- d. Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items.

2. Repair or replace individual sewage treatment systems as follows:

- a. In accordance with 10NYCRR Appendix 75A to the maximum extent practicable.
- b. A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:
  - i. Relocating or extending an absorption area to a location not previously approved for such.
  - ii. Installation of a new subsurface treatment system at the same location.
  - iii. Use of alternate system or innovative system design or technology.
- c. A written certificate of compliance shall be submitted by the design professional to the municipality at the completion of construction of the repair or replacement system.

**§37-9. SUSPENSION OF ACCESS TO MS4.**

Illicit Discharges in Emergency Situations.

- A. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.
- B. Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this law may have their MS4 access terminated if

such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the SMO.

**§37-10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Village of Port Dickinson prior to the allowing of discharges to the MS4.

**§37-11. ACCESS AND MONITORING OF DISCHARGES.**

- A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this Law, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Law.
- B. Access to Facilities.
1. The SMO shall be permitted to enter and inspect facilities subject to regulation under this law as often as may be necessary to determine compliance with this Law. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
  2. Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this law.
  3. The municipality shall have the right to set up on any facility subject to this law such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

4. The municipality has the right to require the facilities subject to this law to install monitoring equipment as is reasonably necessary to determine compliance with this law. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
5. Unreasonable delays in allowing the municipality access to a facility subject to this law is a violation of this law. A person who is the operator of a facility subject to this law commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this law.
6. If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this law, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this law or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

**§37-12. NOTIFICATION OF SPILLS.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the municipality in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

**§37-13. ENFORCEMENT.**

- A. Notice of Violation: When the municipality's SMO finds that a person has violated a prohibition or failed to meet a requirement of this law, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
1. The elimination of illicit connections or discharges;
  - 2 That violating discharges, practices, or operations shall cease and desist;
  3. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - 4 The performance of monitoring, analyses, and reporting;
  - 5 Payment of a fine; and
  6. The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
- A. Penalties: In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- B. Restitution: In addition to the above prescribed penalties, the Village may also seek restitution for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. **[Added 5/8/12, LL 3-2012]**

**§37-14                    PROHIBITING ILLICIT DISCHARGES, ACTIVITIES AND                    §37-17**  
**CONNECTIONS TO SEPARATE STORM SEWER SYSTEMS.**

**§37-14. APPEAL OF NOTICE OF VIOLATION.**

Any person receiving a Notice of Violation may appeal the determination of the SMO to the Village of Port Dickinson Board of Trustees within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, file its decision in the office of the municipal clerk and mail a copy of its decision by certified mail to the discharger.

**§37-15. CORRECTIVE MEASURES AFTER APPEAL.**

- A. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

**§37-16. INJUNCTIVE RELIEF.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this law. If a person has violated or continues to violate the provisions of this law, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**§37-17. ALTERNATIVE REMEDIES.**

- A. Where a person has violated a provision of this Law, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Municipal Attorney and concurrence of the SMO, where:
  - 1. The violation was unintentional.
  - 2. The violator has no history of previous violations of this Law.

**§37-17                    PROHIBITING ILLICIT DISCHARGES, ACTIVITIES AND                    §37-19**  
**CONNECTIONS TO SEPARATE STORM SEWER SYSTEMS.**

3. Environmental damage was minimal.
4. Violator acted quickly to remedy violation.
5. Violator cooperated in investigation and resolution.

B. Alternative remedies may consist of one or more of the following:

1. Attendance at compliance workshops.
2. Storm drain stenciling or storm drain marking
3. River, stream or creek cleanup activities.

**§37-18. VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this law is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**§37-19. REMEDIES NOT EXCLUSIVE.**

The remedies listed in this law are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

## **Chapter 41**

### **PARKS**

- § 41-1. Purpose.**
- § 41-2. Definitions.**
- § 41-3. Prohibited Activities.**
- § 41-4. Reservations.**
- § 41-5. Hours of Closing.**
- § 41-6. Penalties for Offenses: Enforcement.**
- § 41-7. Severability.**
- § 41-8. Repealer.**
- § 41-9. Effective Date.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson ?1/11/94 as Local Law No. 1-1994.]**

#### **§ 41-1. Purpose.**

The purpose of this local law is to regulate the use of parks of the Village of Port Dickinson.

#### **§ 41-2. Definitions.**

The following terms shall have the meanings indicated in this section:

Parks — The grounds, buildings therein, water therein and any other property necessary for the operation thereof, and constituting a part thereof, which is now or may hereafter be maintained, operated and controlled by the Village of Port Dickinson for public park purposes.

Person — Any individual, firm, partnership, corporation or association of persons; the singular number shall include the plural.

Village — Village of Port Dickinson.

**§ 41-3. Prohibited Activities. (Amended 5-12-09, LL 4-2009)**

The following activities are prohibited:

- a. Parking a motor vehicle in other than designated locations.
- b. Operating a motor vehicle in excess of ten (10) miles per hour or in any manner contrary to posted regulations.
- c. Operating a motor vehicle on other than the designated roads.
- d. Operating or parking a snowmobile.
- e. Horseback riding.
- f. Dogs.
- g. Sports other than in locations designated by the Village Board.
- h. Entering or using the parks during other than the designated hours posted by the Village Board.
- i. Refusing to comply with the time sharing plan posted by the Village Board or its designee for the use of any recreational facility.
- j. Operating or parking a motorcycle, minibike or other form of recreational vehicle except on designated roads.
- k. Overnight parking of motor vehicles.
- l. The sale of alcoholic beverages, as defined in Alcoholic Beverage Control Law, in any Village parks.
- m. The use of any alcoholic beverage in any Village park.
- n. The use of or being under the influence of any illegal drug or substance in any Village park.
- o. Possession or use of firearms, bow and arrow or other dangerous weapons within any Village park.



- p. Disturbing the peace and good order in the parks by fighting or arguing in loud voices or threatening violence to any person or the property of others.
- q. Begging, hawking, peddling or soliciting within the parks except as authorized by the Village Board.
- r. The use of profane or abusive language while in the parks.
- s. Injuring, defacing, destroying, disturbing, or removing any part of the parks.
- t. Loitering in or near park restroom buildings.
- u. Littering or leaving behind refuse and garbage. Park users must bring their own trash bags and remove their trash upon leaving the park.
- v. Starting a fire in a park except in park grills, fireplaces or designated areas.
- w. Failing to extinguish before leaving the park all fires started or used. The dumping of ashes or fire onto the ground is absolutely prohibited.
- x. Golf practice.
- y. Making noise of a type and volume that a reasonable person would not tolerate under the circumstances, which noise causes public annoyance.
- z. The commercial sale of food or drink. **(Added 5-12-09, LL 4-2009)**
  - aa. Smoking any substance using any device and/or method including, but not limited to, cigarettes, cigars, and pipes, within any area of any Village park that the Village Board designates as a Smoking and Tobacco Free Zone and makes with appropriate signage (Added 5-14-13, LL 5-2013)
  - bb. Consuming and/or ingesting any smokeless tobacco product including, but not limited to, chewing tobacco, dipping tobacco, snuff and snus, within any area of any Village park that the Village Board designates as a Smoking and Tobacco Free Zone and makes with appropriate signage (Added 5-14-13, LL 5-2013)

#### **§ 41-4. Reservations.**

- a. Reservations are required for use of park pavilions and athletic facilities for organized events.
- b. No park or portion thereof will be reserved for any group whose size or activity will be detrimental to the park in the opinion of the Village Board.
- c. Reservations for organized events will be issued by the Village Board or its designee.
- d. Village residents and organizations with a physical presence within the Village may at any time reserve any Village Park facility for their use at any time of year. Non-Village residents and all other organizations may only reserve a Village Park facility for their use within ninety (90) days of their requested date. (Amended 5-14-13, LL 5-2013)

- e. The use of Village park pavilions by groups is prohibited without first obtaining permission from the Village Board or its designee, to guarantee that the area has been properly cleaned up after such event and no damage has been caused thereto by the applicant.
- f. Athletic Field Reservation Fees (Amended 5-14-13, LL5-2013)
  - (i) Free for Village residents, organizations with a physical presence within the Village, and any tax-exempt charitable organization as defined by IRC § 501(c), as it may be amended from time to time, that regularly donates services, monies, or materials to the Village, including, but not limited to St. Francis of Assisi, First Church of the Nazarene, Community Baptist Church, Ogden Methodist Church, Hillcrest Rotary Club, and Nimmonsburg Rotary Club.
  - (ii) Non-Village residents and all other organizations: \$25 per game, or \$50 per day for multiple games.
- g. Insurance. Organizations are required to provide a certificate of insurance naming the Village as an additional named insured when making reservations to use athletic fields. The insurance must provide the Village with, at a minimum, the following coverage, unless the Village Board waives or otherwise reduces this requirement: liability for any one person, One Million Dollars (\$1,000,000.00); liability for any one occurrence, Three Million Dollars (\$3,000,000); property damage with limits of Twenty-Five Thousand Dollars (\$25,000.00). (Amended 5-14-13, LL5-2013)
- h. Clean-up Deposits. Deposits to cover clean-up are not required. However, any group which does not properly clean up the area it has used prior to departing from the park will be billed at the rate of \$25.00 per reservation or the actual cost to the Village of cleaning up that area, whichever is greater, and/or may be denied use of the park in the future.

#### **§ 41-5. Hours of Closing.**

- a. No person shall be permitted to remain, stop or park within the confines of any Village park between dark and daylight except in emergencies or with special permit from the Village. In case of an emergency or when in the judgment of the Village Board or its designee the public interest demands it, any portion of the park may be closed to the public or to designated persons until permission is given to reopen.
- b. Notwithstanding the hours of closing stated herein, the Village Board or its designee may establish closing hours for designated park facilities.

**§ 41-6. Penalties for Offenses: Enforcement.**

- a. A violation of this local law shall constitute an offense punishable by a fine not to exceed fifty dollars (\$50.00) for each and every such offense.
- b. Any Village police officer, state police officer or police officer of Broome County or any of its municipal subdivisions may, without a warrant, arrest any offender whom he/she may detect in the violation of any of the provisions of the above sections, and take the persons so arrested forthwith before a Magistrate having competent jurisdiction, and he/she shall have at all times a right to enter the premises of any building, structure or enclosure in any park, including such grounds, buildings, structures or enclosures in any Village Park which may be leased or set aside for private or exclusive use of any individual or groups of individuals for the purpose of arresting violators hereof, and may use all necessary means to attain that end.

**§ 41-7. Severability**

Should any section, paragraph, sentence, clause or phrase of this local law be declared unconstitutional or invalid for any reason by a court of competent jurisdiction, the remainder of this law shall not be affected thereby.

**§ 41-8. Repealer**

All ordinances, local rules and regulations inconsistent herewith are hereby repealed.

**§ 41.9. Effective Date**

This local law shall take effect immediately.

## **Chapter 43**

### **PEDDLING AND SOLICITING**

- § 43-1. Terms defined.**
- § 43-2. Permit required.**
- § 43-3. Application for permit.**
- § 43-4. Revocation of permit.**
- § 5. Fee.**
- § 6. Duration of permit.**
- § 7. Age restriction on permittees.**
- § 8. Transferability.**
- § 9. Provisions applicable to veterans.**
- § 10. Hours.**
- § 11. Exemptions.**
- § 12. Reports from permittees.**
- § 13. Permit required for temporary structure.**
- § 14. Peddling from vacant property prohibited.**
- § 15. Notice prohibiting peddlers and solicitors.**
- § 16. Penalties for offenses.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 7-9-74 as Local Law No. 1-1974. Sections 5-16 added 5-14-13, LL 6-2013 Sections 1-4 amended 5-14-13, LL 6-2013. Amendments noted where applicable.]**

#### **§ 1. Terms defined.**

For the purposes of this chapter, the following words and phrases used herein are defined as follows:

##### **CHARITABLE ORGANIZATION:**

- A. Any benevolent, philanthropic, patriotic, not-for-profit, educational, religious or eleemosynary group, association or corporation which qualifies or could qualify as a tax exempt organization under Section 501 of the Internal Revenue Code.
- B. A fire company which is organized for the prevention and extinguishment of fires.

**CONTRIBUTION --** The promise or grant of any money, credit, property, financial assistance or any other thing of value, including payments for literature in excess its fair market value.

**NEWSPAPER —** A paper that is distributed and contains news, articles of opinion and advertising. This definition includes pennysavers and community newspapers.

**ORGANIZATION –** A corporation, partnership, association, joint-stock company, society or any other entity of any kind.

**PEDDLER —** Any person, either principal or agent, who, in any public street, road or highway or open public place or from any vacant property, whether publicly or privately owned, goes from place to place or

house to house and delivers or distributes advertising matter, literature, pamphlets, samples or handbills or sells or offers for sale, barter or exchange any goods, wares, food products, merchandise, service or any other article or thing whatsoever, either in his possession or not in his possession, either for immediate or for future delivery or solicits information for the purpose of comparing the price of services available to the occupants or owners of the house that is the subject of such inquiry.

**PERSON** -- A natural person.

**PLACE TO PLACE** -- The phrase "place to place" shall mean that the peddler or solicitor must be mobile and is permitted to remain on any tax map parcel within the Village for a maximum of 15 minutes during any single day, unless otherwise permitted by the town.

**RESIDENTIAL PREMISES** — A house, apartment, condominium, cooperative or mobile home which is used as a dwelling place or domicile by the occupant.

**SOLICITOR** -- Any person, either principal or agent, who, in any public street, road or highway or public place or from any vacant property, whether publicly or privately owned, goes from place to place or house to house and requests or accepts a contribution.

**SOLICITOR OR PEDDLER FOR A CHARITABLE ORGANIZATION** — A person who solicits contributions or acts as a peddler on behalf of a charitable organization.

## **§ 2. Permit required.**

A peddler or solicitor acting as such within the Village of Port Dickinson shall first obtain a permit as provided in this chapter. The maximum number of permits that shall be issued by the Village and in effect at any one time is three. A person or organization may apply for a permit, with up to ten (10) solicitors working under said permit, so long as all such solicitors are identified in the permit application.

## **§ 3. Application for permit.**

A. Each person or organization desiring a permit shall submit an application. An application to act as a peddler or solicitor in the form prescribed by the Village of Port Dickinson shall be submitted to the Village Clerk for review and action and shall contain the following information:

- (1) The name, home address and local address, if any, of the applicant and all persons to be covered by the permit, up to a maximum of ten (10).
- (2) A physical description of the applicant, setting forth the applicant's age, height, weight and color of hair and eyes, which is to be used for identification purposes only.
- (3) The name and address of the person, firm or corporation for or through whom orders are solicited or cleared.
- (4) The nature of the goods, wares or merchandise for which orders are to be solicited.
- (5) Honorably discharged members of the armed forces shall also state the county from which they secured their license, pursuant to the General Business Law, together with the date and number of such license.
- (6) A statement as to whether the applicant has been arrested or convicted of any crime or misdemeanor and, if so, the date, location and nature of said incident.
- (7) A statement as to the period during which the applicant intends to solicit orders.
- (8) Such other information as the Village of Port Dickinson shall reasonably require.

- B. The applicant, at the time of executing such application, shall also submit identification, reasonably satisfactory to the Village of Port Dickinson, which shall contain a sample of the applicant's signature and photo identification for all solicitors to be covered by the permit.
- C. Following the submission of an application for a permit as required by this chapter, the Village of Port Dickinson shall approve or disapprove the application within 14 days of receipt. Any application denied shall specify the reason. Such reason must relate to the protection of the public safety, health, morals or general welfare of the residents of the town. The Village of Port Dickinson may deny any application by any person who shall have been convicted of any crime or of any violation of this chapter or who, upon investigation, is not found to be a person of good moral character and reputation.

#### **§ 4. Revocation of permit.**

Such permit shall be revoked automatically upon conviction of a crime or violation of this chapter and is subject to cancellation or suspension by the Village of Port Dickinson if the permittee, or any solicitors working under the permit, shall be found not to be a person of good moral character and reputation.

#### **§ 5. Fee.**

The fee for a peddler's or solicitor's permit shall be \$25 per day.

#### **§ 6. Duration of permit.**

A permit may be purchased for up to ten (10) days. Payment in full must be made to the Village before the permit shall be issued.

#### **§ 7. Age restriction on permittees.**

No permit shall be issued under this chapter to any person under the age of 18 years. However, persons under the age of 18 may act as solicitors or peddlers for a charitable organization.

#### **§ 8. Transferability.**

No permit shall be transferable from one person or organization to another.

#### **§ 9. Provisions applicable to veterans.**

Honorably discharged members of the Armed Forces of the United States who obtain a license pursuant to the provisions of § 32 of the General Business Law shall, in addition thereto, file a further application with the Village of Port Dickinson for the issuance of a local permit. The application for such local permit shall state the veteran's name, residence at the time of the application, nature of goods to be sold and, if the applicant is working on a commission or percentage basis for any person, firm or corporation, the name and business address of such person, firm or corporation. This application shall be signed by the applicant, and the name on this application and the original certificate of honorable discharge shall be compared to ascertain if the person so applying is the same person named in the original certificate of honorable discharge. The Village of Port Dickinson, when satisfied, shall issue to such former member of the Armed Forces of the United States a permit, without charge, certifying him to be entitled to the benefits of this chapter. An applicant who is issued a permit under this subsection must still comply with all other provisions of this chapter; provided, however, that nothing in this chapter shall prevent or in any manner interfere with the soliciting or peddling' without the use of any but a hand-driven vehicle in any street, avenue, alley or lane of the Village by any honorably discharged member of the Armed Forces of the United States who is disabled

as a result of injuries received while in the service of said Armed Forces and who is the holder of a license granted pursuant to § 32 of the General Business Law.

**§ 10. Hours.**

Within the Village of Port Dickinson, soliciting or peddling is permitted between the hours of 9:00 a.m. and 5:00 p.m., Monday through Saturday. Soliciting or peddling is prohibited outside those hours.

**§ 11. Exemptions.**

Except as otherwise provided herein, the following transactions shall be exempt from the provisions of this chapter:

- A. Peddling or soliciting for a charitable organization. Such peddlers or solicitors shall be subject to the provisions of this chapter limiting the hours during which peddling or soliciting can occur.
- B. Peddling or soliciting by a political party or a political candidate. Such peddlers or solicitors shall be subject to the provisions of this chapter limiting the hours during which peddling or soliciting can occur.
- C. The peddling of milk or farm produce by farmers who produce such commodities.
- D. Peddlers or solicitors when peddling or soliciting at nonresidential premises located in the commercial zones of the Village of Port Dickinson.
- E. The delivery of food, goods, wares, merchandise, magazines, periodicals, produce, services or other commodities previously ordered by the occupant of the premises to which the same is delivered or on which the services are to be performed.
- F. The delivery of newspapers.
- G. The delivery of advertising matter, literature, pamphlets, samples or handbills by representatives of the United States government or the government of the State of New York or some political subdivision thereof carrying out its regular duties.

**§ 12. Reports from permittees.**

The Village of Port Dickinson may require reports from any permittee hereunder at any time and at such intervals as, in its discretion, it may deem necessary for the protection for the public welfare.

**§ 13. Permit required for temporary structure.**

No person shall sell or offer for sale, barter or exchange any goods, wares, merchandise, magazines, periodicals, produce, service or any other article or thing whatsoever from a temporary structure, unless that person has obtained approval for such temporary structure from the Village of Port Dickinson. These permits must be displayed at all times in a conspicuous place outside of such place or structure.

**§ 14. Peddling from vacant property prohibited.**

No person shall sell or offer for sale, barter or exchange any goods, wares, merchandise, magazines, periodicals, produce, service or any other article or thing whatsoever, except newspapers from a coin-operated vending machine, from any vacant property, whether publicly or privately owned, located in the Village of Port Dickinson.

**§ 15. Notice prohibiting peddlers and solicitors.**

- A. An owner or occupant of a residential premises located in the Village of Port Dickinson may post a notice as hereinafter set forth prohibiting peddlers and solicitors. The notice shall be placed in a

conspicuous place adjacent to the main entrance door so as to be plainly visible to a peddler or solicitor calling at the premises.

- B. It shall be the duty of every solicitor or peddler, upon going onto private property, to first determine whether a notice prohibiting peddlers and solicitors is posted.
- C. If the notice states "peddlers or solicitors are prohibited" or words of similar import, then the solicitor or peddler shall immediately and peacefully depart from the premises without delivering or leaving advertising matter, literature, pamphlets, samples or handbills or ringing the doorbell or otherwise disturbing the occupant.
- D. Any solicitor or peddler who has entered upon private property, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

**§ 16. Penalties for offenses.**

- A. Any violation by any person, organization or solicitor of any provision of this chapter shall be deemed a violation punishable by a fine not to exceed \$250 and/or imprisonment for not more than 15 days for each separate offense.
- B. Each day that a violation of this chapter is committed or permitted to exist shall constitute a separate offense.



## **PLANNING BOARD RULES AND REGULATIONS**

- § 44-1. Authority**
- § 44-2. Purpose**
- § 44-3. General Governing Rules**
- § 44-4. Officers and Duties**
- § 44-5. Meetings**
- § 44-6. Voting**
- § 44-7. Referrals**
- § 44-8. Site Plan Review**
- § 44-9. Land Subdivision Regulations**
- § 44-10. Planned Unit Development District**
- § 44-11. Hearings**
- § 44-12. Determinations**
- § 44-13. Ad Hoc Temporary Members**
- § 44-13.1 Training Requirements**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson ?7-11-95 as Local Law 5-1995.]**

### **§ 44-1. Authority**

This Local Law is enacted pursuant to the provisions of paragraph 13 of Section 7-718 of the Village Law of the State of New York.

### **§ 44-2. Purpose**

The purpose of this Local Law is to adopt the recommendations of the Village of Port Dickinson Planning Board approved at the June 14, 1995 regular meeting of said Board to establish rules and regulations pursuant to which the Village of Port Dickinson Planning Board shall conduct its business, as set forth hereinafter:

### **§ 44-3. General Governing Rules.**

**44-3.1** The Planning Board of the Village of Port Dickinson shall be governed by the provisions of all applicable state statutes, local laws, ordinances and these rules.

**§44-3.2** The term “board” as used in these rules shall mean the duly appointed Planning Board of the Village of Port Dickinson.

**§44-3.3** The board shall become familiar with all the duly enacted ordinances and laws of the village under which it may be expected to act as well as with the applicable state statutes.

**§44-3.4** The board shall become familiar with the community goals, desires and policies as expressed in the “Village comprehensive plan,” and in rendering approvals, recommendations and reports shall be guided by such plan.

#### **§ 44-4. Officers and Duties**

**§44-4.1** The officers of the board shall consist of a chairperson, acting chairperson and secretary.

**§44-4.2** Chairperson. The chairperson shall be designated by the village mayor or on failure to do so, shall be elected by the board from its own members. He shall perform all duties required by law, ordinance and these rules. He shall preside at all meetings of the board. The chairperson shall decide on all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the board. The chairperson shall appoint any committees found necessary to carry out the business of the board. The chairperson may administer oaths and compel the attendance of witnesses as necessary to carry the business of the board. The chairperson’s signature shall be the official signature of the board and shall appear on all decisions as directed by the board.

**§44-4.3** Acting Chairperson. An acting chairperson shall be designated by the board to serve in the absence of the chairperson. He shall have all the powers of the chairperson during his absence, disability or disqualification.

**§44-4.4** Secretary. A secretary shall be designated by the board. The secretary, subject to the direction of the board and the chairperson, shall keep minutes of all board proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of all board official actions.

**§44-4.5** Vacancies. Should any vacancy on the board occur for any reason, the secretary shall give immediate notice thereof to the village clerk for the village mayor for the designation of a replacement.

**§44-4.6** Should such a vacancy occur among the officers of the board subject to election by the board, such office shall be filled by election, for the unexpired term, at the next meeting of the board.

**§44-4.7** Should the office of chairperson become vacant, the secretary shall add such fact to the notice required in section 2.5.1 of these rules. The acting chairperson shall handle the duties of the chairperson until such time as the village mayor shall appoint a new chairperson.

## **§ 44-5. Meetings**

**§44-5.1** Regular Meetings. Meetings will be held as required whenever a matter over which the Board has jurisdiction is filed with chairperson.

**§44-5.2** Annual Meeting. The annual organizational meeting of the board shall be the last Monday of April.

**§44-5.3** Special Meetings. Special meetings of the board may be called by the chairperson. At least 48 hrs. notice of the time, place and business of the meeting shall be given each member of the board.

**§44-5.4** The chairperson shall call a special meeting within ten (10) days of receipt of a written request from any three members of the board, which request shall specify the matters to be considered at such special meetings.

**§44-5.5** Proceeding. The order of business at regular meetings shall be as follows: (A) roll call; (B) reading and approval of minutes of preceding meeting; (C) public hearing (when scheduled); (D) action on held over matters; (E) new business; (F) adjournment.

**§44-5.6** New business. No new matter will be considered unless the completed appropriate application for said matter is received by the Enforcement Officer on behalf of the Planning Board on the form provided for that purpose at least 14 days prior to the date of the meeting at which it is to be considered.

**§44-5.7** Meeting Agenda. The Enforcement Officer shall be responsible, at the direction of the board, for providing any applicant with the proper forms and for instructing the parties concerned on the proper manner for completing and filing said forms. All information required thereon shall be complete before an application is considered filed. The chairperson shall review all applications so received by the Enforcement Officer for completeness. If the application is in proper form for consideration, he shall place it upon the next meeting agenda which he shall mail to all Planning Board members at least seven (7) days prior to the meeting. He shall also notify the applicant that the matter has been placed on said agenda. If said application is incomplete, he shall return it to the applicant within five (5) days of receipt with instructions as to remedying the same. The chairperson shall then report to the board as to all incomplete applications not on the agenda.

**§44-5.8** Enforcement Officer. At each meeting of the Planning Board, the Enforcement Officer shall be present to report, if the chairperson deems necessary, on the nature of any matter on the agenda.

**§44-5.9** Fees. The applicant shall pay the charge for the publication of the notice of public hearing in the official newspaper of the Village for any application requiring a public hearing.

**§44-5.10** Executive Meetings. All meetings will comply with the requirements of the Open Meetings Law, Section 105 of the Public Officers Law.

## **§ 44-6. Voting**

**§44-6.1** Quorum. A quorum shall consist of a majority of the members of the board.

**§44-6.2** No hearing or meeting of the board shall be held, nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request the chairperson to call a special meeting for a subsequent date. All subsequent hearings shall be republished in accordance with the requirements of the applicable law.

**§44-6.3** Voting. All matters shall be decided by roll call vote. Decisions on any matter before the board shall require the affirmative vote of a majority of the board unless otherwise specified herein.

**§44-6.4** A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the application under consideration.

**§44-6.5** No member of the board shall sit in hearing or vote on any matter in which he is personally or financially interested. Said member shall not be counted by the board in establishing the quorum for such matter.

**§44-6.6** No member shall vote on the determination of any matter requiring public hearing unless he has attended the public hearing thereon; however, where such member has familiarized himself with such matter by reading the record, he shall be qualified to vote.

## **§ 44-7. Referrals**

**§44-7.1** Zoning Referrals. All matters requiring referral as specified by an ordinance or local law shall be so referred to the Planning Board for its recommendations. Within a reasonable time as specified by the Village Board of Trustees or other party making the referral after receipt of a full statement of such referred matter, the Planning Board shall report its recommendations thereon, with a full statement of the reasons for such recommendations. If the Planning Board fails to respond within the prescribed time the referring board or agency may act without such report.

**§44-7.2** County Zoning Referrals. Prior to taking action on any matter which would cause change in the regulations or use of land or buildings on real property as specified in Section 239-n of the General Municipal Law, the board shall make referrals to the Broome County Department of Planning having jurisdiction in accordance with Sections 239-1 and m of the General Municipal Law.

Within thirty (30) days after receipt of a full statement of such referred matter, the Broome County Department of Planning to which referral is made, shall report its recommendations thereon to the board, accompanied by a full statement of the reasons for such recommendations. If such planning agency disapproves the proposal, or recommends modification thereof, the board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. The chairperson shall read the report of the county planning agency at the public hearing on the matter under review.

If such planning agency fails to report within such period of thirty (30) days or such longer period as may have been agreed upon by it and the referring agency, the board may act without such report. However, if the Board receives the report of the county planning agency after thirty (30) days, but prior to the final action by the Board, then the Board shall not act contrary to the recommendation by the county planning agency, except by a vote of a majority plus one of all of the members thereof.

#### **§ 44-8. Site Plan Review**

§44-8.1 The Planning Board has been delegated by the Village Board of Trustees in Section 65.20 (Zoning) of the Village Code, the authority to conduct site plan reviews.

Pursuant to the provisions of said Section 65.20 and Section 7-725a of the Village Law the rules and regulations set forth herein are hereby adopted to establish a procedure to review the same.

#### **§ 4-9. Land Subdivision Regulations**

The Planning Board has been delegated by the Village Board of Trustees on May 6, 1975 to approve subdivision plats in Chapter 53 of the Village Code in the Village of Port Dickinson. Pursuant to the resolution of delegation and Sections 7-728, 7-730 and 7-732 of the Village Law the rules and regulations set forth herein are hereby adopted to establish a procedure to review the same.

#### **§ 44-10. Planned Unit Development District**

The Village Board of Trustees pursuant to Article XI of the Village Code delegated to the Planning Board the power to recommend to the Village Board approval, disapproval or conditional approval of any application filed to obtain a change in zone to permit development as a Planned Unit Development District.

Pursuant to the provisions of said Article XI, the rules and regulations set forth herein are hereby adopted to establish a procedure to review and recommend relative to the same.

#### **§ 44-11. Hearings**

**§44-11.1** Time of Hearing. If a public hearing is required, the board shall schedule a hearing of all applications within the time permitted by the applicable ordinance, law or regulation giving jurisdiction to the Planning Board in the matter but not later than sixty-two (62) days of the filing of the completed application.

**§44-11.2** Notice of Hearing. The board shall notify the Village Clerk to give notice of the hearing at last five (5) business days prior to the date thereof by publication in the official paper. The board shall notify the Village Clerk to mail notices of the hearing to the parties and to the members of the Village Board of Trustees and, if required by §239-m of the General Municipal Law, to the Broome County Planning Board.

**§44-11.3** Form of Notice. Such notice shall state the name of the applicant, the location of the property involved, the general nature of the application involved, and the date, time and place of the hearing sought.

**§44-11.4** Proceedings. The order of business at a hearing shall be as follows: (A) roll call; (B) the chairperson shall give a statement of the case; (C) the chairperson shall read all correspondence and reports received thereon; (D) the applicant shall present his case; (E) those in favor shall present their arguments; (F) those opposed shall present their arguments; (G) rebuttal by both sides; (H) adjournment of hearings.

**§44-11.5** General Rules. Any party may appear in person or by agent or by attorney.

**§44-11.6** The chairperson, or in his absence, the acting chairperson, may administer oaths.

## **§ 44-12. Determinations**

**§44-12.1** Time of Determinations. Determinations by the board shall be made within the time permitted by the applicable ordinance, law or regulation giving jurisdiction to the Planning Board on the matter but not later than sixty-two (62) days from the date of receipt of the completed application, unless such time be further extended by the applicant.

**§44-12.2** Form of Determination. The final determination on any matter before the board shall be made by written order signed by the chairperson.

**§44-12.3** Basis for Determination. The board in reaching said determination shall be guided by standards specified in the applicable ordinance, law or regulation as well as by the community goals and policies as specified in the Village comprehensive plan.

**§44-12.4** Findings. The findings of the board may be based on evidence submitted or on the personal knowledge of the board to show that:

1. It has made an intelligent review of the question.
2. It has considered all of the information or evidence.
3. It has heard all parties in question.
4. Any intimate knowledge it has of the subject under question has been taken into account.
5. It has made a personal inspection of the parcel in question and from this examination certain findings were ascertained.

**§44-12.5** Compliance with State Environmental Quality Review Act. The Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in 6 NYCRR 617.

**§44-12.6** Conflicts with Other Laws or Regulations. In reviewing any application on any matter, the standards in any applicable local law or ordinance or state statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.

**§44-12.7** Filing of Determinations. Determinations of the board shall be immediately filed in the office of the Village Clerk and shall be a public record. The date of filing of each decision shall be entered in the official records and minutes of the board.

**§44-13. Ad Hoc Temporary Members. [Added 6-12-01 by L.L. No. 5-2001]**

Pursuant to the provisions of Local Law 3-2000 authorizing the Board of Trustees of the Village of Port Dickinson to appoint temporary ad hoc members to the Planning Board to be assigned by the Chairperson to serve when absence or the conflict of interest of regular members of the Planning Board would otherwise prevent five (5) members of said Board from considering any pending matter, which temporary ad hoc members shall be designated on a rotating basis in the manner provided in these rules, the following procedure shall prevail:

- a. After the Village Board of Trustees shall designate the temporary ad hoc members to serve that year, the names of such temporary ad hoc members shall be placed in alphabetical order by the Secretary of the Planning Board.
- b. Thereafter should a situation arise when less than five members are present at any meeting of the Planning Board, the Chairperson of the Planning Board shall assign in alphabetic order one or more temporary ad hoc members present at said meeting (but not more than two such temporary ad hoc members) when absence or conflict of regular members of the Planning Board shall occur.
- c. Should such situation arise at any further meeting of the Planning Board, the Chair person shall assign in alphabetic order commencing with the next name of such members in said such alphabetic order (but not more than two such members) who is present at said meeting when absence or conflict of regular members of the Planning Board shall occur.



**§44-14. Training Requirements. [Added 6-12-01 by L.L. No. 6-2001]****§44-14.1 Purpose and Intent.**

- A. The Board of Trustees (hereinafter the "Board") of the Village of Port Dickinson (hereinafter the "Village") finds that appropriate training of the Village Planning Board (hereinafter the "Planning board") members is essential to the proper functioning of said Board.
- B. The State of New York has recognized the importance of training in its recent amendments to the Planning Board statute (Village Law Section 7-718).
- C. It is the purpose of this Local Law to assist the Planning board members in obtaining appropriate training to enhance their ability to carry out their duties under applicable provisions of Law, and to pay the reasonable costs of such training as a Village charge.
- D. It is also the purpose of this local law to establish minimum training and continuing education course requirements for such members.

**§44-14.2 Minimum Training Requirements.**

- A. All members and alternate members (hereinafter individually or collectively referred to as "Member") of the Planning Board shall be required to attend a minimum of six (6) hours in relevant training courses within the first year from the date of their initial appointment to such board; and thereafter, attend training sessions of not less than 4 hours every year thereafter. **(Modified by L.L. No. 4-2006)**
- B. Non-compliance with these minimum requirements relating to training shall be deemed a proper cause from removal from office.
- C. The reasonable costs of such training courses, seminars, workshops or continuing education courses so designated shall be a Village charge. Members shall also be reimbursed for reasonable travel and meal expenses according to Village policies. Such training sessions shall be approved in advance by the Village Board.

**§44-14.3 Approved Training Courses.**

Training sessions which relate to the duties of members of the Planning Board may include programs offered by the New York State Department of State, New York State Association of Towns, New York State Conference of Mayors, New York State Department of Environmental Conservation, the New York State Planning Federation, the Broome County Department of Planning and Economic Development, the Broome County Cooperative Extension, and other such entities, as well as in-house up-dates or training seminars or Municipal Law seminars conducted by the Village Attorney of the Village of the Law Firm with which such Village Attorney is affiliated. The Village Board, after discussion with the Chairperson of the Planning Board, shall annually designate such training courses, seminars, workshops, or continuing education courses which may be offered within a reasonable distance and which may be helpful to or of assistance to the Planning Board in carrying out their functions in a timely, fair and lawful manner.

**§44-14.4 Lack of Training Not to Affect Validity of Members Actions.**

Notwithstanding the foregoing, the failure of a member of the Planning Board to obtain such training shall not affect said person's appointment to serve on such board, to entertain applications, to vote on such applications, the validity of such member's actions or the validity of any Decision, order or action of such Board.

**§44-14.5 Procedure for Removal of a Member.**

The Chairperson of the Planning Board shall notify the Village Board in writing on or about December 1 in any year of any member who fails to comply with the minimum requirements for training in any calendar year. In the event a member of the Planning Board has failed to complete the minimum training requirements set forth in Section 3, then the Village Board may remove such member for cause as herein provided:

- A. Notice. Such member shall be mailed a written notice specifying the nature of the failure of such member to meet the minimum requirements of Section 3 above.

- B. Public Hearing. Such notice shall specify a date, not less than ten (10) nor more than thirty (30) days from the date of mailing such notice, when the Village Board shall convene and hold a public hearing on whether or not such member should be removed from service on such board. Such notice shall also specify the time, date and place of such hearing.
- C. Public Notice. Public notice of such hearing shall be published in the official news paper of the time at least ten (10) days prior to the date of the public hearing.
- D. Conduct of Hearing. The public hearing on the charges shall be conducted before the Village Board. The member shall be given an opportunity to retain an attorney, present evidence, call witnesses to refute the charges, and cross-examine witnesses. A record of such hearing shall be made. The decision of the Village Board shall be reduced to writing together with specific findings of the Village Board with respect to each charge against such member. A copy of such decision and such findings shall be filed in the Office of the Village Clerk and mailed to the member.
- E. Action by the Village Board. Following the hearing and upon a finding that such member has not met the minimum training established by this local law the Village Board may:
- i. Remove such member from the Planning Board; or
  - ii. Issue a written reprimand to such member without removing such member from such board; or
  - iii. If the Village Board shall find that the reasons for failing to meet the minimum training requirements are excusable because of illness, injury or other good and sufficient cause, the Village Board may elect to take no action.

**§44-14.6 Removal for Cause.**

Nothing contained herein shall be deemed to limit or restrict the Village Board's authority to remove a member from the Planning Board for cause (i.e. for other than the reasons enumerated herein). The procedural provisions of Section 6 (Procedure) of this Local Law shall govern any hearing to remove a member for cause.

**Chapter 45****PROPERTY MAINTENANCE****§45.07 Unregistered Motor Vehicles (added 7/13/10, Local Law 2-2010)****§ 45-1. Purpose and application.****§ 45-2. Definitions.****§ 45-3. Regulations. (amended 5/22/18, Local Law 1-2018)****§ 45-3.4 – 45.3-10 Outdoor Wood Boilers****§ 45-4.1 Removal by Village.****§ 45-5. Penalties for offenses.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 7-9-74 as Local Law No. 5-1974. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Building construction — See Ch. 26.

Fire prevention — See Ch. 34.

Abandoned vehicles — See Ch. 59.

**§45.07 Unregistered Motor Vehicles (added 7/13/10, Local Law 2-2010)**

A. Legislative Intent: The outdoor storage of unregistered motor vehicles or parts thereof on privately owned property within the Village of Port Dickinson (the “Village”) is detrimental to the health, safety and general welfare of the community. The same also constitutes an attractive nuisance to children and in many ways imperils their safety. Such storage also endangers the person and property of members of the community, since fuel tanks containing gasoline or gasoline fumes may easily explode. Such storage is unsightly and depreciates property values. The control of the outdoor storage of unregistered motor vehicles on privately owned properties within the Village is therefore regulated for the preservation of the health, safety and general welfare of the community.

B. Definition: Unregistered Motor Vehicle. Any vehicle propelled or drawn by power other than muscular power, any motor vehicle, whether automobile, bus, trailer, truck, mobile home, motorcycle, motor bicycle, minicycle or any other contraption originally intended for travel on the public highways, which is stored, left or located by its owner or any other person or is permitted or condoned to be stored, left or located by its owner or any other person on public or private premises in the Village which is not registered for operation on public highways and which has not been registered during the preceding one (1) month.

C. Prohibition: Open storage of one (1) or more unregistered motor vehicles shall not be permitted on private or public property within the Village, and no unregistered motor vehicle shall be parked or stored or allowed to be parked or stored by the owner thereof or by any other person on public property.

D. Exemptions:

The following are exempt from the provisions of this section:

1. An unregistered motor vehicle or motor vehicle parts stored out of public view in a garage or other structure.

## Section 2.

All Ordinances, Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

## Section 3.

This Local Law shall take effect when it is filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

### **§ 45-1. Purpose and application.**

- A. In order to prevent blight and the spread thereof it is hereby declared that all structures, including but not limited to one- and two-family and multiple-family dwellings, whether or not used for residential purposes; garden apartments; all other apartment complexes; all shopping centers; supermarkets; retail stores; discount houses; warehouses; storage plants; factories; gasoline service stations; public garages; or buildings used for other business purposes; and accessory structures of all of the foregoing, whether occupied or vacant; shall be maintained in conformity with the standards set out in this chapter so as to assure that none of these structures or properties will adversely affect their neighborhood or the village community.
- B. It is found and declared that, by reason of lack of maintenance and progressive deterioration, certain structures and properties have the further effect of creating blighting conditions and initiating slums and that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same. By reason of timely regulations and restrictions as herein contained, the growth of slums and blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of residential and nonresidential uses and neighborhoods enhanced and the public health, safety and welfare protected and fostered.

**§ 45-2. Definitions.**

CANOPY – A structure, enclosure or shelter constructed of fabric or pliable materials supported by any manner, except by air or the contents it protects, and is open without sidewalls or drops on 75 percent or more of the perimeter. (added LL1-2012, 2/14/12)

MEMBRANE STRUCTURE –An air-inflated, air-supported, cable or frame-covered structure as defined by Chapter 31 of the Building Code of New York State and not otherwise defined as a tent or canopy. (added LL1-2012, 2/14/12)

PERSON — Shall include a natural person or persons, firm, corporation, partnership, association or any other combination of two (2) or more persons, who is or are the owners or owners' mortgagee, assignee of rents, receiver, executor, trustee, administrator, lessee or agent, directly or indirectly, in control of a building or other structure or premises within the Village of Port Dickinson.

TENT – A structure, enclosure or shelter constructed of fabric or pliable material supported by any manner except by air or the contents that it protects. (added LL1-2012, 2/14/12)

**§ 45-3. Regulations.**

A. Yards, lots and open areas.

- (1) No shopping baskets, carts or wagons shall be left unattended or standing, and such baskets, carts or wagons shall be collected as often as necessary and removed to the interior of the building or buildings from which they were taken by the person responsible for said building or buildings.
- (2) All fences shall be maintained by the person responsible for the property. Such maintenance shall include but not be limited to painting, as needed, and the replacement or repair of fences which may become in disrepair. To ensure traffic and pedestrian safety and visibility, when any portion of a fence is located within six (6) feet of any sidewalk or street, no such portion thereof shall exceed three (3) feet in height above the level of such sidewalk or street so as to allow for clear vision upon adjacent lots to such sidewalk and street. All property owners upon whose property is located a fence not in compliance with the foregoing shall have six (6) months from the effective date hereof to cause any such fence to comply with this Section 45-3(A)(2). (amended 5/22/18, LL 1-2018)
- (3) All landscaping shall be maintained so that the lawns, hedges, bushes and trees shall be kept neatly and free from becoming overgrown and unsightly where exposed to public view and where the same may constitute a blighting factor having a tendency to depreciate adjoining property. Such maintenance shall include, but not be limited to, the replacement of trees and shrubs which may die and or otherwise be destroyed. To ensure traffic and pedestrian safety and visibility, when any portion of any hedge, bush, tree or other landscaping feature is located within six (6) feet of any sidewalk or street, no such portion thereof shall exceed three (3) feet in height above the level of such sidewalk or street so as to allow for clear vision upon adjacent

lots to such sidewalk and street. All property owners upon whose property is located a hedge, bush, tree or other landscaping feature not in compliance with the foregoing shall have six (6) months from the effective date hereof to cause any such hedge, bush, tree or other landscaping feature to comply with this Section 45-3(A)(3). (amended 5/22/18, LL 1-2018)

- (4) Lawns exposed to public view shall be maintained in a safe condition, neatly mowed, as necessary, and free from litter, poison ivy, ragweed and other noxious plants. No person shall cause any grass clippings to be deposited in the area of the curb or street such that would eventually restrict the Village drains that carry surface waters via the Chenango River to the Susquehanna River Basin. **[amended 4/8/14, LL 5-2014]**

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PROPERTY MAINTENANCE

§45-3.1

- (5) Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled and necessary repairs or replacements accomplished.<sup>1</sup>
- (6) Yards, courts and vacant lots shall be kept clean and free of physical hazards, rodent harborage and infestation, and shall be maintained in a manner that will prevent rubbish from being blown about them.
- (7) All signs exposed to public view shall be maintained in good repair. Excessively weathered or faded signs shall be removed or put into good repair. Any nonoperative or broken electric or other sign shall be repaired or removed.
- (8) No lights, floodlights or spotlights shall be so situated that light from such lamp is directly cast upon the nearby residences.
- ~~(9) No automobiles, motorized vehicles, boats, trailers or other large equipment or objects shall be parked on any open area in front of the dwelling unit or between such unit and the adjacent street. For purposes of this section the words "open area" shall include areas covered by grass, dirt, gravel or similar substance, but shall not include any paved driveway the width of which shall not exceed the total width of the door(s) of the garage to which the driveway leads, or in the event there is no garage on the premises, then a width of not more than ten (10) feet. In the event there is a circular drive leading to the garage, the width of the driveway shall not exceed fifty percent (50%) of the total width of the doors of the garage. For the purposes of this section the words "doors of the garage" refers to those doors allowing entry of the automobiles, etc being stored therein, and not doors intended for entry by occupants of the property. **[Amended by LL No. 4-2004][Repealed 7/14/15, LL 1-2015]**~~
- (10) The purpose of this sub-section is to promote awareness of the potential for mosquito borne disease and the benefit of the general population in having breeding areas minimized to the extent such breeding areas are created unnecessarily, and are determined to be a nuisance by the Code Inspection Officer. It is not intended to regulate situations where such breeding areas are created by natural conditions such as standing water resulting from rain or melting snow or ice.



- 1 Editor's Note: For additional provisions pertaining to the construction and maintenance of sidewalks, see Ch. 52, Streets and Sidewalks, Article II.
- 2 Editor's Note: See also Ch. 59, Vehicles, Abandoned.

No owner, occupant or tenant or any building or lot or part thereof within the Village shall allow the accumulation of untreated standing water and must, upon service of written notice from the Code Inspection Officer that such a nuisance exists, cure such condition within seventy-two hours after service of such notice. In addition, the Village may cure such condition if they are not cured by said owner, occupant or tenant within said seventy-two (72) hour period and assess the cost thereof against the owner of said property.

Such cost if not paid, shall be assessable against the property as a tax thereon. If in the judgment of the Commissioner of Public Works the employees of the Department of Public Works, by reason of their work schedule, will be unable to attend to such curing activity within a reasonable time period, then the Enforcement Officer may direct a private contractor previously approved by the Board of Trustees to perform such services at the pay schedule previously approved.

Examples of standing water sites that may constitute such nuisance include, but are not limited to, abandoned swimming pools, construction sites, tires, boats and abandoned garden ponds **[added 2/13/01 by LL-1-2001]**.

- B. Buildings and structures. All exterior exposed surfaces, not inherently resistant to deterioration, shall be repaired, coated, treated or sealed to protect them from deterioration. Exterior porch floors, walls, ceilings and stairs shall be maintained in a clean, safe, sanitary condition. Such areas which have been damaged or show evidence of rot or other deterioration shall be repaired or replaced and refinished in a workmanlike manner.
- C. Tents, canopies, and membrane structures. Temporary tents, air-supported, air-inflated or tensioned membrane structures and canopies erected on any yard, lot or open area shall not be allowed to remain for a period of more than 90 days within a 12-month period on a single premises. (LL1-2012, added 2/14/12)

#### **§ 45-3.1 Home Composting**

- A. Home Composting Permits. Home composting for non-commercial purposes is permitted for yard waste and other organic plant materials, including fruit and vegetable matter, grown or consumed within the lot or parcel of land where the home are erected, home composting shall only be permitted in the rear yards of such lots or parcels.
- B. Volume. Regardless of the method of home-composting used, no home-composting process shall exceed a height of four (4) feet above ground and a total volume capacity of 200 cubic feet per lot or parcel of land under any circumstances.
- C. Non-Conforming Processes. Any home-composting process which is in use as of the effective date of this Local Law which does not conform to the restrictions imposed herein shall either be brought into compliance with this Local Law or be removed on or before September 1, 1993. **[Added 12-8-92 by L.L. No. 7-1992]**

**§45-3.2 Alarm Systems. [Added 6-12-01 by L.L. No. 4-2001]****§45-3.2 Definitions.**

As used in this article, the following terms shall have the following meanings:

**ALARM SYSTEM** – A device or an assembly of equipment which is intended to alert emergency agencies by automatically dialing an emergency agency, or which contacts an alarm company thereby causing the alarm company to contact an emergency agency or which is directly connected to any city department.

**ALARM USER** – Any person who owns, leases or uses an alarm system within the Village of Port Dickinson.

**AVOIDABLE ALARM** – The activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner, user, custodian or lessee of an alarm system, or of his employees or agents, or through any other cause which indicates that an emergency situation exists requiring response within the city when, in fact, an emergency situation does not exist. An “avoidable alarm” also includes the knowing or intentional activation of an alarm to an emergency agency when the activator knows that an emergency situation does not exist. “Avoidable alarm” does not include activated by violent conditions of nature such as hurricanes, tornadoes, earthquakes or any other similar cause beyond the control of the user of the alarm system. Activation of an alarm system under any circumstances under which the activator reasonably believes that an emergency situation exists is not an “avoidable alarm.” Notwithstanding any language to the contrary, the defective installation of an alarm system, the failure to repair or cause to be repaired an alarm system or the use of defective equipment in connection with an alarm system shall not constitute an extraordinary circumstances beyond the reasonable control of the alarm user.

**EMERGENCY AGENCY**– Any police department, fire department or other law enforcement agency or ambulance company (public or private) or other agency summoned to respond to an emergency situation and any public safety answering point serving the Village of Port Dickinson.

**LICENSING AUTHORITY** – The Village of Port Dickinson through its Village Clerk.

**NOTICE ADDRESS** – The address which an alarm user designates on the application for a license as the address to which notices are to be sent.

**PERSON** – Any person, firm, partnership, corporation, association, company or organization of any kind.

**VILLAGE** – The Village of Port Dickinson.

**§45-3.2.1 License required; authority.**

- (a) **Required.** It shall be unlawful for an alarm system user to operate, own or maintain an alarm system, as defined by the terms of this Local Law, without first obtaining a license as hereunder provided.
- (b) **Authority to grant licenses.**
  - (1) The licensing authority is hereby authorized to grant a revocable license to any alarm user to own, lease, operate, maintain, install or modify an alarm system.
- (c) **Applications for licenses.** Applications for licenses shall be made as follows:
  - (1) An alarm user in the Village utilizing an alarm system shall apply to the licensing authority for a license to own, lease, or otherwise have such device on his or its premises. The application shall contain provisions relating to the device or system of devices installed or to be installed on the premises. Application for licenses for alarm system devices existing in premises on the effective date of this Local Law must be made to the licensing authority within thirty (30) days of the effective date. No such device may be installed on the premises of the owner or lessee, and no presently existing alarm device complying with the provisions of this article shall be modified after the effective date of this Local Law prior to the licensing authority's having issued a license to such owner or lessee. Each license need not be obtained on an annual basis but shall be obtained each time a device or system is to be installed or modified.

- (d) **Confidentiality.** The information required on the license application shall be treated as confidential and shall not be made available to members of the general public. The Village finds that the release of such information would constitute an unwarranted invasion of personal privacy and could endanger the life or safety of persons at the premises where an alarm system is located. The information on a license application shall be used by the Village only for public safety purposes and shall not be available through the Freedom of Information law.

#### **§45-3.2.2 License fees.**

There shall be no annual license fees.

#### **§45-3.2.3 Avoidable alarm charges.**

- (a) Each alarm user shall pay to the Village a charge for each and every avoidable alarm to which the Village responds, in each calendar year, as follows:

First two (2) avoidable alarms each calendar year	No charge
Third avoidable alarm each calendar year	\$25.00
Each additional false alarm	\$50.00

- (b) The Chief of Police or his representative shall notify the alarm user of any avoidable alarm charges by mail. Within thirty (30) days of such notice the alarm user may appeal to the Mayor by showing proof to demonstrate that the alarm was not an avoidable alarm. The mayor shall have ten (10) business days to determine the appeal.
- (c) Should the alarm user fail to pay any and all alarm charges within thirty (30) days of receipt of notice or receipt of appeal denial, whichever is later, the Chief of Police shall certify to the Village Treasurer the amount of the penalties; and said penalties shall become a lien upon the property, shall be included in the next tax bill rendered to the owner unless paid before, and shall be collected in the same manner as other taxes against the property.
- (d) Additionally, should the alarm user fail to pay any and all charges within thirty (30) days of receipt of notice or receipt of appeal denied, whichever is later, the Chief of Police shall notify the Village Clerk to suspend the alarm user's license. Such license shall not be reinstated until all such charges are paid in full.

(e) Further,

should the alarm user accumulate more than five (5) avoidable alarms in any calendar year, the Chief of Police may notify the alarm user by mail that his license is terminated. Within thirty (30) days of such notice the alarm user may appeal to the Mayor by showing proof to demonstrate that the alarms were not avoidable alarms. The Mayor shall have ten (10) business days to determine the appeal.

### **§45-3.3 Landlord Registration (Added Nov. 11, 2008, by Local Law No. 9-2008)**

#### **§45-3.3.1 Purpose and Application.**

There exist within the Village of Port Dickinson (the “Village”) numerous rental dwelling units that are not occupied by their owners. Many of these buildings are owned by individuals who live outside of Broome County and any of the adjoining counties of New York State. Sections 130.40 and 150.40 of the Penal Law of the State of New York provide that Appearance Tickets and Criminal Summons may only be served in the county and adjacent counties of New York State of the issuing court. Because of Section 130.40 and 150.40 of the Penal Law, in order to prosecute violations of the Property Maintenance Code (Chapter 45 of the Village Codes) maintained by owners that reside outside of Broome County or the adjoining counties, it is necessary to catch that individual within the County of Broome or adjoining New York counties. This severally hinders the enforcement of the Property Maintenance Code against owners who reside outside of Broome County or the adjoining counties; and

The Board of Trustees of the Village has determined that it is necessary for the effective enforcement of the Property Maintenance Code that the owners of rental dwellings who do not reside or maintain a primary place of business within the County of Broome or an adjoining county of New York be required to register their dwelling unit and provide the name, address, and phone number of a property manager who may be reached 24 hours per day and who or which resides within Broome County or an adjoining counties of the State of New York. The Board of Trustees of the Village has also determined that the failure to provide such information warrants imposition of a fine not less than \$100, but not more than \$250 on a first conviction and a fine of not less than \$500, nor more than \$1,000 on the second offense.

#### **§45-3.3.2 Registration of Rental Housing Units and Certificate of Compliance..**

A. Owners and lessors, or their respective agents, of rental housing units who do not reside or maintain a principal place of business within Broome County, New York or an adjoining county of New York shall, within one year after the effective date of this provision or within 90 days from the date of mailing of forms by the Code Enforcement Officer, whichever occurs first, register with the Village each rental housing unit they own or operate in the Village. The following information shall be provided:

1. The names and addresses of the owner and/or lessor, and of their respective property manager, agents or other person responsible for the maintenance of the leased premises.
  2. The name, address and phone numbers of a property manager or other person responsible for the maintenance of the leased premises located within Broome County, New York, or a contiguous county in the State of New York who can be reached 24-hours per day seven days a week and upon whom violation orders may served within the County of Broome, State of New York and adjoining county of New York.
  3. Such other appropriate information as may be requested, including, but not limited to, number of units, number and type of rooms, number of stories, type of heating system and location of such, sprinkler system and fire alarm controls etc.
- B. It shall be the responsibility of the property owner to maintain all information provided to the Village pursuant to this Section and such owners must inform the Village Code of any change in the information provided within 10 days of the change. Failure to maintain the information provided to the Village pursuant to this section shall subject the owner to the penalties provided for in Subsection C of this Section.
- C. Penalty. A failure to register any rental unit required to be registered under this section shall be a violation and any person or entity convicted of such violation shall be punished as follows: 1) upon the first conviction a fine of not less than \$100.00, but not exceeding \$250.00 and/or 15 days in jail and 2) upon a second such conviction within a 12 month period a fine of not less than \$500.00, but not exceeding \$1,000 and/or 15 days in jail.
- D. The Code Enforcement Officer shall maintain, for public review, a database of rental units registered pursuant to this section. That database shall list the name of the owner or lessor and the owner's addresses. It shall also include the name, local address and phone number of the property manager, agent or person otherwise responsible for the maintenance of the building. It shall also state whether there is a currently valid certificate of compliance on file for each building.
- E. Certificates of Compliance. A certificate of compliance may be issued for any rental unit, regardless of whether it is required to be registered by Subsection A of this Section, pursuant to the request of owners, lessors or lessees and upon a satisfactory completion of a housing maintenance inspection, a certificate of compliance shall be issued and shall remain in effect for two years or until change of occupancy, whichever occurs first. Biannual re-inspections shall be requested before the end of the calendar month in which the expiring permit was issued. A fee of \$5 per unit for each new issuance and/or renewal will be charged.

§45-3.4: Statutory Authority; Title

This Local Law is adopted pursuant to the authority of Section 10 of the Municipal Home Rule Law of the State of New York and shall be known as the “Outdoor Wood Boiler Law of the Village of Port Dickinson.”

§45-3.5. Legislative Intent

This Local Law is intended to ensure that outdoor wood boilers are utilized in a manner that does not create a nuisance by reason of the production of offensive odors and potential adverse health impacts and are not detrimental to the health, safety and general welfare of the residents of the Village of Port Dickinson (hereinafter the “Village”).

§45-3.6 Definitions

A. “Clean wood”. Wood that has not been painted, stained, or treated with any other coatings, glues or preservatives, including, but not limited to, chromated copper arsenate, creosote, alkaline copper quaternary, copper azole or pentachlorophenol.

B. “New outdoor wood boiler”. An outdoor wood boiler that commences operation on or after April 15, 2011.

C. “Old outdoor wood boiler”. An outdoor wood boiler that has commenced operation before April 15, 2011.

D. “Outdoor wood boiler”. A fuel burning device that (a) is designed to burn wood or other fuels; (b) is specified by the manufacturer for outdoor installation or installation in structures not normally occupied by humans; and (c) is used to heat building space and/or water via the distribution, typically through pipes, of a gas or liquid (e.g., water or water/antifreeze mixture) heated in the device.

§45-3.7. Regulations

A. No person shall operate a New outdoor wood boiler that does not meet the requirements set forth in Title 247 of the New York State Department of Environmental Conservation (“DEC”) Rules and Regulations.

B. Permit required. No person shall cause, allow or maintain the use of an Old outdoor wood boiler on property which he/she owns within the Village without first having obtained a permit from the Village Code Enforcement Office. All property owners with Old outdoor wood boilers shall have one year from the effective date hereof to obtain a permit conforming to the regulations stated herein other than setbacks.

C. Approved Fuels. A person who operates an Old outdoor wood boiler may only burn the following fuels in such outdoor wood boiler:

- (1) seasoned clean wood;
- (2) wood pellets made from clean wood;



(3) heating oil in compliance with Subpart 225-1 of Title 247 of the DEC Rules and Regulations. L.P. gas or natural gas may be used as starter fuels for dual fuel-fired outdoor wood boilers;

(4) non-glossy, non-colored papers, including newspaper, may be used only to start an outdoor wood boiler; and

(5) other fuels approved by DEC certification requirements of Section 247.8 of the DEC Rules and Regulations.

D. Prohibited fuels. No person shall burn any of the following items in an Old outdoor wood boiler:

- (1) wood that does not meet the definition of clean wood;
- (2) unseasoned wood;
- (3) garbage;
- (4) tires;
- (5) yard waste, including lawn clippings;
- (6) materials containing plastic;
- (7) materials containing rubber;
- (8) waste petroleum products;
- (9) paints or paint thinners;
- (10) household or laboratory chemicals;
- (11) coal;
- (12) paper except as described in paragraph 247.4(a)(4) of this Part;
- (13) construction and demolition debris;
- (14) plywood;
- (15) particleboard;
- (16) fiberboard;
- (17) oriented strand board;
- (18) manure;
- (19) animal carcasses;
- (20) asphalt products;

(21) salt water driftwood; or

(22) any other fuel that is not recognized as an approved fuel pursuant to Section 247.4 of the New York State Department of Environmental Conservation Rules and Regulations.

E. Smoke Stack/Chimney. All Old outdoor wood boilers shall have a smoke stack or chimney that:

(1) is double-wall insulated by metalbestos;

(2) extends a minimum of seventeen (17) feet above ground level of the outdoor wood boiler;

(3) extends above the peak of any building on neighboring property immediately adjacent or directly opposite the property on which the outdoor wood boiler is located, which building is within one hundred fifty (150) feet of the outdoor wood boiler; and

(4) is stabilized by a metal pole, wood pole or guy wire fastened to the smoke stack/chimney to prevent it from falling.

F. Setbacks. Old outdoor wood boilers shall be set back a minimum of at least fifty (50) feet from the nearest property line and fifty (50) feet from the nearest public road.

G. Transmission. The pipe carrying the hot water produced by the outdoor wood boiler to the adjacent structure must be located at least forty-eight (48) inches below ground level.

H. Period of Operation. The outdoor wood boiler can only be operated between September 30 and April 15.

#### §45-3.8. Prohibitions

A. No person shall cause or allow emissions of air contaminants from an Old outdoor wood boiler to the outdoor atmosphere of a quantity, characteristic or duration which is injurious to human, plant or animal life or to property, or which unreasonably interferes with the comfortable enjoyment of life or property. This prohibition applies, but is not limited to, the following conditions:

(1) activating smoke detectors in neighboring structures;

(2) impairing visibility on a public highway; or

(3) causing a visible plume migrating from an outdoor wood boiler and contacting a building on an adjacent property.

The prohibition further applies to any particulate, fume, gas, mist, odor, smoke, vapor, toxic or deleterious emission, either alone or in combination with others, emitted from an outdoor wood boiler that results in the conditions or circumstances listed in this subdivision notwithstanding the existence of specific air quality standards or emission limits.

B. No person shall operate an outdoor wood boiler in such a manner as to create a smoke plume with an opacity of 20 percent or greater (six minute mean) as determined using EPA Reference Method 9 (or equivalent) (see Table 1, Section 200.9 of the DEC rules and regulations).

#### §45-3.9. Permit

A. The Board of Trustees of the Village may, at the recommendation of the Code Enforcement Officer, in its discretion, revoke any permit previously issued after a public hearing at which the applicant shall have an opportunity to be heard, if the Board of Trustees determines there is a violation of Section 5 of this Local Law.

B. Reinstatement of Permit. A revoked permit may be reinstated once the condition which resulted in revocation is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition, which has previously resulted in revocation of a permit, shall be considered a violation of this Local Law subject to the penalties provided below.

#### §45-3.10. Penalties for Violation

A. Failure to comply with any of the provisions of this Local Law shall be a violation and, upon conviction thereof, shall be punishable by a fine of not more than \$500 or imprisonment for a period of not more than ten (10) days, or both, for the first offense.

B. Any subsequent offense shall be punishable by a fine of not more than \$1,000 or imprisonment for a period of not more than thirty (30) days, or both and shall result in the discontinuance of use of the outdoor wood boiler by the violator.

C. In addition, any permit issued pursuant to this Local Law shall be permanently revoked upon conviction of a second offense and the subject Old outdoor wood boiler shall not be eligible for another permit.

D. Each day that a violation occurs shall constitute a separate offense. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this Local Law.

E. Any fine imposed hereunder shall constitute a lien upon the real property where the outdoor wood boiler is located until paid.

F. The Board of Trustees may, in the alternative, maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with this Local Law by injunction, abatement or otherwise compel cessation of each violation, and obtain restitution to the Village for costs incurred by the Village in remedying each violation, including but not limited to reasonable attorney fees.

**§ 45-4. Enforcement. [Amended 11-20-84 by L.L. No. 5-1984 and 2-13-01 by L.L. No. 2-2001]**

Upon his own investigation or receipt of information or complaint, the Enforcement Officer of the Village of Port Dickinson shall cause to be served upon the person responsible for any land or property upon which the violation has taken place or occurred, a written notice in the form approved by the Village Board directing removal or correction of such violation within fifteen (15) days after the service of such notice, except for violation of Section 45-3 (A) (1) and (9) where removal and correction shall be immediate upon notification by the Enforcement Officer and Section 45-3 (A) (10) where correction shall be within seventy-two (72) hours after such notification. In the event that such responsible person cannot reasonably be located, then notice shall be served by the posting of such notice in a prominent place upon the premises. If such violation is not corrected within such time periods, then the owner, occupant or person in control of said premises shall be deemed in violation of this chapter and subject to its penalties.

**§45-4.1 Removal by Village. [Added 8-14-01 by L.L. No. 10-2001]**

If after the expiration of ten (10) days from the date of personal services or fifteen (15) days from the date of posting, the owner shall fail to comply with the requirements of Section 45-3A (3) or (4), the Enforcement Officer shall have the power to order the Village Department of Public Works to cut, trim or remove such hedges, brush, trees or lawns on any such yard, lot, or open area in the Village of Port Dickinson. If in the judgment of the Commissioner of Public Works the employees of the Department of Public Works, by reason of their work schedule, will be unable to attend to such activities within seven (7) days from receipt of said order, the Enforcement Officer may direct a private contractor previously approved by the Board Trustees to perform such services at the pay schedule previously approved. In either such event the expense thereof shall become a lien upon the real property involved and be added to and become a part of the tax next so assessed by including such expense in the next annual tax levy against the property pursuant to the Village Law of New York.

**§ 45-5. Penalties for offenses.**

A. Any person committing an offense against any provisions of this chapter shall, upon conviction, be guilty of violation of this chapter, punishable by a fine not to exceed one hundred dollars (\$100.).

B. In addition to the above provided penalties, the Village Board of Trustees may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter. The Village may also seek restitution for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. [Underlined text added 5/8/12, LL 3-2012]



**PROPERTY NUMBERING SYSTEM**

**[History: Adopted by the Board of Trustees of the Village of Port Dickinson 12-8-92 as Local Law 6-1992]**

**§ 46-1. Numbering Maps**

The Broome County 911 Maps for the Village of Port Dickinson are hereby adopted as the official property-numbering maps of the Village of Port Dickinson, Broome County, New York, and all property numbers assigned shall be assigned in accordance with these numbering maps, and no other property numbers shall be used or displayed in the Village of Port Dickinson, except numbers assigned in accordance with the official numbering maps. A copy of the property-numbering maps shall be kept on file in the office of the Village Clerk when the same are made available by Broome County.

**§ 46-2. Posting of Designated Street Address**

- A. The owner or occupant or person in charge of any house or building to which a number has been assigned will be notified in writing by Broome County Real Property Tax Service of the number assigned to the same.
- B. Within sixty (60) days after the receipt of such written notification, the owner or occupant or person in charge of a house or building to which a number has been assigned shall affix the number in a conspicuous manner in a conspicuous place near the front entrance thereto.
- C. Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as to be legible and distinguishable from the street on which the property is located.
- D. It shall be the duty of such owner or occupant or person in charge thereof upon affixing the new number to remove any different number which might be mistaken for, or confused with, the number assigned to said structure.
- E. Each principal building shall display the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance may display a separate number.

### **§ 46-3. Numbers for Future Buildings**

- A. All residence and business buildings erected after the adoption of this Local Law shall be assigned a number by Broome County Real Property Tax Service in accordance with the property-numbering maps and shall purchase and display such number as provided in Section 46-2 of this Local Law.
- B. Numbers will be assigned by Broome County Property Tax Service to each proposed lot or tract on the surveyors' copies of Final Subdivision Plats.
- C. No building permit shall be issued for any principal building until the owner or developer has procured from Broome County Real Property Tax Service the official number of the premises. Final approval for a certificate of occupancy of any principal building erected or repaired after the effective date of this ordinance shall be withheld until permanent and proper numbers have been displayed in accordance with the requirements of Section 46-2 above.

### **§ 46-4. Unlawful to Deface Number**

It shall be unlawful for any person to alter, deface, or take down any number placed on any property in accordance with this Local Law, except for repair or replacement of such number.

### **§ 46-5. Penalties**

Upon conviction, a violation of this Local Law shall be deemed an offense and shall be punishable by a fine not exceeding two hundred fifty dollars (\$250.00) for each and every such offense, or imprisonment for a period not to exceed fifteen (15) days, or both. Each day's violation shall constitute a separate and additional violation. In addition to the above-provided penalties and punishment, the Board of Trustees may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such Local Law. In addition to the above prescribed penalties, the Village may also seek restitution for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. [Undelined text added 5/8/12, LL 3-2012]

## **Chapter 49**

### **SEWERS**

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- § 49-1. Title.**
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#### **ARTICLE II General Provisions and Regulations**

- § 49-3. Purposes.**
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**§ 49-34. Industrial waste surcharge.**

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### **Enforcement; Penalties for Offenses**

**§ 49-36. Enforcement by Village Engineer.**

**§ 49-37. Enforcement by Joint Sewage Board.**

## **ARTICLE IX**

### **Repealer; Severability; When Effective**

**§ 49-38. Repealer.**

**§ 49-39. Severability.**

**§ 49-40. When effective.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 8-6-85 as Local Law No. 1-1985.<sup>1</sup> Amendments noted where applicable.]**

### **GENERAL REFERENCES**

Building construction — See Ch. 26.

Street and sidewalk excavations — See Ch. 52, Art. I.

Water — See Ch. 62.

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<sup>1</sup> Editor's Note: This local law also repealed former Chapter 49, Sewers. Adopted 3-3-70, as amended.

**ARTICLE I**  
**Title; Definitions**

**§ 49-1. Title.**

This chapter shall be known as the “Village of Port Dickinson Sewer Use Law.”

**§ 49-2. Definitions; word usage.**

- A. Unless otherwise defined herein, technical terms shall be defined in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Health Association, the American Water Works Association and the Water Pollution Control Federation. Whenever used in this chapter, unless otherwise expressly stated or required by subject matter or context, the following terms shall have the meanings indicated:

**BOARD or JOINT SEWAGE BOARD** — The Binghamton-Johnson City Joint Sewage Board, established under the agreement between the City of Binghamton and the Village of Johnson City for the operation of a joint wastewater treatment facility. The term includes any duly authorized designee, agent or representative of the Board.

**BOD<sub>5</sub>** (denoting “biochemical oxygen demand”) — The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20° C.), expressed in milligrams per liter.

**BUILDING DRAIN** — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer which begins five (5) feet [one and five-tenths (1.5) meters] outside the inner face of the building wall.

**BUILDING SEWER** — The extension from the building drain to the public sewer or other place of disposal and surface water as well as wastewater.

**COOLING WATER** — The water discharged from any system of condensation, air conditioning, cooling, refrigeration or other sources. It shall contain no polluting substances which would produce BOD<sub>5</sub> or suspended solids, each in excess of ten (10) milligrams per liter.

**DEC** — The New York State Department of Environmental Conservation.

EASEMENT — An acquired legal right for the specific use of land owned by others.

EPA — The United States Environmental Protection Agency.

FEDERAL ACT or ACT — The 1972 Federal Water Pollution Control Act Amendments, Public Law 92-500 and the 1977 Clean Water Act, Public Law 95-217, and any amendments thereto, as well as any guidelines, limitations and standards promulgated by the United States Environmental Protection Agency pursuant to the “Act.”

FLOW RATE — The quantity of waste or liquid that flows in a certain period of time.

GARBAGE — Animal and vegetable wastes from the preparation, cooking and disposing of food and from the handling, processing, storage and sale of food products and produce.

HOLDING-TANK WASTE — Any sanitary waste from holding tanks, such as marine vessels, chemical toilets, campers, trailers, septic tanks and vacuum pump tank trucks.

INDUSTRIAL USER — Any nonresidential user of the city public sewer system, which user is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one (1) of the following divisions:

- (1) Division A, Agriculture, Forestry and Fishing.
- (2) Division B, Mining.
- (3) Division D, Manufacturing.
- (4) Division E, Transportation, Communications, Electrical, Gas and Sanitary Services.
- (5) Division I, Services.

**INDUSTRIAL WASTE** — Any discarded matter, including any liquid, gaseous or solid substance, or a combination thereof, resulting from any process of industry, manufacturing, trade or business or from development or recovery of natural resources. The term shall not include garbage.

**INDUSTRIAL WASTEWATER DISCHARGE PERMIT** — A permit issued by the Board, authorizing the permittee to deposit or discharge industrial wastewater into the village public sewer system.

**INFLUENT** — Wastewater, raw or partly treated, flowing into any sewage treatment device or sewage treatment facilities.

**INTERFERENCE** — The inhibition or disruption of the treatment plant processes or operations or of its sludge processes, use or disposal. The term includes any action which contributes to a violation of any requirement of the Joint Sewage Board's SPDES permit or which results in the prevention of sewage sludge reuse, reclamation or disposal by the treatment plant in accordance with § 405 of the Act (33 U.S.C. § 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Resource Conservation and Recovery Act or any more stringent state criteria applicable to the method of disposal or use employed by the treatment plant.

**JOINT SEWAGE TREATMENT PLANT or TREATMENT PLANT** — The Binghamton-Johnson City Joint Sewage Treatment Plant. The term includes all devices or systems used in the storage, treatment, cycling or reclamation of municipal sewage or industrial wastes of a liquid nature by the Binghamton-Johnson City Joint Sewage Treatment Plant.

**NORMAL SEWAGE** — Sewage, industrial wastes or other wastes having pollutant concentrations which do not exceed two hundred forty (240) milligrams per liter of BOD<sub>5</sub>, three hundred (300) milligrams per liter of total suspended solids or fifty (50) milligrams per liter of oil and grease and which is otherwise acceptable for discharge into the treatment plant under the terms of this chapter. The numbers and values of characteristics are subject to revision by the Joint Sewage Board when, in the opinion of the Board, a revision is necessary in order to maintain the physical integrity of the treatment plant or maintain the treatment plant's capability of providing treatment in compliance with federal, state and local standards.

**PERSON** — Any individual, firm, company, partnership, association, private or public corporation, political subdivision, governmental agency, municipality, industry, trust, estate or any other legal entity whatsoever.

**PLUMBING CODE** — The Plumbing Code of the State of New York, presently a part of the New York State Uniform Fire Prevention and Building Code.

**PLUMBING INSPECTOR** — The Village Engineer of the Village of Port Dickinson or his authorized deputy.

**POLLUTANTS** — As may be defined now or hereafter by appropriate local, state or federal authorities or by the Board, substances which may be present in wastewater, whether gaseous, liquid or solid, the amount of which may contain soluble or insoluble solids of organic or inorganic nature which may deplete the dissolved oxygen content or natural waters, contribute solids, contain oil, grease or floating solids which may cause unsightly appearance on the surface of such waters or contain materials detrimental to aquatic life.

**PREMISES** — Any parcel of real property, including land, improvements or appurtenances or buildings, grounds, etc.

**PRIVATE SEWER** — A sewer which is not owned or controlled by a public agency.

**PUBLIC SEWER** — A sewer which is owned or controlled by a governmental agency. This term includes any devices or systems used by the governmental agency in the storage, transmission, treatment or reclamation of municipal sewage or industrial wastes.

**RULES AND REGULATIONS OF THE BOARD** — The Rules and Regulations Relating to the Use of the Binghamton-Johnson City Joint Sewage Treatment Plant, promulgated by the Binghamton-Johnson City Joint Sewage Board.

**SANITARY SEWER** — A sewer intended to carry only sanitary or sanitary and industrial wastewater from residences, commercial buildings, industrial plants and institutions.

**SANITARY WASTE** — Wash water, culinary wastes and the liquid waste containing only human excreta and similar matter flowing in or from a building drainage system or sewer originating in a dwelling, business building, factory or institution.

**SEWAGE** — Wastewater, as hereinafter defined.

**SEWER** — A pipe or conduit for carrying wastewater; the term includes sanitary sewers and combined sewers.

**SHREDDED GARBAGE** — Garbage shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle having any dimension greater than one-half (1/2) inch.

**SPDES PERMIT** — A wastewater discharge permit issued by the DEC under the State Pollutant Discharge Elimination System.

**STORM SEWER** — A sewer intended to carry only stormwaters, surface runoff, street wash waters and/or drainage, exclusive of sanitary wastes.

**SUSPENDED SOLIDS** — The total suspended matter in water or wastewater as determined by standard methods.

**NORMAL SEWAGE** — Sewage, industrial wastes or other wastes having pollutant concentrations which do not exceed two hundred forty (240) milligrams per liter of BOD<sub>5</sub>, three hundred (300) milligrams per liter of total suspended solids or fifty (50) milligrams per liter of oil and grease and which is otherwise acceptable for discharge into the treatment plant under the terms of this chapter. The numbers and values of characteristics are subject to revision by the Joint Sewage Board when, in the opinion of the Board, a revision is necessary in order to maintain the physical integrity of the treatment plant or maintain the treatment plant's capability of providing treatment in compliance with federal, state and local standards.

**PERSON** — Any individual, firm, company, partnership, association, private or public corporation, political subdivision, governmental agency, municipality, industry, trust, estate or any other legal entity whatsoever.

**PLUMBING CODE** — The Plumbing Code of the State of New York, presently a part of the New York State Uniform Fire Prevention and Building Code.

**PLUMBING INSPECTOR** — The Village Engineer of the Village of Port Dickinson or his authorized deputy.

**POLLUTANTS** — As may be defined now or hereafter by appropriate local, state or federal authorities or by the Board, substances which may be present in wastewater, whether gaseous, liquid or solid, the amount of which may contain soluble or insoluble solids of organic or inorganic nature which may deplete the dissolved oxygen content or natural waters, contribute solids, contain oil, grease or floating solids which may cause unsightly appearance on the surface of such waters or contain materials detrimental to aquatic life.

**PREMISES** — Any parcel of real property, including land, improvements or appurtenances or buildings, grounds, etc.

PRIVATE SEWER — A sewer which is not owned or controlled by a public agency.

WATERCOURSE — A channel in which a flow of water occurs, either continuously or intermittently.

- B. “Shall” is mandatory; “may” is permissive.

## ARTICLE II General Provisions and Regulations

### § 49-3. Purposes.

The purposes of this chapter are as follows:

- A. To control discharges into the public sewers of the Village of Port Dickinson public sewer system or tributaries thereto, including the Binghamton-Johnson City Joint Sewage Treatment Plant.
- B. To prohibit the discharge of:
  - (1) Excessive volumes and/or inordinate rates of flow into the City of Binghamton public sewer system.
  - (2) Sewage, industrial wastes or other wastes which may in any way create a poisonous, hazardous, explosive, flammable or toxic condition in the village public sewer system or otherwise impair the strength and/or durability of the system or the structures appurtenant to the system (including the Binghamton-Johnson City Joint Sewage Treatment Plant); or interfere with the normal treatment processes, including proper disposal of sludge; or pass through the Joint Sewage Treatment Plant into the receiving waters inadequately treated; or contain substances in such concentrations as may exceed established discharge limits.



- C. To prohibit and/or regulate the discharge of sewage, industrial wastes or other wastes which require greater expenditures for treatment than those required for equal volumes of normal sewage; to surcharge users for permitted contributions requiring treatment costs greater than normal sewage charges.
- D. To provide the authority for the Binghamton-Johnson City Joint Sewage Board to exercise regulatory control over users discharging industrial wastes into the village public sewer system.
- E. To provide cooperation with the Broome County Department of Health, the New York State Department of Environmental Conservation, the New York State Department of Health, the United States Environmental Protection Agency and any other agencies which have requirements or jurisdiction for the protection of the physical, chemical and biological quality of watercourses within or bounding the village.
- F. To protect the public health and to prevent nuisances.
- G. To enforce promulgated final standards and/or procedures set by the New York State Department of Environmental Conservation or the United States Environmental Protection Agency.

**§ 49-4. Effect on Health Department requirements.**

Nothing contained in this chapter shall be construed to interfere with or modify any requirements of design, inspection and approval which are imposed by the New York State Department of Health or the Broome County Health Department.

**§ 49-5. Compliance with Plumbing Code required.**

Nothing contained in this chapter shall be deemed to relieve any person of the duty and responsibility of complying with the Village Plumbing Code.

**§ 49-6. Administration.**

Except as otherwise provided herein, the Village Engineer shall administer, implement and enforce the provisions of this chapter.

#### **§ 49-7. Fees and charges.**

Except as otherwise provided herein, all fees and charges payable under the provisions of this chapter shall be paid to the village in accordance with the Village Sewer Rent Law. Such fees and charges are due and payable upon the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges and collection as provided for in the Village Sewer Rent Law.

#### **§ 49-8. Basis of billings.**

- A. Sewer bills shall be due and payable to the designated agent of the Board of Trustees of the Village of Port Dickinson in February, May, August and November of each year.
- B. Sewer rents shall be as set forth by resolution of the Village Board from time to time.

(Amended 6/9/2020, LL 8-2020)

#### **§ 49-9. Payment procedures; penalties for late payment.**

All sewer rents shall be due and payable at the office of the Village Tax Collector at the same time as the water rent for such period shall be due and payable, or on such other date or dates or for such other periods as may be determined from time to time by the Board of Trustees. **(Amended 2-10-09, LL 3-2009)** In addition to the sewer rent provided for by this Article, a further charge of fifteen percent (15%) of the amount of rent due shall be added thereto in case of failure to make payment on or before the date upon which the sewer rent for such period is due. The total of the sewer rent plus penalty shall be deemed the total sewer rent due in each such case.

#### **§ 49-10. Responsibility of user for payment.**

Sewer rent bills will be sent out to all users but the village will not employ a sewer rent collector. The failure of any user to receive a sewer rent bill promptly shall not excuse the nonpayment of the same, and in the event the user fails to receive a sewer rent bill, it shall be his obligation to demand the same from the Village Tax Collector.

**§ 49-11. Unpaid charges to become lien on property.**

Sewer rent bills, plus penalties thereon, remaining due and unpaid at the time of the annual village tax levy shall be levied against the real property liable therefore and become part of the annual village tax, pursuant to the provisions of Article 14-F, § 452, of the General Municipal Law of the State of New York.

**§ 49-12. Right of entry for inspections.**

- A. The Village Engineer, the Joint Sewage Board and other authorized representatives of the village and representatives of the EPA and DEC bearing proper credentials and identification shall be permitted to enter all properties at all reasonable time for the purpose of inspection, observation, sampling, flow measurement and testing to ascertain a user's compliance with applicable provisions of federal, state and local law governing use of the village public sewer system and with the provisions of the rules and regulations of the Board. Such representatives shall have the right to set up on the user's property such devices as are necessary to conduct sampling or flow measurement. Such representatives shall additionally have access to and may copy, any records the user is required to maintain under applicable law or the rules and regulations of the Board. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that, upon presentation of suitable identification, inspecting personnel will be permitted to enter without delay for the purpose of performing their specific responsibilities. Inspections will be accomplished during hours of operations or at periods of sewer use with or without notice to the user.
- B. The Village Engineer, bearing proper credentials and identification, shall be permitted to enter all private premises through which the village holds an easement for the purpose of inspection, observation, measurement, sampling, repair and maintenance of any portion of the village's public sewer system lying within the easement. All entry and subsequent work on the easement shall be done in accordance with the terms of the easement pertaining to the private premises involved.
- C. During the performance, on private premises, of inspections, sampling or other similar operations referred to in Subsections A and B above, the Village Engineer shall observe all safety rules applicable to the premises as established by the owner or occupant of the premises.

**§ 49-13. Tampering with equipment prohibited; violations and penalties.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the village public sewer system. No person shall tamper with or knowingly render inaccurate any measuring device or mechanism installed pursuant to any requirement under this chapter. Any person violating this provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.) nor more than five hundred dollars (\$500.) or imprisonment not exceeding one hundred fifty (150) days, or to both such fine and imprisonment.

**§ 49-14. False statements on documents.**

No person shall knowingly make any false statement in any application, report or other document required to be filed pursuant to any provision of this chapter.

**ARTICLE III  
Use of Public Sewers**

**§ 49-15. Unlawful deposits on public and private property.**

It shall be unlawful for any person to place or deposit or permit to be placed or deposited, in any unsanitary manner upon public or private property within the village or in any other area under the jurisdiction of the village any human or animal excrement or garbage or other objectionable waste.

**§ 49-16. Discharges into natural watercourses.**

It shall be unlawful to discharge any sewage or other polluted waters into any natural watercourse within the village or within any area under the jurisdiction of the village except where such discharge is in accordance with requirements of regulatory agencies having jurisdiction over wastewater discharges into the watercourse.

**§ 49-17. Connection to sewer system required.**

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose situated within the village and abutting on any street or public right-of-way in which there is now located or may in the future be located a public sanitary sewer within one hundred (100) feet [thirty and five-tenths (80.5) meters] of the property line is hereby required to install, at his expense, suitable toilet facilities therein and to connect such facilities directly with the proper sanitary sewer line, in accordance with the provisions of this chapter and with any applicable requirements of the Village Plumbing Code.

**§ 49-18. Separate sewers required for each building; exception.**

A separate and independent building sewer shall be provided for every building, with the exception that when one (1) building stands at the rear of another on an interior lot and no private sewer is available nor can be constructed to the rear building, the building sewer from the front building may be extended to the rear building. The whole shall be considered as one (1) building sewer. Old building sewers may be used in connection with new buildings only when they are found by the Village Engineer to meet all other requirements of this chapter.

**ARTICLE IV  
Building Sewers and Connections**

**§ 49-19. Permit required.**

No person shall uncover, make any connection with or opening into or use, alter or disturb any public sewer or appurtenance thereof without first obtaining a permit in accordance with all applicable requirements established by the village, including the Village Plumbing Code.

**§ 49-20. New connections.**

No new connections shall be made to the sewer system of the village without a written permit issued by the Village Engineer. Applications shall be made on a form supplied by the Village Clerk. No connection from a residential structure shall be granted without the approval of the Village Engineer. No connection from any building or structure discharging other than sanitary waste shall be granted without the approval of the Village Engineer and the Binghamton Johnson City Joint Sewage Board. All connections to a sewer shall be made under the direction of, and be subject to the approval of, the Village Engineer and shall conform in all respects to applicable requirements of the Village Plumbing Code.

#### **§ 49-21. Cost of connections.**

All cost and expense incident to the installation and connection of any building to the sewer system shall be borne by the property owner. The property owner shall indemnify the village from any loss or damage that may directly be occasioned by the installation of a connection to the sewer system.

#### **§ 49-22. Excavations.**

- A. All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard.
- B. Streets, sidewalks and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Village Engineer.
- C. All necessary permits for the opening of village and state streets shall be obtained from the Village Engineer prior to the issuance of any building sewer permit.

#### **§ 49-23. Service and repair.**

Building sewers shall be serviced and repaired by the owner of the premises being served to a point within one (1) foot of the pavement edge. Service and repair of building sewers within the paved areas of public rights-of-way shall be made by the village.

### **ARTICLE V Private Disposal Systems**

#### **§ 49-24. Private systems permitted under certain conditions.**

Where a public sanitary sewer is not available under the provisions of Article III, § 49-17, a building sewer shall be connected to a private sewage disposal system in accordance with the subsequent provisions of this Article V and in accordance with applicable requirements of the New York State Department of Health and the Broome County Health Department.

## **§ 49-25. Permit required; inspections of connection.**

Before the commencement of the construction of a private sewage disposal system, the owner shall obtain from the Village Engineer a written permit allowing such construction. which permit shall be given upon application in such form and content as may be required by the Village Engineer and the Department of Health. The type, location and layout of the private sewage disposal system shall comply with the specifications established by the Village Engineer and the Department of Health. The Village Engineer shall be allowed to inspect the work at any stage of the construction, and the applicant for the permit shall notify the Village Engineer when the work is ready for final inspection and before any underground portions thereof are covered.

## **§ 49-26. Conversion to public sewers.**

The private sewage disposal facilities shall be operated and maintained in a sanitary manner at all times. When a public sanitary sewer becomes available under the provisions of Article III, § 49-17, the building sewer shall be connected to said sanitary sewer within sixty (60) days, and the private sewage disposal system shall be cleaned of sludge and filled with suitable material satisfactory to the Village Engineer.

### **§ 49-26.1 Rules and Regulations of the Binghamton-Johnson City Joint Sewage Board. [Added 12/11/12, LL8-2012 & LL3-2013]**

- A. Pursuant to §12.05.01 of the Rules and Regulations (the “Regulations”) of the Binghamton-Johnson City Joint Sewage Board (the “Joint Board”), any applicant for a new or modified sewer connection resulting in new sewage flows shall prepare a Sewer Connection Application on a form promulgated by the Joint Board and any additional form promulgated by the Board of Trustees to solicit additional information from the applicant for such sewer connection. If such application envisions new industrial sewage flows of more than 2,500 gallons per day, such application shall be accompanied by a Sewer Extension Engineering Report prepared by a New York State Licensed Professional Engineer containing the information required by Joint Board Regulation §12.05.02, which application shall be submitted for approval to the Village Board of Trustees and the Joint Board and the governing body of a municipality through which the new sewage must flow to reach the collection system of the Village. The determination of sewage flow rates for said industrial flows will be computed by a New York State Licensed Professional Engineer based on similar type and size of business as defined in §12.05.03 of the Regulations. (Amended 6/11/13, LL 8-2013)
- B. Such application will be disapproved by the Village Board of Trustees, by resolution without public hearing, if it shows associated flows will exceed the capacity of the Village’s sewage collection system or if a Sewer Capacity Analysis from the point of the Village’s connection to the treatment plant operated by the Joint Board indicates associated flows will exceed the capacity of that system.
- C. Upon approval or approval with conditions of said application by the Village Board of Trustees, by resolution without public hearing, within 45 days of receipt of the application, the Joint Board will perform a Hydraulic and Pollutant Loading Capacity analysis at its treatment plant and shall approve or approve with conditions said application contingent upon issuance of a Flow Credit Note pursuant to the Article 13- I/I Offset Program of the Joint Board Regulations if the new or modified sewer connection adds flows greater than 2,500 gallons per day within the I/I Remediation Boundary established by said Program unless the new flow is exempt from compliance with said Program pursuant to the provisions of §13.06 of the Joint Board Regulations. As the Village approval or approval with conditions is subject to review and action by the Joint

Board, any required analysis under NYS State Environmental Quality Review Act shall be a coordinated review with the Joint Board acting as lead agency.

2. Paragraph A of §49-32 (Authority of Joint Sewage Board) of the Village Code is amended to provide as follows:

- A. Notwithstanding any other provisions of law, the admission into the Village's public sewers of any wastes shall be subject to the review and approval of the Joint Board. The Joint Board is hereby granted authority, concurrent with that of the village, to enforce against any user within the village all requirements necessary to ensure compliance with the provisions of the rules and regulations of the Joint Board including but not limited to the provisions of Articles 12 (New or Modified Sewer Connection Application Program, Article 13 (Infiltration/Inflow Offset Program) and Article 14 (Capacity, Management, Operation and Maintenance (CMJOM) Program. Nothing contained herein, however, shall be construed as precluding the village from seeking against any user such remedial action as it deems appropriate for correcting any violation of its local laws, ordinances or regulations governing use of the Village's public sewer system.

## ARTICLE VI Use Regulations

### **§ 49-27. Discharge of certain waters prohibited.**

- A. No person shall discharge or cause to be discharged any stormwater, swimming pool water, surface water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary or combined sewer unless specifically authorized by the Village Engineer. All stormwater, surface water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters shall be discharged to storm sewers or to any natural watercourse approved by the Village Engineer. All existing connections to a sanitary or combined sewer of any stormwater, swimming pool water, surface water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters shall be removed from the sewer within sixty (60) days from the service of a written notice by the Village Engineer to disconnect from the sewer.



B. If the owner of any property receiving a notice to disconnect from the sanitary or combined sewer, pursuant to § 49-27A hereof, does not disconnect within sixty (60) days from the receipt of such notice, the village shall have the right and power and shall cause the same to be removed at the expense of the property owner and shall charge the total expense of such disconnection to the property so affected. The total expense incurred by the village to perform such work shall be paid by a special assessment upon the real estate so affected, which expense shall be a lien thereon, which lien shall be superior and have priority to any mortgage, judgment or other lien of any nature affecting said premises. The village shall also have the power to collect, by a civil action brought in the name of the village, any expense it may incur for making such removal; but any civil action so brought shall not impair or affect the lien created under this chapter for such expense or be held to constitute a bar to any proceedings for the sale of lands under which said lien exists.

#### **§ 49-28. Prohibited discharges.**

- A. No person shall discharge directly or indirectly into the village public sewer system, or into any private sewer emptying into the village public sewer system, any substances, materials, waters or wastes in such quantities or concentrations which cause or are capable of causing, either alone or by interaction with other substances, interference with the operation or performance of the village public sewer system or the Joint Sewage Treatment Plant or which pass through the Joint Sewage Treatment Plant inadequately treated. These general prohibitions and the specific prohibitions of Subsection B of this section apply to all users of the village public sewer system, whether or not the user is subject to any other local, state or federal requirements governing use of the village public sewer system.
- B. No person shall discharge the following into the village public sewer system:
- (1) Any liquids, solids or gases which, by reason of their nature or quantity, are, or may be, sufficient, either alone or by interaction with other substances, to create a fire or explosion hazard in, or be injurious in any other way to, the village public sewer system or the Joint Sewage Treatment Plant. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than five percent (5%), nor any single reading over ten percent (10%), of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, fuel, oil, benzene and any other substances which the Village Engineer, the Joint Sewage Board, the DEC or EPA has notified the user constitute a fire or explosion hazard to the system.

- (2) Solid or viscous substances which may cause obstruction to flow in a sewer or other interference with the operation of the treatment plant, such as, but not limited to, grease, shredded garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepapers, wood, plastics, tar, asphalt residues, residues from the refining or processing of fuel or lubricating oil, mud or glass-grinding or polishing wastes, snow, ice and any other solid objects, materials, refuse and debris not normally contained in sanitary waste.
- (3) Any wastewater having a pH of less than six point zero (6.0) or higher than ten point zero (10.0) or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the village sewer works.
- (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the treatment plant or exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Federal Act.
- (5) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
- (6) Any substance which will cause the village to violate any State Pollutant Discharge Elimination System (SPDES) permit issued to the village or to violate the receiving water quality standards.
- (7) Any wastewater with objectionable color not removed in the treatment process.
- (8) Any wastewater having a temperature at the point of introduction into the village public sewer system in excess of one hundred fifty degrees Fahrenheit (150° F) [sixty-five and five-tenths degrees Celsius (65.5° C)], or in such quantities that cause the temperature of the wastewater at the Joint Sewage Treatment Plant to exceed one hundred four degrees Fahrenheit (104° F) [forty degrees Celsius (40° C)].

- (9) Any pollutants, including oxygen-demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which" will cause interference with the treatment plant.
- (10) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (11) Any radioactive wastes.
- (12) Any holding tank wastes.
- (13) Any substance, materials, waters or wastes of such nature or in such quantities or concentrations as are prohibited by the rules and regulations of the Joint Sewage Board, including among other things:

Wastewater containing any of the following substances in concentrations exceeding those specified below. Concentration limit are applicable to wastewater effluent at a point just prior to discharge into the POTW. (**Amended by L.L. No. 1-2007**)

**ALLOWABLE DAILY AVERAGE  
EFFLUENT CONCENTRATION**

<b><u>SUBSTANCE<sup>1</sup></u></b>	<b><u>LIMIT<sup>2</sup> (MG/L)</u></b>
Cadmium	0.3
Chromium (total)	4.
Copper	0.5
Lead	1.5
Nickel	1.5
Zinc	4.0
Mercury	0.001

<sup>1</sup>All concentrations listed for metallic substances shall be as "total metal" which shall be defined as the value measured in a sample acidified to a pH value of less than 2 without prior filtration.

<sup>2</sup>As determined by a composite sample taken from the User's daily discharge over the operational and/or production period. Composite samples must consist of grab samples collected at intervals of at least one per hour.

<sup>3</sup>As determined by an instantaneous grab sample.

- C. Effluent limitations promulgated by the Federal Act and New York State Department of Environmental Conservation shall apply in any instance where there are more stringent than limitations in this law. Users in industrial categories subject to effluent guidelines issued under Section 304 of the Federal Act and discharging pollutants into the POTW shall achieve the level of treatment established by the applicable federal and state regulations. Nothing in the Rules and Regulations shall be construed to relieve any Industrial User from its obligation to comply with the pretreatment standards established pursuant to Section 307 of the Federal Act or any applicable regulation or provision of law. (Added by L.L.No. 1-2007)
- D. Dental Facilities as the term is defined in 6 NYCRR Subpart 374-4 shall comply with the provisions of 6 NYCRR Subpart 374-4. (Added by L.L.No. 1-2007)

**§ 49-29. Discharges to be through sewers.**

No person shall discharge substances directly into a manhole or other opening in a public sewer other than through an approved building sewer.

**§ 49-30. Grease, oil and sand interceptors.**

Grease, oil and sand interceptors shall be provided when, in the opinion of the Village Engineer, they are necessary for the proper handling of liquid wastes containing grease or oil in excessive amounts or sand or other harmful ingredients, except that such interceptors shall not be required for private residences. All interceptors shall be of a type and capacity approved by the Village Engineer and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes of temperature. They shall be of substantial construction, watertight and equipped with removable covers which when mounted in place shall be gas-tight and watertight.

**§ 49-31. Dilution prohibited.**

No discharge into the village sewer system shall augment his use of process water or otherwise intentionally dilute his discharge as a partial or complete substitute for adequate treatment to achieve compliance with this chapter.

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ARTICLE VII  
**Industrial Wastewater Discharges**

**§ 49-32. Authority of Joint Sewage Board.**

- A. Notwithstanding any other provisions of law, the admission into the village public sewers of any industrial wastes shall be subject to the review and approval of the Joint Sewage Board. The Board is hereby granted authority. concurrent with that of the village. to enforce against any user within the village all requirements necessary to ensure compliance with the provisions of the rules and regulations of the Board. Nothing contained herein, however, shall be construed as precluding the village from seeking against any user such remedial action as it deems appropriate for correcting any violation of its local laws, ordinances or regulations governing use of the village public sewer system.
- B. In exercising its authority over users discharging industrial wastes into the village public sewer system, the Board may:
  - (1) Require pretreatment of the user's wastewater to a condition acceptable for discharge to the public sewer.
  - (2) Require the user to apply for and obtain an industrial wastewater discharge permit as a means of controlling the quantities and rates of discharge.
  - (3) Require payment by the user to cover any added cost of handling and treating the wastewater not covered by existing fees or charges.
  - (4) Require the development of compliance schedules by the user to meet any applicable requirements prescribed by the Board's rules and regulations.
  - (5) Require the user to submit such reports and supplemental information which the Board deems necessary to assure compliance with any applicable requirements prescribed by the Board's rules and regulations.
  - (6) Carry out all inspection, surveillance and monitoring necessary to ascertain the user's compliance with any applicable requirements prescribed by the Board's rules and regulations.

- (7) Investigate or make inquiry, in a manner to be determined by it, as to any condition within the village affecting the operation of the Joint Sewage Treatment Plant and as to any alleged act or omission resulting in a user's failure to comply with the Board's rules and regulations.
- (8) Obtain remedies for noncompliance by any user as specified in § 49-37 of this chapter.
- (9) Reject the user's wastewater, where the Board determines that the wastewater contains substances or possesses characteristics which have a deleterious effect on the sewage treatment plant and its appurtenant structures and facilities or the processes, equipment or receiving waters of the treatment plant or which constitute a public nuisance or hazard.
- (10) Take such other measures as it deems necessary and proper to ensure compliance with this chapter, with applicable state and federal law and with the rules and regulations of the Board.

**§ 49-33. Prohibited actions.**

- A. No user discharging or proposing to discharge wastewater into the village public sewer system shall violate any of the provisions of, or fail to perform any duty imposed by, the rules and regulations of the Board or any order or determination of the Board promulgated thereunder or the terms and conditions of any permit issued by the Board.
- B. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is under the jurisdiction, ownership or control of the Joint Sewage Board.
- C. No person shall tamper with or knowingly render inaccurate any measuring device or mechanism installed pursuant to any requirement under the rules and regulations of the Joint Sewage Board.
- D. No person shall knowingly make any false statement in any application, report or other document to be filed pursuant to any provision of the rules and regulations of the Joint Sewage Board.

#### **§ 49-34. Industrial waste surcharge.**

In addition to any other fees, charges, sewer rents or sanitary district taxes provided by law, industrial users shall pay to the Joint Sewage Board an industrial waste surcharge for the privilege of using the Joint Sewage Treatment Plant for treating industrial wastes or other special wastes accepted for discharge into the village public sewer system. The industrial waste surcharge shall be computed and collected by the Board in accordance with its rules and regulations.

#### **§ 49-35. Cooperation of village officials.**

Village officers and employees shall cooperate fully with the Board in the Board's enforcement and administration of its rules and regulations within the village.

### **ARTICLE VIII Enforcement; Penalties for Offenses**

#### **§ 49-36. Enforcement by Village Engineer.**

- A. Whenever it shall appear to the Village Engineer, after investigation, that any person has violated any provision of this chapter (other than a provision of § 49-33), the Village Engineer shall give written notice to the alleged violator or violators setting forth the nature of the violation and directing that the matters complained of be corrected within such reasonable time limit as may be set by the Village Engineer. Any such notice shall be served on the violator by personal service or by registered or certified mail, sent to the last address of the violator known to the Village Engineer. Where the address is unknown, service may be made upon the owner of record of the property involved. If satisfactory action is not taken within the time allotted by the notice, the violator shall be subject to the penalty provisions set forth in Subsection B below, in addition to any village code enforcement procedures otherwise authorized by law.
- B. Any person who willfully violates any provision of this chapter (other than a provision of § 49-33) or any order of the Village Engineer issued pursuant to Subsection A above shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.) nor more than five hundred dollars (\$500.). Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.



- C. Any person violating any of the provisions of this chapter shall, in addition, be liable to the village for any expense, loss or damage occasioned to the village by reason of such violations and any expense incurred in correcting the violation.
- D. The Village Counsel, on his own initiative or at the request of the Village Engineer, shall have the right to seek equitable relief in the name of the village to restrain the violation of, or to compel compliance with, this chapter or any order or determination issued thereunder by the Village Engineer.
- E. Notwithstanding any inconsistent provisions of law, whenever the Village Engineer finds, after investigation, that any user is causing, engaging in or maintaining a condition or activity which, in his judgment, presents an imminent danger to the public health, safety or welfare or to the environment or is likely to result in irreversible or irreparable damage to the public sewer system, and it therefore appears to be prejudicial to the public interest to delay action until notice and an opportunity for a hearing can be provided, the Village Engineer may, without prior hearing, order such user by notice, in writing wherever practicable or in such other form as in his judgment will reasonably notify such person whose practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity. In the event of a user's failure to comply voluntarily with such emergency order or where the giving of a notice is impracticable the Village Engineer may take all appropriate action to abate the violating condition, including disconnecting the user's premises from the village public sewer system. As promptly as possible thereafter, not to exceed fifteen (15) days, the Village Engineer shall provide the user with the written notice required by Subsection A of this section.

**§ 49-37. Enforcement by Joint Sewage Board.**

- A. Any person who violates any provision of § 49-33 of this chapter shall be liable to the Board for a civil penalty of not less than one hundred dollars (\$100.) nor more than five hundred dollars (\$500.) for each violation, to be assessed by the Board after a hearing or opportunity to be heard in accordance with the procedures set forth in the Board's rules and regulations. Each violation shall be a separate and distinct violation, and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the Board's attorney in any court of competent jurisdiction.
- B. In addition to the power to assess penalties as set forth in Subsection A above, the Board is hereby empowered, following a hearing or opportunity to be heard in accordance with the provisions of its rules and regulations, to issue an order in the name of the Board and of the village, enjoining the violator from continuing the violation. Any such order of the Board shall be enforceable in an action brought by the Board's attorney in any court of competent jurisdiction.

- C. Any civil penalty or final order issued by the Board pursuant to Subsection B may be reviewed in a proceeding brought pursuant to Article 78 of the New York Civil Practice Law and Rules. Application for such review must be made within thirty (30) days after service, in person or by mail, of a copy of the determination or order upon the attorney of record for the applicant, or upon the applicant in person if not represented by an attorney.
- D. Any person who willfully violates any provision of § 49-33 above shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than three hundred dollars (\$300.) nor more than one thousand dollars (\$1,000.) or by imprisonment for a term of not more than six (6) months, or by both such fine and imprisonment. Each offense shall be a separate and distinct offense, and in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
- E. Any person violating any provision of § 49-33 above shall, in addition, be liable to the Joint Sewage Board for any expense, loss or damage occasioned to the Board by reason of such violation and any expense incurred in correcting the violation.
- F. The Board's attorney, or the Village Counsel at the request of the Joint Sewage Board, shall have the right to seek equitable relief in the name of the village to restrain the violation of, or to compel compliance with, any provision of § 49-33 of this chapter. In addition to the above prescribed penalties, the Village may also seek restitution for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. **[Underlined text added 5/8/12, LL 3-2012]**
- G. Notwithstanding any inconsistent provisions of law, whenever the Board finds, after investigation, that any user within the village is causing, engaging in or maintaining a condition or activity which, in its judgment, presents an imminent danger to the public health, safety or welfare or to the environment or is likely to result in irrevocable or irreparable damage to the Joint Sewage Treatment Plant and it therefore appears to be prejudicial to the public interest to delay action until notice and an opportunity for a hearing can be provided, the Board may, without prior hearing, order such user by notice, in writing wherever practicable or in such other form as in the Board's judgment will reasonably notify such person whose practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity. In the event of a user's failure to comply voluntarily with such emergency order, or where the giving of a notice is impracticable, the Board may take all appropriate action to abate the violating condition, including disconnecting the user's premises from the village public sewer system. As promptly as possible thereafter, not to exceed fifteen (15) days, the Board shall provide the user an opportunity to be heard in accordance with the provisions of its rules and regulations.

**ARTICLE IX**  
**Repealer; Severability; When Effective**

**§ 49-38. Repealer.**

The provisions of any local law or local laws in conflict with any provision of this chapter are hereby repealed.

**§ 49-39. Severability.**

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

**§ 49-40. When effective.**

This chapter shall take effect immediately subject to provisions of the Municipal Home Rule Law.



**[Adopted by the Board of Trustees on 8-14-07 as Local Law No. 2-2007]**

### **§50.1 Findings of Fact**

It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition.
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species.
- C. Clearing and grading during construction tend to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation.
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality.
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.
- H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- I. Regulation of land development activities by means of performance standards

governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

#### **§50.2. Purpose**

The purpose of this local law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in **§50.1** hereof. This local law seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of Minimum Measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-02-02 or as amended or revised;
- B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised;
- C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;
- D. Minimize increases in pollution caused by stormwater runoff from land development activities, which would otherwise degrade local water quality;
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

**§50.3. Statutory Authority**

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Board of Trustees of the Village of Port Dickinson has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Village of Port Dickinson and for the protection and enhancement of its physical environment. The Board of Trustees of the Village of Port Dickinson may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

**§50.4. Applicability**

- A. This local law shall be applicable to all land development activities as defined in this local law.
- B. The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may
  - 1. Review the plans,
  - 2. Upon approval by the Board of Trustees of the Village of Port Dickinson, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or
  - 3. Accept the certification of a licensed professional that the plans conform to the requirements of this law.
- C. All land development activities subject to review and approval by the Planning Department, Planning Board, Zoning Board of Appeals or Board of Trustees of the Village of Port Dickinson under subdivision, zoning, site plan, and/or special permit regulations shall be reviewed subject to the standards contained in this local law
- D. All land development activities not subject to review as stated in section 4.3 shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

**§50.5. Exemptions**

The following activities may be exempt from review under this law.

- A. Agricultural activity as defined in this local law.
- B. Silvicultural activity except that landing areas and log haul roads are subject to this law.
- C. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- D. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- E. Any part of a subdivision if a plat for a subdivision that has been approved by the Village of Port Dickinson and construction activities have started on or before the effective date of this law.
- F. Land development activities for which a building permit has been approved on or before the effective date of this law.
- G. Cemetery graves.
- H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- I. Emergency activity immediately necessary to protect life, property or natural resources.
- J. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- K. Landscaping and horticultural activities in connection with an existing structure.



**§50.6 Definitions**

The terms used in this local law or in documents prepared or reviewed under this local law shall have the meanings as set forth below:

- A. Agricultural Activity** - The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.
- B. Applicant** - A property owner or agent of a property owner who has filed an application for a land development activity.
- C. Building** - Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.
- D. Catch basin** (drain inlet)- A structure which allows the entry of surface runoff into a storm sewer by connection to the storm sewer.
- E. Channel** - A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
- F. Clearing** - Any activity that removes the vegetative surface cover.
- G. Department** - The New York State Department of Environmental Conservation.
- H. Design Manual** - The New York State Stormwater Design Manual, most recent version including applicable updates that serves as the official guide for stormwater management principles, methods and practices.
- I. Developer** - A person who undertakes land development activities.
- J. Erosion Control Manual** - The most recent version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book”.
- K. Grading** - Excavation or fill of material, including the resulting conditions thereof.

- L. Impervious Cover** - Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).
- M. Industrial Stormwater Permit** – A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.
- N. Infiltration** - The process of percolating water into the subsoil.
- O. Jurisdictional Wetland** - An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.
- P. Land Development Activity** - Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.
- Q. Landowner** - The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.
- R. Maintenance Agreement** - A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- S. Nonpoint Source Pollution** - Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
- T. Phasing** - Developing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the development of the next.

- U. **Pollutant of Concern** - Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.
- V. **Project** - Land development activity.
- W. **Recharge** - The replenishment of underground water reserves.
- X. **Sediment** – Solid material, both mineral and organic, that is in suspension, is being transported, or has been removed from its site of origin by erosion.
- Y. **Sediment Control** - Measures that prevent eroded sediment from leaving the site.
- Z. **Sensitive Areas** - Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species, Critical Environmental Area designated by the Municipality.
- AA. **SPDES General Permit for Construction Activities GP-02-01** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.
- AB. **SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-02-02** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.
- AC. **Stabilization** - The use of practices that prevent exposed soil from eroding.
- AD. **Stop Work Order** - An order issued which requires that all construction activity on a site be stopped.
- AE. **Stormwater** – Rainwater, surface runoff, snowmelt and drainage.

- AF. Stormwater Hotspot** - A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.
- AG. Stormwater Management** - The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.
- AH. Stormwater Management Facility** - One or a series of stormwater management practices installed, stabilized and operated for the purpose of controlling stormwater runoff.
- AI. Stormwater Management Officer** - An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.
- AJ. Stormwater Management Practices (SMPs)** - Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.
- AK. Stormwater Pollution Prevention Plan (SWPPP)** - A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.
- AL. Stormwater Runoff** - Flow on the surface of the ground, resulting from precipitation.
- AM. Stripping** – Any activity which removes or significantly disturbs trees, brush, grass, or any other kind of vegetation.
- AN. Surface Waters of the State of New York** - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons, which also meet the

criteria of this definition, are not waters of the state. This exclusion applies only to manmade bodies of water, which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**AO. Swale** – A natural depression or wide shallow ditch used to route or filter runoff.

**AP. Watercourse** – A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**AQ. Watershed** – A region or area contributing stormwater ultimately to a particular watercourse or body of water.

**AR. Waterway** - A channel that directs surface runoff to a watercourse or to the public storm drain.

## §50.7 Stormwater Pollution Prevention Plans

### A. Stormwater Pollution Prevention Plan Requirement

No application for approval of a land development activity shall be reviewed until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

### B. Contents of Stormwater Pollution Prevention Plans

1. All SWPPPs shall provide the following background information and erosion and sediment controls:
  - a. Background information about the scope of the project, including location, type and size of project.
  - b Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment

storage areas; and location(s) of the stormwater discharges(s); Site map should be at a scale no smaller than 1"=100'.

- c. Description of the soil(s) present at the site;
- d. Construction phasing plans describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
- e. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
- f. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
- g. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
- h. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- i. Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- j. Temporary practices that will be converted to permanent control measures;
- k. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

- l. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
  - m. Name(s) of the receiving water(s);
  - n. Delineation of SWPPP implementation responsibilities for each part of the site;
  - o. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
  - p. Any existing data that describes the stormwater runoff at the site.
2. Land development activities as defined in §50.6 and meeting Condition “A”, “B” or “C” below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in §50.7B3 below as applicable:

Condition A - Stormwater runoff from land development activity(ies) discharging a pollutant of concern to either an impaired water identified on the Department’s 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

Condition B - Stormwater runoff from land development activity(ies) disturbing five (5) or more acres.

Condition C - Stormwater runoff from land development activity(ies) disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

3. SWPPP Requirements for Condition A, B and C:
  - a. All information in §50.7B1 of this local law;
  - b. Description of each post-construction stormwater management practice;
  - c. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;

- d. Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
- e. Comparison of post-development stormwater runoff conditions with pre-development conditions;
- f. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
- g. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
- h. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
- i. Inspection and maintenance agreement binding on all subsequent landowners served by the onsite stormwater management measures in accordance with **§50.9** of this local law.
- j. For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

#### C. Other Environmental Permits

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

#### D. Contractor Certification

1. Each contractor and subcontractor who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: “I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also



understand that it is unlawful for any person to cause or contribute to a violation of water quality standards.”

2. The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
3. The certification statement(s) shall become part of the SWPPP for the land development activity.

E. Construction Permit Paperwork to be available and accessible at the construction site at all times from date of initiation of construction to the date of final stabilization:.

1. SWPPP, including construction drawings and plans.
2. Notice of Intent (NOI) signed by the Owner and Preparer.
3. Acknowledgment Letter from DEC.
4. MS4 SWPPP Acceptance Form.
5. Site log book including all inspection reports, certifications and SWPPP updates, modifications or addendums.
6. Current General Permit for Stormwater Discharges from construction activity
7. For sites that disturb 5 or more acres a Letter of Permission from DEC or MS4 is required. (This section amended 2/9/10, Local Law 1-2010)

#### F. Contractor Training

1. Owner will identify contractor(s) responsible for SWPPP implementation.
  2. Contractor(s) will identify at least one individual trained in Erosion and Sediment Control (E&SC) by April 30, 2010
  3. Effective May 1, 2010 Contractor(s) trained individual must be on site on a daily basis during soil disturbance activities.
  4. Trained individual must complete 4 hours of training in E&SC every 3 years.
    - (a) Only DEC- endorsed training will be accepted.
    - (b) Trained individual will have proof of training on site.
- (This section added 2/9/10, Local Law 1-2010)

### §50.8 Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control

All land development activities shall be subject to the following performance and design criteria:

#### A. Technical Standards

For the purpose of this local law, the following documents shall serve as the official guides and specifications for Stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

1. The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)

2. New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

#### B. Equivalence to Technical Standards

Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical

standards set forth in §50.8A and the SWPPP shall be prepared by a licensed professional.

#### C. Water Quality Standards

Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

### §50.9 Maintenance, Inspection and Repair of Stormwater Facilities

#### A. Maintenance and Inspection During Construction

1. The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
2. For land development activities as defined in §50.6 of this code and meeting Condition A, B or C in §50.7 B 2 the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days for sites with five acres or less exposed and twice every seven days, separated by two full days, for sites with more than five acres exposed or in accordance with the current General Permit for Stormwater Discharges from construction activity. Inspection reports shall be maintained in a site logbook. (This section amended 2/9/10, Local Law 1-2010)

#### B. Maintenance Easement(s)

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Village of Port Dickinson to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded, by the grantor, in the office of the County Clerk after approval by the counsel for the Village of Port Dickinson.

**C. Maintenance after Construction**

The owner or operator of permanent stormwater management practices (SMPs) installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this chapter. Proper operation and maintenance also includes, as a minimum, the following:  
(Amended 2/9/10, Local Law 1-2010)

1. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this chapter (Amended 2/9/10), Local Law 1-2010);
2. Written procedures for operation and maintenance training of new maintenance personnel.
3. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with **§50.8C**.

**D. Maintenance Agreements**

The Village of Port Dickinson shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule A of this local law entitled Sample Stormwater Control Facility Maintenance Agreement. The Village of Port Dickinson, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

**§50.10 Construction Inspection**

**A. Erosion and Sediment Control Inspection**

The Village of Port Dickinson Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the

work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Village of Port Dickinson enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

1. Start of construction.
2. Installation of sediment and erosion control measures.
3. Completion of site clearing
4. Completion of rough grading
5. Completion of final grading
6. Close of the construction season
7. Completion of final landscaping
8. Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted, except for site stabilization, until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

#### **B. Stormwater Management Practice Inspections**

The Village of Port Dickinson Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit “as built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

#### **C. Inspection of Stormwater Facilities After Project Completion**

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon

complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

#### D. Submission of Reports

The Village of Port Dickinson Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

#### E. Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Village of Port Dickinson the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in **§50.10C**.

### §50.11 Performance Guarantee

#### A. Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village of Port Dickinson in its approval of the Stormwater Pollution Prevention Plan, the Village of Port Dickinson may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village of Port Dickinson as the beneficiary.

The security shall be in an amount to be determined by the Village of Port Dickinson based on submission of final design plans, with reference to actual construction and landscaping costs.

The performance guarantee shall remain in force until the surety is released from liability by the Village of Port Dickinson, provided that such period shall not be less than one year from the date of final acceptance or such other certification that

the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Village of Port Dickinson. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

#### **B. Maintenance Guarantee**

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Village of Port Dickinson with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Village of Port Dickinson may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

#### **C. Recordkeeping**

The Village of Port Dickinson may require entities subject to this law to maintain records demonstrating compliance with this law.

### **§50.12 Enforcement and Penalties**

#### **A. Notice of Violation.**

When the Village of Port Dickinson determines that a land development activity is not being carried out in accordance with the requirements of this local law, it may

issue a written notice of violation to the landowner. The notice of violation shall contain:

1. The name and address of the landowner, developer or applicant;
2. The address when available or a description of the building, structure or land upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) calendar days of service of notice of violation.

#### **B. Stop Work Orders**

The Village of Port Dickinson may issue a stop work order for violations of this law.

Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Village of Port Dickinson confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

#### **C. Violations**

Any land development activity that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.



## D. Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent

offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

## E. Withholding of Certificate of Occupancy

If any building or land development activity is installed or conducted in violation of this local law, the Stormwater Management Officer may prevent the occupancy of said building or land.

## F. Restoration of lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Village of Port Dickinson may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

## G. Restitution:

In addition to the above prescribed penalties, the Village may also seek restitution for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. [Section G added 5/8/12, LL 3-1012]

**§50.13 Fees for Services**

The Village of Port Dickinson may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Village of Port Dickinson or performed by a third party for the Village of Port Dickinson.



**Schedule A****SAMPLE STORMWATER CONTROL FACILITY  
MAINTENANCE AGREEMENT**

Whereas, the Municipality of Port Dickinson ("Municipality") and the \_\_\_\_\_ ("facility owner") want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Municipality for the below named project, and;

Whereas, the Municipality and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Municipality and the facility owner agree as follows:

1. This agreement binds the Municipality and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.
2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.
3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Municipality within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.

**Schedule A (Con't.)**

5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Municipality.
6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Municipality or in accordance with the recommendations of the inspecting engineer.
7. The facility owner shall provide to the Municipality within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of (a Bond, letter of credit or escrow account).
8. This agreement shall be recorded in the Office of the County Clerk, County of Broome, together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to \_\_\_\_\_.
9. If the Municipality ever determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Municipality or by the inspecting engineer, the Municipality is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.
10. This agreement is effective \_\_\_\_\_ .

## **Chapter 51**

### **STREET CONSTRUCTION**

#### **ARTICLE I Scope**

- § 51-1 Purpose.**
- § 51-2. Application of provisions.**
- § 51-3. Extent of provisions.**

#### **ARTICLE II Procedure**

- § 51-4. Tender of proposed highway; submission of detailed map.**
- § 51-5. Deeds and releases of affected property required.**
- § 51-6. Referral to Engineer.**
- § 51-7. Policy.**

#### **ARTICLE III Design Regulations**

- § 51-8. Drainage easements.**
- § 51-9. Drainage design.**
- § 51-10. Rights-of-way; alignment; grades.**

#### **ARTICLE IV Construction**

- § 51-11. Gutters.**
- § 51-12. Excavation and grading.**
- § 51-13. Foundation course.**
- § 51-14. Pavements.**

- § 51-15. Materials.
- § 51-16. Installation.
- § 51-17. Concrete sidewalk.
- § 51-18. Concrete curb.
- § 51-19. Concrete curb and gutter.
- § 51-20. Catch basins.
- § 51-21. Culvert pipe.
- § 51-22. Structures.
- § 51-23. Guide posts.
- § 51-24. Headwalls and gutters.
- § 51-25. Topsoil and seeding.
- § 51-26. General.

## ARTICLE V Penalties

- § 51-27. Penalties for offenses.

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 6-10-75 as Local Law No. 6-1975. Amendments noted where applicable.]**

## GENERAL REFERENCES

Sewers — See Ch. 49.  
Streets and sidewalks — See Ch. 52.  
Subdivision of land — See Ch. 53.

## ARTICLE I Scope

### § 51-1. Purpose.

In order to provide adequate and uniform construction and to secure permanence of all village streets within the village, the Village Board of Trustees of the Village of Port Dickinson does hereby make and adopt the rules and regulations hereinafter set forth for new street construction as the street standards of said village. Plans entitled “Minimum Construction Standards for Streets Offered for Dedication” and duly adopted are a part of these street standards.

### **§ 51-2. Application of provisions.**

These street standards shall apply to all streets hereafter tendered to the village for dedication as public highways. These street standards shall be considered as the minimum requirements. Materials, workmanship and/or other standards of equal or better merits, after written approval thereof by the Village Board, may be accepted.

### **§ 51-3. Extent of provisions.**

These street standards are not intended to cover every detail of construction, but are adopted to indicate acceptable standards of materials, workmanship and construction in a general way.

## **ARTICLE II Procedure**

### **§ 51-4. Tender of proposed highway; submission of detailed map.**

Every tender of a street as a proposed highway shall be by written application to the Village Board, duly verified by such applicant. The application shall be accompanied by a detailed map or survey, at a scale of not smaller than one (1) inch equals one hundred (100) feet, and profiles, both prepared and signed by an engineer licensed to practice in the State of New York, showing all property which is or may be affected thereby, all proposed roads and all connecting private and public streets, highways and/or other means of travel, the location of poles and other obstructions within the right-of-way, the edges of the traveled way, all culverts, together with the location and width of easements to be granted for the discharge of drainage water, profiles taken along the center line of each road and plotted at a scale of one (1) inch equals fifty (50) feet horizontal and one (1) inch equals ten (10) feet vertical; the approximate size of each plot or lot adjacent to said proposed highway; street frontage; and if in a development, it shall indicate which lots or plots have been sold, the name of the owner and the approximate date of any such sale. Any such application shall be made by the party or parties legally entitled to make such an application and shall state their respective interests and places of residence.

#### **§ 51-5. Deeds and releases of affected property required.**

If the Village Board shall approve of the construction of any proposed street, the Village Clerk shall so notify the applicant. Within thirty (30) days thereafter, such applicant shall deliver to the Village Clerk good and sufficient deeds (full covenant and warranty) and releases of any and all parcels and plots affected or interested, together with perpetual easements and maintenance rights for the discharge of water. The deeds and releases shall be accompanied by a letter from an attorney practicing in New York State stating that they are in proper form, they convey the land which they are purported to convey and title conveyed is adequate. The Village Board shall not give its consent to the laying out of any such street except upon approval thereof by the Village Attorney or other duly authorized attorney at law.

#### **§ 51-6. Referral to Engineer.**

Before the Village Board shall give its consent to the taking over of any such proposed highway, it shall refer the matter to the Village Engineer and receive his report thereon.

#### **§ 51-7. Policy.**

- A. In general, no tender of a highway will be accepted unless there is a minimum of one ( 1 ) residence or, in commercial or business areas, a minimum of one (1) commercial or business building, having such highway as its sole means of ingress or egress to an established public highway for each five hundred (500) feet of highway tendered.
- B. Where a tendered highway is paved with an acceptable bituminous macadam or concrete pavement, an additional length up to five hundred (500) feet beyond the last building may be accepted if recommended by the Village Engineer.
- C. Where a tendered highway has previously been approved in writing by the Village Board of Trustees of the Village of Port Dickinson as having been constructed to the minimum construction standards of that body and where a residence or substantial commercial building using such highway as a means of ingress and egress has been erected for each five hundred (500) feet of length thereof, said highway may be accepted on recommendation of the Village Engineer even though said highway may not meet all of the requirements of these standards.
- D. No highway will be considered for acceptance as a public highway unless it has a paved surface equal to the double bituminous surface treatment hereinafter specified.



**ARTICLE III**  
**Design Regulations**

**§ 51-8. Drainage easements.**

- A. Permanent drainage easements not less than fifteen (15) feet in width and free from all encumbrances will be required at every point where water from the highway leaves the right-of-way and discharges onto private property. Such easements shall convey the perpetual right to discharge stormwater runoff from the highway and from the surrounding area onto and over the affected premises by means of pipes, culverts or ditches, or a combination thereof, together with the right to enter said premises for purposes of making such installations and doing such maintenance work as the village may deem necessary to adequately drain the highway and surrounding area.
- B. Where a drainage easement discharges onto or terminates at property of a third party, the consent of such third party must be obtained by the applicant.

**§ 51-9. Drainage design.**

Local drainage with small watersheds may be designed for a storm with an intensity likely to occur once in ten (10) years. For larger watersheds where flowing streams are involved, structures shall be designed for a storm with an intensity likely to occur once in a period of fifty (50) years.

**§ 51-10. Rights-of-way; alignment; grades.**

- A. The minimum right-of-way which can be accepted by the village is forty-nine and fifty-hundredths (49.50) feet, as prescribed by statute. For the sake of regularity, the standard width of the roads of the Village of Port Dickinson will henceforth be a minimum of fifty (50) feet, except that under special circumstances such additional width as deemed necessary or desirable shall be required. In commercial and industrial areas, this minimum width shall be sixty (60) feet. Additional right-of-way width may be required.
- B. The right-of-way lines shall be continuous lines of tangents and curves. A tangent not less than one hundred (100) feet long shall be provided between any two (2) curves which reverse directions except at intersections. The minimum center line radius, except at intersections, shall be two hundred (200) feet and the minimum visibility measuring along the gutter on the inside of the curve shall be one hundred fifty (150) feet. Radii of less than two hundred (200) feet may be accepted under extremely unusual topographic conditions if the minimum visibility is provided. Returns having a minimum radius of ten (10) feet shall be provided in the right-of-way lines at all intersections, except that if the acute angle formed at any intersection is less than seventy degrees (70°), the return radius at such acute corner shall be not less than twenty (20) feet. At all intersections affecting property in the residential zones, the minimum return radius shall be twenty-five (25) feet. At intersections, except in business zones, visibility shall be provided along a line between points on the respective gutters seventy-five (75) feet distant from their intersection and three (3) feet above the respective gutter grades.

- C. Street grades shall be a series of straight lines connected by vertical curves. The maximum acceptable straight grade is twelve and zero-hundredths percent (12.00%). All changes in grade must be constructed with vertical curves of not less than one hundred (100) feet of horizontal length and not less than twenty (20) feet of horizontal length for each one percent (1%) of algebraic difference in the grades. Visibility at vertical curves must be at least two hundred (200) feet measured at points three (3) feet above the finished street grade.

## **ARTICLE IV Construction**

### **§ 51-11. Gutters.**

A separate concrete gutter or a stone gutter shall be provided where the quantity of surface water to be carried within the right-of-way lines appears sufficient to cause serious erosion, both as hereinafter specified.

### **§ 51-12. Excavation and grading.**

- A. All excavating and filling required for construction of pavements, curbs, gutters, headwalls, drainage structures and installation of pipe drains shall be as specified herein and shown on the construction standards.
- B. The entire area of work shall be brought to the required lines and grades by excavation or filling. Excavated material, if suitable, shall be used in making embankments and filling the low areas of the work and at such other places as required.

- C. All muck, soft clay, spongy material and any other objectionable materials below the proposed subgrade shall be removed and the area filled with acceptable materials well tamped.
- D. All roots and stumps within the limits of area to be graded shall be grubbed and excavated to a depth of two (2) feet below the final finished grade, except in fills greater than two (2) feet, where they shall be cut flush with the ground surface.
- E. Walls, footings, etc., shall be removed to a depth at least two (2) feet below the proposed finished grades. Such areas shall be backfilled and graded over.
- F. All excavations for head walls shall be cut accurately to the required lines and grades and shall be large enough to provide adequate clearance for the proper execution of the work.
- G. Trenches for pipes shall be excavated to the required lines and grades and shall be of sufficient width to lay pipe and to permit thorough tamping of backfill under haunches and around pipe.
- H. Before any pipe is lowered into place, the finished bottom of all trenches shall be firm and unyielding, having a smooth, even surface, having the required grade and the same curvature as the pipe to be placed, and having necessary recess for hubs, bells, branches or other appurtenances as required by the Engineer to enable caulking and jointing to be done advantageously.
- I. Rock, where encountered in trenches, shall be removed below grade and replaced with suitable materials in such a manner as to provide a compacted earth cushion of minimum allowable thickness of eight (8) inches under the pipe.
- J. Backfill shall be made with selected materials free from large lumps, clods, stone or rock and placed in layers not exceeding six (6) inches in depth, and each layer shall be thoroughly compacted with heavy rammers.
- K. Embankments shall be formed of suitable and acceptable excavated materials and brought to the required lines and grades. The materials for embankments shall be placed in successive horizontal layers, not exceeding twelve (12) inches in depth, extending across the entire fill area. They shall be spread by a bulldozer or other acceptable methods and shall be thoroughly compacted by rolling with approved rollers to the satisfaction of the Engineer. Successive layers shall not be placed until the layer under construction has been thoroughly compacted. In places where the use of roller is impractical, the contractor shall use other means satisfactory to the village, for compacting the material.

- L. All hollows and depressions which develop during the process of rolling and compacting shall be filled with acceptable materials, and the subgrade shall again be compacted. This process of filling and compacting shall be repeated until no depressions result.
- M. Fill within eighteen (18) inches of finished grade shall be free of stone larger than six (6) inches in greatest dimension.
- N. If there is not sufficient excavated material of a suitable quality within limits of work to complete embankments grading and backfilling to required lines and grades, the material may be brought in from outside sources. The quality of the borrowed material shall be subject to the approval of the village.
- O. All suitable and acceptable materials from excavation shall be used for making embankments and backfilling, surplus and unsuitable materials shall be removed and shall be legally disposed of.
- P. All blasting work shall be done by persons skilled in such work. All blasts shall be properly covered and every precaution shall be taken to ensure the safety of persons and property. Explosives shall be stored and used as prescribed by state laws and local laws.

**§ 51-13. Foundation course.**

- A. Foundation course for all roads shall be of run-of-bank gravel placed on a properly prepared subgrade to the compacted thickness shown on the standard sections.
- B. All gravel shall be of hard, durable stones and well graded. The particles shall be of such size as will pass through a four-inch-square hole, with not more than ten percent (10%) passing a two-hundred-mesh sieve and shall be satisfactorily graded. All gravel shall be subject to the approval of the Village Engineer or his duly authorized representative.
- C. After the subgrade has been properly prepared, the gravel shall be spread evenly so that it will have, after rolling, the proper thickness. No segregation of large or fine particles will be allowed, but the gravel as spread shall be well graded with no pockets of fine material.
- D. When the finished thickness of the foundation course is more than six (6) inches, the gravel shall be spread, rolled and filled in separate layers, each not exceeding six (6) inches.

E. After the gravel has been spread, it shall be thoroughly rolled with an approved roller weighing not less than ten (10) tons. All holes or depressions found in rolling shall be filled with gravel and the surface rerolled until it conforms to the lines and grades shown on the approved standards.

F. In all cases, the foundation course shall be true to grade and section and so thoroughly compacted that it will not weave under a roller.

#### **§ 51-14. Pavements.**

The surface for all streets shall have, as a minimum finish, a double bituminous surface treatment or asphaltic concrete, of the compacted thickness shown on the standard section.

#### **§ 51-15. Materials.**

- A. Subbase for all village streets shall be a minimum of eight (8) inches thick, of concrete as approved by the Engineer, Item 503.01 of the New York State Department of Transportation Specifications. **[Amended by Local Law 1-2002 on January 8, 2002]**
- B. Binder course shall be New York State Department of Transportation Specification, Item 403.05, asphaltic concrete. Binder course thickness shall be a minimum of one and one-half (1½) inches.
- C. Top course shall be New York State Department of Transportation Specification, Item 403.3, asphaltic concrete. Top course thickness shall be a minimum of one (1) inch.

#### **§ 51-16. Installation.**

Installation shall be as per New York State Department of Transportation Specifications, latest edition.

#### **§ 51-17. Concrete sidewalk.**

- A. Concrete sidewalk shall be of the width shown on the standard section and shall be laid on a foundation four (4) inches thick.

- B. Sidewalk shall consist of a single course of concrete four (4) inches thick, except in driveways where it shall be six inches thick and reinforced.
- C. Material for foundation shall consist of run-of-bank gravel as specified under § 51-13, Foundation course. of specifications.
- D. Concrete shall have a minimum twenty-eight-day compressive strength of four thousand five hundred (4,500) pounds per square inch, as per New York State Department of Transportation Specifications, Item 608.01.
- E. Excavation shall be made to dimensions sufficient to permit the setting of forms. The earth subgrade, immediately before the foundation material is placed on it, shall be compacted, smooth and parallel to and the required depth below the finished sidewalk surface. The subgrade shall not be in a muddy or frozen condition, and unsuitable material shall be removed and replaced with acceptable material thoroughly compacted.
- F. Foundation material shall be placed on the prepared subgrade and thoroughly compacted into a course not less than five (5) inches thick. The top surface shall be parallel to the finished grade and at a distance below grade equal to the specified thickness of concrete.
- G. Forms shall be of substantial materials with suitable metal dividing plates and of sufficient strength to satisfactorily resist distortion when fastened together and secured in place. Forms and dividing plates shall be of a depth not less than that of concrete sidewalk, shall be properly located with tops set to the designated sidewalk surface and shall be left in place until concrete has hardened.
- H. Concrete sidewalk shall be built in independent rectangular slabs, approximately five (5) feet long and separated by joints approximately one-fourth (1/4) inch wide. Sidewalk at a driveway shall be of a length to suit the width of the driveway, as determined in the field, with the top surface scored at approximately five-foot intervals.
- I. The concrete shall be placed within the forms and thoroughly tamped until the surface is at the finished grade. At driveways, steel fabric reinforcement shall be placed midway between upper and lower surfaces. Steel fabric shall be No. 6 gauge wire at six-inch centers transversely and longitudinally and meeting the requirements of A.S.T.M. Specification A185.
- J. One-half-inch premoulded bituminous joints shall be placed at the ends of a driveway sidewalk.

K. The top surface shall be finished to true smooth planes by troweling and finally by wooden floats. Each rectangular slab shall have edges neatly rounded with proper tools and bounded on all sides by a troweled border about one (1) inch wide.

- L. Concrete shall be cured by quilted covers. Quilted covers shall be held securely in place and weighted down to completely cover the edges, as well as top of the sidewalk. Adjoining quilts shall be lapped at least twelve (12) inches. These quilted covers shall be laid directly on the sidewalk as soon as it is completed. They shall be thoroughly wetted and kept wet for at least five (5) days.
- M. Concrete sidewalks shall be protected and kept in first-class condition until accepted by the village. Any sidewalk damaged at any time previous to final acceptance by the village shall be removed and replaced with satisfactory sidewalk.

#### **§ 51-18. Concrete curb.**

- A. Concrete curb shall be of the cross section as shown on the standard section.
- B. Concrete shall have a minimum twenty-eight-day compressive strength of four thousand five hundred (4,500) pounds per square inch, as per New York State Department of Transportation Specifications, Item 609.04.
- C. Excavation shall be made to dimensions sufficient to permit the setting of forms. The materials underlying concrete curbs shall be satisfactory and thoroughly compacted. If unsatisfactory, the unsuitable materials shall be removed and replaced with acceptable materials and be thoroughly compacted.
- D. Curbs shall be moulded in place in sections ten (10) feet long and provisions made at each joint for expansion of three-sixteenths (3/16) of an inch. Curbs shall be set across driveways with the top two (2) inches above the gutter line for the width of the driveway and the ends of the sections adjacent to a drop curb rounded or splayed as required. On curbs, the curb shall be constructed to true arcs with joints radial.
- E. All forms shall be set true to line and grade and held rigidly in position. They shall be either of metal or of planed and matched lumber and of such construction that a smooth surface will be provided.
- F. The forms shall be left in place until concrete has set sufficiently and they can be removed without injury to the curb. Upon removal of the forms, the curb shall be immediately rubbed down to a smooth and uniform surface, but no plastering will be allowed. For this work, competent and skillful finishes shall be employed.

G. Concrete curb shall be cured by use of quilted covers. Quilted covers shall be held securely in place and weighted down to completely cover the curb. Adjoining quilts shall be lapped at least twelve (12) inches. These quilted covers shall be laid directly on the curb as soon as it is completed. They shall be thoroughly wetted and kept wet for at least five (5) days.

H. Concrete curb shall be protected and kept in first-class condition until accepted by the village. Any concrete curb which is damaged at any time previous to the final acceptance by the village shall be removed and replaced with satisfactory curb.

**§ 51-19. Concrete curb and gutter.**

- A. Concrete curb and gutter shall be constructed of the cross section shown on the standard section.
- B. Concrete shall have a minimum twenty-eight-day compressive strength of four thousand five hundred (4,500) pounds per square inch, as per New York State Department of Transportation Specifications, Item 609.05.
- C. Concrete gutters shall be constructed in eight-foot sections of the shape shown on the standard section to the required line and grade. A steel separating plate one-eighth inch thick and cut to fit the section, shall be used in each joint and removed when concrete hardens; or the gutter may be constructed in alternate sections, twenty-four (24) hours to elapse before the construction of the intermediate sections. A straight edge shall be laid parallel to the line of the gutter to strike off the surface to conform accurately to the gutter section.
- D. Concrete gutters shall be cured by use of quilted covers. Quilted covers shall be held securely in place and weighted down to completely cover the gutter. Adjoining quilts shall be lapped twelve (12) inches. These quilted covers shall be laid directly on the gutter as soon as it is completed. They shall be thoroughly wetted and kept wet for at least five (5) days.
- E. Concrete gutters shall be protected and kept in first-class condition until accepted by the village. Any gutter damaged at any time previous to final acceptance by the village shall be removed and replaced with satisfactory gutter.



## **§ 51-20 Catch basins.**

- A. Catch basins shall be constructed in accordance with the details shown on the standard sections.
- B. Concrete for base shall have a minimum twenty-eight-day compressive strength of four thousand five hundred (4,500) pounds per square inch, as per New York State Department of Transportation Standard Specification for catch basins.
- C. Walls shall be constructed of concrete or brick. Concrete shall be as specified for base.
- D. Brick shall conform to A.S.T.M. Specification C-32-Grade NA.
- E. Brick shall be laid by a competent mason in a workmanlike manner in mortar composed of one (1) part portland cement and two (2) parts mortar sand.
- F. Frames, covers and gratings shall be of cast iron of the type shown on the standard section. Iron castings shall conform to the requirements of A.S.T.M. Specifications A48, Class 20.
- G. Catch basins shall be protected and kept in first-class condition until accepted by the village. Any catch basin damaged at any time previous to final acceptance by the village shall be removed and replaced with satisfactory catch basin.

## **§ 51-21 Culvert pipe.**

- A. Reinforced concrete pipes of necessary sizes shall be placed where required in accordance with the details as shown on the standard section.
- B. Trench excavation and refill shall be done in accordance with the requirements as given under § 51-12, Excavation and grading.
- C. Pipe under twenty-four (24) inches in diameter shall be standard strength reinforced concrete culvert pipe conforming to the requirements of the standard specifications for reinforced concrete culvert pipe, designation C76, Table I, latest edition of American Society for Testing Materials.
- D. Pipe twenty-four (24) inches and above in diameter shall be extra-strength reinforced concrete culvert pipe conforming to the requirements of A.S.T.M. Specification, C-76, Table II.

- E. The pipe shall be bedded in an earth foundation of uniform density, carefully shaped by means of a template supported at the desired grade to fit the lower part of the pipe for at least ten percent (10%) of its overall height.
- F. Each pipe shall be laid with the bell facing upgrade in full conformity with lines and grades as shown on the plans.
- G. Joints shall be formed by caulking the hubs with a gasket of jute or oakum and then filling with mortar composed of equal parts portland cement and clean sharp sand.
- H. After a pipe has been laid in place and outside of the joint has been caulked and sealed with mortar, all surplus mortar and debris shall be removed from inside of the pipe.
- I. All pipe shall be clean and left in satisfactory working condition.

#### **§ 51-22 Structures.**

Structures and retaining walls shall be designed in accordance with the current issue of the specifications of the American Association of State Highway Officials. The minimum design load for bridge structures shall be H-10. Bridges on important streets or connecting highways shall be designed for heavier loads as required by the village. Existing structures for which plans are not available will not be accepted unless the safe load carrying capacity can be demonstrated to be H-10 or greater.

#### **§ 51-23 Guide posts.**

Guide posts shall conform to the latest edition of Department of Transportation Specifications.

#### **§ 51-24. Headwalls and gutters.**

- A. Rubble stone masonry headwalls and stone gutters, as necessary, shall be constructed in the manner shown on the standard section and as specified herein.
- B. All excavation and backfill shall conform to the requirements under § 51-12, Excavation and grading.

- C. Stone masonry for headwalls shall be built of clean stone, free from structural defects, laid in full cement mortar beds of one (1) part portland cement and three (3) parts mortar sand. Vertical joints shall be flushed with mortar. Selected stone, roughly squared and pitched to line, shall be used for the coping and ends of walls.
- D. The stone shall be laid on its natural bed to form substantial masonry presenting a neat and finished appearance. Spalls and pinnars shall not be allowed to show on the face of the wall and shall be used only where necessary. All stones shall be laid to break joints six (6) inches or more and to thoroughly bond the work.
- E. Flat stones shall be selected for the gutter and embedded in mortar composed of one (1) part of portland cement and three (3) parts fine aggregate. The stones shall be laid to line and grade with close joints by skilled workmen using regular paving tools. The whole shall then be thoroughly rammed in place and brought to a uniform surface.
- F. Stone gutter shall be laid on a six-inch bed of sand.

**§ 51-25. Topsoil and seeding.**

- A. All slopes and disturbed areas related in any way to roads being constructed shall be covered with topsoil to a depth of four (4) inches. Topsoil shall be stripped from road area for this purpose and shall be stockpiled in appropriate locations until needed. If there is not sufficient topsoil available from the road area, good quality topsoil shall be imported. Any topsoil to be removed from the property or any topsoil imported must be handled in accordance with all regulations and ordinances relating thereto.
- B. All topsoiled areas shall be seeded. The work shall be carried out in accordance with the requirements of the New York State Department of Transportation Specifications, latest edition.
- C. No tests or certified reports will be required unless the materials to be used appear to be of inferior quality.
- D. The seed used shall be fresh recleaned seed of the latest drop, mixed in the following proportions by weight and meeting the following standards of pure live seed content. The tolerance for P.L.S. (purity x germination) shall be those called official and tabulated on page 5, U.S. Department of Agriculture, Bulletin No. 480.

<b>Grass</b>	<b>Maximum Weed Seed</b>	<b>P.L.S.</b>
50% Creeping red rescue (Illahee strain)	0.50%	90%
30% Kentucky bluegrass	0.50%	85%
10% Redtop (fancy recleaned)	1.00%	85%
10% English perennial rye	0.50%	88%

- E. Seed shall bear the label of a responsible seed company with the mixture indicated thereon.
- F. The rate of seeding shall be one hundred fifty (150) pounds per acre. Seed shall be sown by hand or by approved machine in such a manner that a uniform stand will result. After seeding, the surface shall be evenly raked with a fine-toothed rake and rolled with an approved roller weighing at least three hundred (300) pounds.

#### **§ 51-26 General.**

All materials and/or methods of construction not described in these standards shall meet the requirements of the latest edition of the New York State Department of Transportation Specifications.

### **ARTICLE V Penalties**

#### **§ 51-27. Penalties for offenses.**

- A. Any person deviating from the standards set forth in this chapter or in any manner violating its provisions shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York and be punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.
- B. In addition to the above provided penalties, the Village Board of Trustees may also maintain an action in the name of the village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter. The Village may also seek restitution for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. [Underlined text added 5/8/12, LL 3-2012]

## **Chapter 52**

### **STREETS AND SIDEWALKS**

#### **ARTICLE I Excavations**

- § 52-1. Permit required.**
- § 52-2. Applications.**
- § 52-3. Fees.**
- § 52-4. Liability insurance.**
- § 52-5. Notice of excavation.**
- § 52-6. Safety requirements.**
- § 52-7. Regulations and specifications.**

#### **ARTICLE II Curbs and Sidewalks**

- § 52-8. Construction according to grade.**
- § 52-9. Construction requirements.**
- § 52-10. Safety requirements.**
- § 52-11. Sidewalk maintenance; violations,**
- § 52-12. Installations between curb and property lines.**
- § 52-13. Use of sidewalks.**
- § 52-13A. Depositing snow onto streets or highways within the Village.**
- § 52-13B. Replacement of sidewalks.**

#### **ARTICLE III Violations**

- § 52-14. Penalties for offenses.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 9-10-74 as Local Law No. 6-1974. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Vehicles and traffic — See Ch. 60.**

ARTICLE I  
Excavations

**§ 52-1. Permit required.**

No person, firm or corporation, including public service companies and municipalities other than the Village of Port Dickinson, shall make any excavation in any street or highway in the Village of Port Dickinson for any purpose without first obtaining a permit therefor from the Code Enforcement Officer, as hereinafter provided.

**§ 52-2. Applications.**

- A. Application for permits shall be filed in writing with the Code Enforcement Officer upon application blanks which he shall provide or in such other manner as he shall from time to time prescribe. Applications shall state the nature, location, extent and purpose of the proposed excavation.
- B. Applications by public service companies must be accompanied by a general undertaking in such form as may be approved by the Board of Trustees. The said general undertaking is tendered to assure that after completing the excavation said applicant shall leave the street, highway, sidewalk, pavement, curb or gutter in the same condition as it was prior to the excavation.
- C. Applications by persons, firms or corporations other than public service companies for excavations in the street or highway must be accompanied by a minimum cash deposit of five hundred dollars (\$500.) with the Village Clerk to assure that after completing the excavation said applicant shall leave the street, highway, pavement and curb or gutter in the same condition as it was prior to excavation. In the event the applicant fails to repair or replace such pavement, curb or gutter in the time provided in the permit, the deposit of five hundred dollars (\$500.) shall be forfeited to the extent necessary to repair such surface as left undone by the applicant.

### **§ 52-3. Fees.**

Each applicant must pay a permit fee of fifteen dollars (\$15.) to the Village Clerk for each excavation, except those for utility poles.

### **§ 52-4. Liability insurance.**

- A. The applicant shall file with the Code Enforcement Officer a general liability insurance policy or certificate of insurance naming the Village of Port Dickinson as an additional insured at the same time he files his application for the permit. The Board of Trustees shall approve the policy as to form.
- B. The policy shall insure the Village of Port Dickinson and the applicant and shall cover all operations relative to the excavation and reconstruction thereof. Said policy shall have limits of liability of one hundred thousand dollars (\$100,000.) for bodily injury to each person and aggregate liability of three hundred thousand dollars (\$300,000.) for each accident, and property damage liability of five thousand dollars (\$5,000.) for each accident and aggregate property damage liability of twenty-five thousand dollars (\$25,000.).
- C. In lieu of the aforesaid liability insurance, public service companies may submit a general undertaking in such form as shall be approved by the Board of Trustees.

### **§ 52-5. Notice of excavation.**

The Code Enforcement Officer may require any person making a highway excavation pursuant to a permit granted hereunder to give notice of such excavation to public service companies or municipal districts having lines, mains or other property in the streets, and when such notice shall have been required, no work shall be commenced or done under such permit until such required notice has been fully complied with to the satisfaction of the Code Enforcement Officer.

### **§ 52-6. Safety requirements.**

Any person making an excavation covered by this chapter shall erect suitable barriers or guards for the protection of persons using the streets or sidewalks and, in addition thereto, shall set up and maintain during the hours of darkness sufficient lights or flares to properly illuminate the area. He shall also take all necessary precautions for the protection of the property of the village, of public service companies or municipal districts and of others which may be endangered by such excavation or the work incident thereto, and shall comply with all directions given by the Code Enforcement Officer with respect to such barriers, lights, flares and protective measures.

**§ 52-7. Regulations and specifications.**

- A. Work under the permit shall be commenced within thirty (30) days from the date of the issuance of the permit and continued in an expeditious manner unless extension of this period is approved by the Code Enforcement Officer.
- B. Construction.
  - (1) When work is being performed on any village street, no pavement cuts or trenches are to be left unfilled overnight except in emergencies and in such cases adequate precautions must be exercised to protect traffic. When working on any village street or road, contractors must complete final backfilling of any trench within eighteen (18) days from the time of its opening.
  - (2) All pipes or mains crossing highway pavement shall, whenever possible, be driven beneath the roadway without disturbance from the edge of the pavement. Such crossover pipes shall, whenever possible, be enclosed in sleeves or larger pipes so that repairs or replacements may be made in the future without future disturbance of the roadway pavement.
  - (3) In the event that a trench is opened, the trench will be compacted to within four (4) inches of the road surface after completion of the necessary work and construction. The existing asphalt surface shall then be cut back at least twelve (12) inches on either side of the undisturbed subgrade.
  - (4) At the discretion of the Code Enforcement Officer, the contact surfaces, the packed surfaces and/or adjacent pavement edges shall be painted and sealed with approved bituminous and/or bluestone material before or after placing the course of asphalt, which shall be four (4) inches of New York State Specifications 1-A hot plant mix. This course shall be rolled with an eight-to-ten-ton roller and surface variations in excess of one-four (1/4) of an inch shall be eliminated or the pavement relaid.



- (5) If the trench work is in the earthen shoulder of the roadway, the proper compaction, as outlined above, shall apply with the addition of a covering of sod or grass seeding as specified by the highway department of the Village of Port Dickinson.
- C. Traffic control. Traffic is to be maintained at all times during the progress of work. Adequate signs, barricades and lights necessary to protect the public shall be provided. Flagmen to direct traffic shall be employed continuously during periods when only one-way traffic can be maintained or when equipment is operated back and forth across the pavement area. No construction equipment or materials shall be left on the pavement after working hours nor shall any construction equipment or materials be placed in any way, manner or location that will obstruct the highway or railroad warning signs. Barricades, whether in sidewalk or roadway areas, shall have prominently displayed for police convenience the address and telephone number of someone available twenty-four (24) hours a day who shall reestablish the same in an emergency. Access to adjacent property shall be maintained.
- D. Notification. The applicant will be responsible for notifying the Highway Department twenty-four (24) hours prior to street opening and street closing.

## ARTICLE II Curbs and Sidewalks

### **§ 52-8. Construction according to grade.**

No person shall construct or cause or permit to be constructed a curb or sidewalk unless the same shall be constructed in accordance with the grade which shall have been obtained from the village Code Enforcement Officer.

### **§ 52-9. Construction requirements.**

- A. All sidewalks shall be concrete or macadam and shall be four (4) feet wide in residential areas. In business areas, including nonconforming business use areas, sidewalks shall be constructed so as to cover the full area between the curb and property line unless otherwise directed by the Code Enforcement Officer. Sidewalks shall not be less than four (4) inches thick in areas zoned for residential use and not less than five (5) inches thick in areas zoned for business use.<sup>1</sup> Where crossed by driveways, all sidewalks shall not be less than six (6) inches thick through the width of the driveway.

- B. All curbs shall be concrete, eighteen (18) inches in depth, and not less than six (6) inches thick in residential areas and not less than eight (8) inches thick in business areas and shall be built in one (1) course. Concrete gutter shall not be less than eighteen (18) inches high and six (6) inches thick and shall be built in one (1) course.

#### **§ 52-10. Safety requirements.**

Every person who constructs a sidewalk or curb shall guard any excavation or work by guardrails, red signal lights or any other means as may be necessary to warn pedestrians and others of the danger to be approached.

#### **§ 52-11. Sidewalk maintenance; violations.**

- A. The owner or occupant of every property shall pave, keep and maintain the existing sidewalks adjoining his property in a safe, passable condition and the sidewalk free from snow, ice, dirt, filth, weeds and other obstructions.
- B. In the event that a property owner or occupant fails to maintain said sidewalks as required in subsection A hereof (except in regard to snow and ice as provided in subsection D hereof) the Enforcement Officer shall serve a notice of the same in the following manner:
  - (1) by personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in said property as shown by the records of the Town of Dickinson Tax Collector or of the Broome County Clerk; or if no such person can reasonably be found, by mailing such owner by registered mail a copy of such notice directed to his/her last known address as shown by the above records; and
  - (2) by personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found; and
  - (3) by securely affixing a copy of such notice upon any residence or other structure located on the property.[Amended 2-14-06 by L.L. No. 1-2006]

**1 Editor's Note: See Ch. 65, Zoning, for provisions pertaining to designation of zones.**

C. The notice shall contain the following:

- (1) a description of the condition of the property needing correction
- (2) an order outlining the manner in which the property is to be made compliant with this section of the Village Code **[Amended 2-14-06 by L.L. No. 1-2006]**
- (3) a statement that the correction of the sidewalk condition shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter, unless, for good cause shown, such time shall be extended. **[Amended 2-14-06 by L.L. No. 1-2006]**
- (4) a statement that in the event of neglect or refusal to comply with the order:
  - a. The Village is authorized to direct a private contractor previously approved by the Board of Trustees to correct the prohibited condition, and
  - b. The total cost thereof shall be assessed against the real property on which said sidewalk is located and shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged to be collected in the same manner and at the same time as other Village charges. **[Amended 2-14-06 by L.L. No. 1-2006]**

D. In the case of snow and ice, no such sixty-day notice is required and if, within twenty-four (24) hours after the cessation of every fall of snow or the formation of any ice, the owner or occupant of any premises shall fail to clear such sidewalk of snow and ice, he shall be in violation of this section unless such time period be extended by the Code Enforcement Officer of the Village by reason of the fact that such ice is too thick to be removed within such twenty-four (24) hour period, in which event such ice must be removed within such reasonable time as determined by the Code Enforcement Officer. In addition, the Village may clear such sidewalks of snow and ice if they are not cleared by the owner or occupant within the said twenty-four (24) hours and assess the cost thereof against the owner of the adjacent property which cost shall be not less than Twenty Dollars (\$20.00), plus an administrative charge of Ten Dollars (\$10.00) to defray the cost of the Village Code Enforcement Officer in determining which premises are in violation of this section and serving notice of said cost being assessed on the property owner and the time of the Village Clerk or Treasurer in determining the name of the owner of the property adjacent to said sidewalk. Such cost, if not paid, shall be assessable against the property as a tax thereon. If in judgment of the Commissioner of Public Works the employees of the Department of Public Works, by reason of their work schedule, will be unable to attend to such clearing activities within twenty-four (24) hours of receipt of said order, then the Enforcement Officer may direct a private contractor previously approved by the Board of Trustees to perform such services at the pay schedule previously approved. **[amended 2/25/14, LL 3-2013]**



- E. In the event that personal injury or property damage shall result from the failure of the owner or occupant to comply with the provisions of this section, the owner and occupant shall be liable to all persons injured , or where property is damaged directly or indirectly thereby, and shall be liable to the Village to the extent that the Village is required by law or by and Court to respond in damages to any injured party. **[Amended 2-14-06 by L.L. No. 1-2006]**

**§ 52-12. Installations between curb and property lines.**

No person shall install, construct, place, maintain or permit to be installed, constructed, placed or maintained in the area between curb and property line of premises adjoining any street, parking field or parking field walk owned or occupied by him any structure, masonry, stone, sprinkler pipes, sprinkler heads, garbage receptacles or any similar devices or fixtures.

**§ 52-13. Use of sidewalks.**

No person shall ride, drive, operate or park any motor driven vehicle, including snowmobiles and minibikes, along or upon any public sidewalk or path intended for use by pedestrians within the Village of Port Dickinson.

**§ 52-13A. Depositing snow onto streets or highways within the village.**

No person shall cast, shovel, dump, plow, push or in any other way cause to be placed any snow upon the streets or highways within the Village.

**§ 52-13B. Replacement of sidewalks. [Added 9-11-01 by L.L. No. 12-2001]**

If in the judgment of the Board of Trustees upon recommendation of the Commissioner of Public Works pursuant to Section 57-11 of the Village Code it is necessary to remove trees planted between the public sidewalk and street curb and such removal requires the removal and replacement of the adjoining sidewalk, the Village shall cause such removal and replacement and shall pay 50% of the cost thereof, with the remaining 50% to be paid by the adjacent property owner. If such property owner shall fail to pay said 50% within thirty (30) days from receipt of notice thereof, the Village shall assess said cost against the owner of the adjacent property as a tax thereon.

## ARTICLE III

### **Violations**

#### **§ 52-14. Penalties for offenses.**

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment. In addition to the above provided penalty the Village Board of Trustees may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.



SUBDIVISION OF LAND

**Chapter 53**

SUBDIVISION OF LAND

ARTICLE I

**Preamble and Title**

**§ 53-1. Preamble.**

**§ 53-2. Title.**

ARTICLE II

**Definitions**

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ARTICLE III

**Procedure**

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ARTICLE IV

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ARTICLE V

**Variances and Modifications**

**§ 53-10. Variance of regulations due to hardship.**

**§ 53-11. Waiver of requirements.**

**§ 53-12. Modifications of zoning regulations.**



## ARTICLE VI Enforcement

§ 53-13. Penalties for offenses.

§ 53-14. Complaints of violation.

## ARTICLE VII Amendments

§ 53-15. Amendment of regulations.

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 6-10-75 as Local Law No. 5-1975. Amendments noted where applicable.]**

### GENERAL REFERENCES

Sewers — See Ch. 49.  
Street construction — See Ch. 51.  
Streets and sidewalks — See Ch. 52.  
Water — See Ch. 62.  
Zoning — See Ch.

## ARTICLE I Preamble and Title

§ 53-1. Preamble.

Whereas it is deemed necessary to promulgate certain regulations in order to improve, maintain and protect the interests of the Village of Port Dickinson, New York, in its public health, safety and general welfare and in order to provide for the future growth and development of the village, and

Whereas the Village Planning Board of the Village of Port Dickinson, New York, being duly convened in regular session and by authority of the resolution adopted by the Village Board on May 6, 1975, pursuant to the provisions of § 7-728 of the Village Law authorizing and empowering the Planning Board to approve subdivision plats within the limits of the incorporated village hereby ordains and enacts these rules and regulations being in addition to any applicable rules, regulations, ordinances and laws of the State of New York and for the County of Broome and for the Village of Port Dickinson, New York.

**§ 53-2. Title.**

This chapter may be known and cited as the “Village of Port Dickinson Subdivision Regulations.”

**ARTICLE II**  
**Definitions**

**§ 53-3. Definitions and word usage.**

- A. Word usage. For the purpose of the Subdivision Regulations, words used in the present tense include the future, the plural includes the singular, the word “lot” includes the word “plot,” the word “building” includes the word “structure,” the word “shall” is intended to be mandatory, and the word “occupied” includes the words “designed for occupancy” or “intended to be occupied.”
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

**BUILDING** — Any structure other than a boundary wall or fence.

**CLERK or MUNICIPAL CLERK** — The duly designated Clerk of the municipality concerned.

**COMPREHENSIVE PLAN** — A Master Plan for the future growth and development of the municipality to ensure adequate housing, transportation, recreation, public health, safety and the general welfare of the population.

**CROSSWALK or WALKWAY** — An access through a subdivision dedicated to public use, to facilitate pedestrian traffic.

**CUL-DE-SAC** — A designed turnaround area for vehicles at the dead end of a street.

**EASEMENT** — A legal access stipulated in a recorded acquisition in the County Clerk’s office for a specific use of the designated area by public, corporate or specified persons.

**ENFORCEMENT OFFICER** — The administrative officer or his representative, duly appointed by the empowered authorities of the municipality, who shall be authorized to administer and enforce these subdivision rules and regulations.

**ENGINEER or MUNICIPAL ENGINEER** — The Engineer duly designated by the Village of Port Dickinson.

**HIGHWAY** — A public right-of-way generally designed to carry high volumes of traffic between major centers of development.

- (1) **PRIMARY HIGHWAY** — A highway usually under state or county jurisdiction, principally designed for high-speed through traffic between centers of development such as commercial centers, industrial areas and concentrated residential communities, both within and outside the county or state boundaries.
- (2) **SECONDARY HIGHWAY** — Similar to a primary highway, generally under local jurisdiction, designed for traffic between important centers of development within municipal limits and as a highway link to primary highway systems.

**LOT** — An area of land occupied or capable of being occupied by a structure or structures and/or uses, such as open spaces. “Lot” shall also mean parcel, plot, site or any similar term.

**LOT DEPTH** — The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

**LOT WIDTH** — The mean width measured at right angles to its depth.

**MASTER PLAN** — A comprehensive plan prepared by the Planning Board, which plan shows general locations desirable for various functional classes of public works, places, structures and other general physical developments, and any amendment to such plan or part thereof.

**MUNICIPAL BOARD** — The legislative body of the municipality.

**OFFICIAL MAP** — The map established by the Village Board, pursuant to appropriate sections of the Village Law, showing streets, highways, parks and drainage theretofore laid out, adopted and established by law, and any amendments thereto adopted by the Village Board.

**PLANNING BOARD** — The Board created as such by the Municipal Board or the body of the duly appointed members of this Board.

**RESUBDIVISION** — Replacement of an existing filed plat with a changed or improved plat. “Resubdivision” shall be considered as a subdivision.

**STREET** — Any public or private right-of-way which affords the primary means of access to abutting properties.

- (1) **ARTERIAL STREET** — A street or highway which is designated and constructed primarily to carry large volumes of traffic through and between communities.
- (2) **COLLECTOR STREET** — A street or highway which is designed and constructed primarily to carry traffic from the service streets to the major arterial and highway. Also identified at times as a major street.
- (3) **MARGINAL ACCESS STREET** — A street located on a separate right-of-way; a street parallel to and in the vicinity of a primary or secondary highway, designed to provide access to abutting properties without interrupting highway traffic except at designated intersections or access points.
- (4) **MINOR STREET** — A street with limited capacity, designed to provide access to abutting properties within an area such as a neighborhood.

**SUBDIVIDER** — Any person, firm, corporation or agent thereof who shall file a subdivision submission.

**SUBDIVISION** — Land divided into two (2) or more lots, blocks or sites, with or without streets or highways, and including resubdivisions.

**TIME OF SUBMISSION OF SUBDIVISION PLAT** — The date of the regularly scheduled monthly meeting of the Planning Board following the date when the subdivider submits the final subdivision plat of all or a portion of the subdivision.

## ARTICLE III

### Procedure

#### **§ 53-4. Basic requirements.**

Whenever any subdivision of land, as hereinbefore defined, is proposed to be made and before any contract for the sale of or any offer to sell such subdivision or any part thereof is made, the subdivider shall apply in writing to the Planning Board for the approval of such subdivision. The application of the subdivider shall conform to the specifications in §§ 53-5, 53-6 and 53-7 of these Subdivision Regulations as well as with the requirements of Article IV.

#### **§ 53-5. Preapplication procedure.**

- A. The subdivider shall file a preapplication sketch plan of the proposed subdivision with the Planning Board for its review and recommendation prior to the submission of the preliminary layout. There shall also be filed with the preliminary application sketch plan a key map (location map) which shows the location of the proposed subdivision within the municipality.
- B. The lot layout sketch plan, drawn on a topography survey, shall show in general form the proposed layout of streets, their relationship to existing traffic arteries, the general layout of lots and other site conditions and facilities which will serve or influence the proposed subdivision.
- C. The Planning Board shall study the sketch plan and any accompanying information and shall notify the subdivider that the sketch plan does or does not meet the objectives of these Subdivision Regulations.
- D. The subdivider shall prepare the preliminary layout of the subdivision in accordance with § 53-6 of these Subdivision Regulations and the recommendations of the Planning Board in regard to the preapplication subdivision sketch.

#### **§ 53-6. Preliminary layout.**

- A. Step I. In order to afford the subdivider an opportunity for receiving preliminary review of his plat and to prevent the unnecessary expenditure of time and money which would be incurred if major changes were required by the Planning Board in case a final plat was submitted directly to the Planning Board, the subdivider shall submit two (2) copies of a preliminary layout of the proposed subdivision to the Planning Board. These preliminary layouts shall be submitted at a regularly scheduled meeting of the Planning Board. They shall be drawn at a scale of not more than forty (40) feet to the inch, shall be clearly marked "preliminary layout" and shall show or be accompanied by the following information:

- (1) The proposed subdivision name and/or identifying title and the name and address of the owner of record, the subdivider and the designer of the preliminary subdivision layout, date, scale and true North direction.
- (2) The deed description and a map or survey of the tract boundary made and certified by a licensed surveyor and, where practicable, tied into established reference points such as existing street corners, highways or permanent boundary monuments.
- (3) A topographic map of the parcel of land to be subdivided, at the same scale as the preliminary layout, showing a contour interval of not more than five (5) feet.
- (4) The name, location and dimensions of existing or proposed streets, highways, alleys, parks and other public open spaces or uses of adjacent properties.
- (5) The location and dimensions of any street or other public way or place, platted upon the Official Map or the Master Plan of the village if such exists, for the property to be subdivided.
- (6) The location of existing sewer, water or other utility lines including culverts, drains and easements on the property to be subdivided and plans to connect thereto.
- (7) The location, dimensions, grades and profiles of all streets or other existing site conditions, including easements, rights-of-way, structures, trees and ponds, streams and marshes or public areas and other public ways proposed by the subdivider shall comply as a minimal with regulations and specifications promulgated by the Village Engineer.
- (8) Typical cross sections of proposed roadways, sidewalks and grades drawn at an appropriate scale.
- (9) The proposed layout of lots, showing lot lines, dimensions and area of lots and any areas to be dedicated or reserved for parks or other public uses.

- (10) The proposed sanitary sewerage and water supply plan, showing methods for obtaining and furnishing adequate and satisfactory water supply and sewerage facilities in accordance with Broome County health regulations and in conformance with all local laws and ordinances of the Village of Port Dickinson.
- (11) The proposed plan for collecting and discharging surface water drainage.
- (12) Proposed utilities.
- (13) If, in conjunction with the preparation of the site in the manner and for the use specified in the plat and its accompanying information, the subdivider intends to excavate or have excavated gravel, sand, rock, topsoil or other similar materials for sale or for use or reuse at another site other than the original location of the excavation, such intention shall be so stated on the plat or its accompanying information. This statement shall include an estimate of the amount in volume measurement units for such materials to be excavated. Also stated shall be the methods which the subdivider will use to control surface drainage and, or erosion and the final treatment of the borrow area, i.e., backfill, planting, etc.
- (14) Where the preliminary layout submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future street system of the unsubmitted part will be considered in the light of adjustments and connections with the street system of the part submitted.
- (15) A statement as to the land use permitted by the Village Zoning Ordinance as to the premises involved and a further statement as to whether any request for rezoning is contemplated in the development.
- (16) A long form Environmental Assessment Form or Environmental Impact Statement as required by the Board at the sketch plan discussion.
- (17) Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPPP) consistent **with the requirements of the Village of Port Dickinson Stormwater Management and Erosion & Sediment Control Local Law (Local Law No. 2 of 2007)** shall be required for Preliminary Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of Local Law No. 2 of 2007. The approved Preliminary Plat shall be consistent with the provisions of this Local Law No. 2 of 2007. **(Added by L.L.No.4-2007)**

B. Step II.

- (1) The Planning Board shall study the preliminary layout and accompanying information in connection with the topography of the area, the existing requirements of the Zoning Ordinance, the Master Plan and the Official Map, if such exists, and the other local laws of the village and shall take into consideration the general requirements of the community and the best use of the land to be subdivided. Particular attention shall be given to matters enumerated in § 7-730 of the Village Law as well as in specific requirements for parks, playgrounds, school sites, highways and streets, the adequacy of street connections and the suitability of the land for development.

- (2) The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations.
- (3) Date of Official Submission.

The date of submission of the Preliminary Plat shall be the date it is received complete and accompanied by the required fee and all data required by these regulations and the Planning Board Rules and Regulations. A Preliminary Plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft Environmental Impact Statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of a Preliminary Plat shall begin upon filing of such negative declaration or such notice of completion.

- (4) Subdivider to Attend Planning Board Meeting.

The subdivider or his duly authorized representatives shall attend the next meeting of the Planning Board after such receipt to discuss the Plat with the Planning Board.

### C. Step III.

- (1) Public Hearing.

#### I. Planning Board as lead agency under the State Environmental Quality Review Act.

The time within which the Planning Board shall hold a public hearing on the Preliminary Plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act, as follows:

- (1) If the Planning Board determines that the preparation of an Environmental Impact Statement on the Preliminary Plat is not required, the public hearing on such Plat shall be held within sixty-two days after the receipt of a complete Preliminary Plat by the clerk of the Planning Board; or



- (2) If the Planning Board determines that an Environmental Impact Statement is required, and a public hearing on the draft Environmental Impact Statement is held, the public hearing on the Preliminary Plat and the draft Environmental Impact Statement shall be held jointly within sixty-two days after the filing of the notice of completion of such draft Environmental Impact Statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft Environmental Impact Statement, the public hearing on the Preliminary Plat shall be held within sixty-two days of filing the notice of completion.
- (3) The hearing on the Preliminary Plat shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing if no hearing is held on the draft Environmental Impact Statement, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such Preliminary Plat. The hearing on the Preliminary Plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.
- (4) The Planning Board shall approve, with or without modification, or disapprove such Preliminary Plat as follows:
- (a) If the Planning Board determines that the preparation of an Environmental Impact Statement on the Preliminary Plat is not required, such Board shall make its decision within sixty-two days after the close of the public hearing; or
  - (b) If the Planning Board determines that an Environmental Impact Statement is required, and a public hearing is held on the draft Environmental Impact Statement, the final environmental impact statement shall be filed within forty-five days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft Environmental Impact Statement, the final Environmental Impact Statement shall be filed within forty-five days following the close of the public hearing on the Preliminary Plat. Within thirty days of the filing of such final Environmental Impact Statement, the Planning Board shall issue findings on the final Environmental Impact Statement and make its decision on the Preliminary Plat.

- (c) The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a Preliminary Plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the Plat in final form.

## II. Planning Board not as lead agency under the State Environmental Quality Review Act.

- (1) The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the Preliminary Plat jointly with the lead agency's hearing on the draft Environmental Impact Statement. Failing such agreement or if no public hearing is held on the draft Environmental Impact Statement, the Planning Board shall hold the public hearing on the Preliminary Plat within sixty-two days after the receipt of a complete Preliminary Plat by the clerk of the Planning Board. (Amended Feb. 11, 1997 by Local Law 2-1997).
- (2) The hearing on the Preliminary Plat shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing if held independently of the hearing on the draft Environmental impact Statement, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such Preliminary Plat. The hearing on the Preliminary Plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.
- (3) The Planning Board shall by resolution approve with or without modification or disapprove the Preliminary Plat as follows:
  - (a) If the preparation of an Environmental Impact Statement on the Preliminary Plat is not required, the Planning Board shall make its decision within sixty-two days after the close of the public hearing on the Preliminary Plat. (Amended Feb. 11, 1997 by Local Law 2-1997).
  - (b) If an Environmental Impact Statement is required, the Planning Board shall make its own findings and its decision on the Preliminary Plat within sixty-two days after the close of the public hearing on such Preliminary Plat or within thirty days of the adoption of findings by the lead agency, whichever period is longer. (Amended Feb. 11, 1997 by Local Law 2-1997).
- (4) The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a Preliminary Plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the Plat in final form.

D. Step IV.

(1) Certification and filing of Preliminary Plat.

Within five business days of the adoption of the resolution granting approval of such Preliminary Plat, such Plat shall be certified by the clerk of the Planning Board as having been granted preliminary approval, and a copy of the Plat and resolution shall be filed in such clerk's office. A copy of the resolution shall be mailed to the owner.

(2) Filing of decision on Preliminary Plat.

Within five business days from the date of the adoption of the resolution approving the Preliminary Plat, the chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Village Clerk.

(3) Revocation of approval of Preliminary Plat.

Within six months of the approval of the Preliminary Plat, the owner must submit the Plat in final form. If the Final Plat is not submitted within six months, approval of the Preliminary Plat may be revoked by the Planning Board.

**§ 53-7. Final subdivision plat.**

A. Step I.

Application for approval.

- (1) The subdivider, after official written notification by the Planning Board with respect to the preliminary layout and the changes to be made thereon, if any, shall within six (6) months thereafter file with the Planning Board original drawings of the subdivision plat. These shall be clearly and legibly drawn in ink upon permanent material. The size of the sheets shall be twenty by twenty-two (20x22) inches and shall include a margin of one (1) inch outside ruled border line on three (3) sides and two (2) inches along the left twenty-inch side for binding. The drawings shall be at a scale of not more than forty (40) feet to the inch. When more than one (1) sheet is required, an additional index sheet, at an appropriate scale, shall show the entire subdivision on one (1) sheet with lot and block numbers.

- (2) If the Final Plat is not submitted within six months after the approval of the Preliminary Plat, the Planning Board may refuse to approve the Final Plat and require resubmission of the Preliminary Plat.

Number of Copies.

- (3) A subdivider intending to submit a proposed Subdivision Plat for the approval of the Planning Board shall provide the Board with a copy of the Application and three copies (one copy in form required for filing with the Broome County Clerk) of the Plat, the original and one true copy of all offers of cession, covenants and agreements, and two prints of all construction drawings.
- (4) The subdivision plat shall show or be accompanied by the following information:
  - (a) Proposed subdivision name or identifying title and Tax Map number of the properties forming a part of the subdivision, the name and address record owner and subdivider; name, license number and seal of the professional engineer and/or land surveyor responsible for the design, survey of the subdivision and/or the preparation of the plats; date, scale and true North direction.
  - (b) Lines and widths of streets, pedestrian ways, lots, reservations, easements and all other areas to be dedicated to public use or to be held in reserve.
  - (c) The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street and the dimensions and angles of the boundary lines of each lot. All dimensions shall be shown in feet and decimals of a foot.
  - (d) Sufficient data acceptable to the Enforcement Officer or designated official in order that he might readily determine the location, bearing and length of every street line, lot line and boundary line and reproduce such lines upon the ground. Where practicable, these shall be referenced to monuments included in the state system of plane coordinates and, in any event, should be tied to reference points previously established by a public authority.
  - (e) Typical cross sections of streets and roads including drive-strip, curbs, walks and/or shoulders drawn to scale.
  - (f) The layout of all permanent improvements such as sanitary sewers, storm sewers, water mains, curbs, gutters and culverts, showing sizes, grades and elevations, the location of basins, manholes and other underground conduits or appurtenances where such items are an integral part of the subdivision.

- (g) Lots and blocks within the subdivision numbered and lettered in alphabetical order in accordance with the prevailing village practice.
  - (h) Soil tests.
  - (i) Permanent reference monuments shall be shown thus: "X".
  - (j) Lot corner markers shall be shown thus: "O".
  - (k) By proper designation, all public open spaces, other than streets, for which deeds of cession are submitted and those spaces to which title is reserved by the subdivider. Copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made thereto. Offers of cession, deeds and covenants governing the maintenance of conceded open spaces shall be approved by the Village Attorney as to their legal sufficiency.
  - (l) Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Articles 1 and 2 of the Village of Port Dickinson Stormwater Management and Erosion & Sediment Control Local Law (Local Law No. 2 of 2007) and with the terms of preliminary plat approval shall be required for Final Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of Local Law No. 2 of 2007. The approved Final Subdivision Plat shall be consistent with the provisions of this Local Law No. 2 of 2007. **(Added by L.L.No.4-2007)**
- (3) The Village Clerk, as representative of the Village Board, shall deliver to the subdivider a certificate of submission which shall certify the date on which the subdivider submitted his subdivision plat.

## B. Step II.

## (1) Environmental Review.

Final Plats may require further review under the State Environmental Quality Review Act.

(2) Final Plats which are in substantial agreement with approved Preliminary Plats. When a Final Plat is submitted which the Planning Board deems to be in substantial agreement with a Preliminary Plat approved pursuant to this section, the Planning Board shall by resolution conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such Plat, within sixty-two days of its receipt by the clerk of the Planning Board.

(3) Endorsement of the State and County Agencies.

Water and sewer facility proposals contained in the Subdivision Plat shall be properly endorsed and approved by the Broome County Department of Health. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Village, County and State agencies. Endorsement and approval by the Broome County Department of Health shall be secured by the subdivider before official submission of Subdivision Plat. If the Health Department requires Village approval before its consideration of the Plat, the Planning Board may approve subject to Health Department approval and subject to consideration of any such changes required by such Department.

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C. Step III.

- (1) Final Plats when no Preliminary Plat is required to be submitted; receipt of complete Final Plat.

When no Preliminary Plat is required to be submitted, a Final Plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of such Plat shall begin upon filing of such negative declaration or such notice of completion.

- (2) Final Plats; not in substantial agreement with approved Preliminary Plats, or when no Preliminary Plat is required to be submitted.

When a Final Plat is submitted which the Planning Board deems not to be in substantial agreement with a Preliminary Plat approved pursuant to this section, or when no Preliminary Plat is required to be submitted and a Final Plat clearly marked "Final Plat" is submitted conforming to the definition provided by this section the following shall apply:

I. Planning Board as lead agency; public hearing; notice; decision.

- (1) Public hearing on Final Plats. The time within which the Planning Board shall hold a public hearing on such Final Plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act, as follows:
  - (a) if such Board determines that the preparation of an Environmental Impact Statement is not required, the public hearing on a Final Plat not in substantial agreement with a Preliminary Plat, or on a Final Plat when no Preliminary Plat is required to be submitted, shall be held within sixty-two days after the receipt of a complete Final Plat by the clerk of the Planning Board; or



- (b) if such board determines that an Environmental Impact Statement is required, and a public hearing on the draft Environmental Impact Statement is held, the public hearing on the Final Plat and the draft Environmental Impact Statement shall be held jointly within sixty-two days after the filing of the notice of completion of such draft Environmental Impact Statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft Environmental Impact Statement, the public hearing on the Final Plat shall be held within sixty-two days following filing of the notice of completion.
- (2) Public hearing; notice, length. The hearing on the Final Plat shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing if no hearing is held on the draft Environmental Impact Statement, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such Final Plat. The hearing on the Final Plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.
- (3) Decision. The Planning Board shall make its decision on the Final Plat as follows:
  - (a) if such Board determines that the preparation of an Environmental Impact Statement on the Final Plat is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such Plat, within sixty-two days after the date of the public hearing; or
  - (b) if such Board determines that an Environmental Impact Statement is required, and a public hearing is held on the draft Environmental Impact Statement, the final Environmental Impact Statement shall be filed within forty-five days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft Environmental Impact Statement, the final Environmental Impact Statement shall be filed within forty-five days following the close of the public hearing on the Final Plat. Within thirty days of the filing of the final Environmental Impact Statement, the Planning Board shall issue findings on such final Environmental Impact Statement and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such Plat.

- (4) Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

## II. Planning Board not as lead agency; public hearing; notice; decision.

- (1) Public hearing. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the Final Plat jointly with the lead agency's hearing on the draft Environmental Impact Statement. Failing such agreement or if no public hearing is held on the draft Environmental Impact Statement, the Planning Board shall hold the public hearing on the Final Plat within sixty-two days after the receipt of a complete Final Plat by the clerk of the Planning Board. (Amended Feb. 11, 1997 by Local Law 2-1997).
- (2) Public hearing; notice, length. The hearing on the Final Plat shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing if held independently of the hearing on the draft Environmental Impact Statement, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such Final Plat. The hearing on the Final Plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.
- (3) Decision. The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such Plat as follows:
  - (a) If the preparation of an Environmental Impact Statement on the Final Plat is not required, the Planning Board shall make its decision within sixty-two days after the close of the public hearing on the Final Plat. **(Amended Feb. 11, 1997 by Local Law 2-1997).**

(b) If an Environmental Impact Statement is required, the Planning Board shall make its own findings and its decision on the Final Plat within sixty-two days after the close of the public hearing on such Final Plat or within thirty days of the adoption of findings by the lead agency, whichever period is longer. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. **(Amended Feb. 11, 1997 by Local Law 2-1997).**

D. Step IV.

(1) Approval and certification of Final Plats.

Certification of Plat. Within five business days of the adoption of the resolution granting conditional or final approval of the Final Plat, such Plat shall be certified by the clerk of the Planning Board as having been granted conditional or final approval and a copy of such resolution and Plat shall be filed in such clerk's office. A copy of the resolution shall be mailed to the owner. In the case of a conditionally approved Plat, such resolution shall include a statement of the requirements which when completed will authorize the signing thereof. Upon completion of such requirements the Plat shall be signed by said duly authorized officer of the Planning Board and a copy of such signed Plat shall be filed in the office of the clerk of the Planning Board or filed with the Village Clerk as determined by the Village Board of Trustees.

(2) Duration of conditional approval of Final Plat.

Conditional approval of the Final Plat shall expire within one hundred eighty days after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed. The Planning Board may extend by not more than two additional periods of ninety days each, the time in which a conditionally approved Plat must be submitted for signature if, in the Planning Board's opinion, such extension is warranted by the particular circumstances.

(3) Default approval of Preliminary or Final Plat.

The time periods prescribed herein within which a Planning Board must take action on a Preliminary Plat or a Final Plat may be extended only by mutual consent of the owner and the Planning Board. In the event the Planning Board fails to take action on a Preliminary Plat or a Final Plat within the time prescribed therefor after completion of all requirements under the State Environmental Quality Review Act, or within such extended period as may have been established by the mutual consent of the owner and the Planning Board, such Preliminary or Final Plat shall be deemed granted approval. The certificate of the Village Clerk as to the date of submission of the Preliminary or Final Plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required. **(Amended Feb. 11, 1997 by Local Law 2-1997).**

(4) Filing of decision on Final Plat.

Within five business days from the date of the adoption of the resolution approving the Final Plat, the chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Village Clerk.

E. Step V. Approval of the subdivision plat shall, however, not be deemed final until the subdivider has complied with the following:

(1) The subdivider shall complete, in accordance with the Planning Board's decision, to the satisfaction of the Village Engineer and/or any other official or body authorized by the Village Board of Trustees to act, all the street and other improvements specified in § 7-730 of the Village Law and not specifically waived by the Board and/or shall file with the Board a performance bond or other security sufficient to cover the full cost of the same as estimated by the Village Board, complying with § 7-730 of the Village Law and satisfactory to the Village Board of Trustees as to form, sufficiency, manner of execution and surety, for the completion of such improvements as are not to be constructed and/or may not be approved by the Enforcement officer. **(Amended Feb. 11, 1997 by Local Law 2-1997).**

(2) The subdivider shall tender offers of cession, in a form certified as satisfactory by the Village Board of Trustees, of all lands included in streets, highways or parks not specifically reserved by him, but approval of the plat by the Planning Board shall not constitute an acceptance by the village of the dedication of any street, highway, park or other public open spaces.

(3) The subdivider shall obtain the approval of the Broome County Health Department.

F. Step VI. Within ninety (90) days of the final approval of the subdivision plat by the Planning Board, the subdivider shall file a copy of the subdivision plat in the office of the County Clerk. Said subdivision plat shall be endorsed in writing on the plat in such a manner as the Planning Board may designate. Such endorsement shall stipulate that the plat does not conflict with the County Official Map, if one exists or, in cases where plats do front on or have access to or are otherwise related to roads or drainage systems shown on the County Map, that such plat has been approved in the manner specified by Section 239-K of the General Municipal Law. Such final approval shall have been deemed to expire if the plat is not so filed within the said sixty-two (62) days. **(Amended Feb. 11, 1997 by Local Law 2-1997).**

- G. Step VII. The subdivider shall within ten (10) days after filing the subdivision plat with the County Clerk, file a copy of the same plat with the Village Board of Trustees.
- H. Step VIII. After such plat has been filed with the County Clerk and the Village Board, the subdivider shall be granted permission to proceed with the work necessary to construct and install the proposed streets and other improvements in accordance with the approved subdivision plat. Such construction and installations shall be in accordance with all applicable local laws, rules, regulations and ordinances as established by the Village or its Enforcement Officer and/or any other official so designated by the Village Board of Trustees.
- (1) Once subdivision site work is underway, the subdivider shall cooperate with the Enforcement Officer or any other duly designated official who shall be responsible for inspections necessary to ensure that all work is in accordance with the approved subdivision plat and in conformity with the applicable standards set forth in Article IV of these Subdivision Regulations.
  - (2) Permanent reference monuments of a type approved by the Enforcement Officer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Enforcement Officer. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the New York State Department of Transportation.
  - (3) All lot corner markers shall be permanently satisfactory to the Enforcement Officer, at least three-fourths (3/4) inch (if metal) in diameter and at least twenty-four (24) inches in length and located in the ground to existing grade.

**§ 53-8. Acceptance of improvements for public use and maintenance.**

- A. Upon completion of the acceptable construction and installation of streets and other improvements in accordance with the approved subdivision plat and upon submission to the Village Board of Trustees of satisfactory deeds, abstracts of title and easements for streets, storm sewers, sanitary sewers, water lines and other utilities as required, the Village Board of Trustees shall take all necessary steps to accept these improvements for public use and permanent maintenance, in accordance with the provision of the Village Law and any other applicable law, and the subdivider shall thereupon be released from any performance bonds posted and filed with the village to guarantee any of the aforesaid proposed construction and installation. The subdivider shall also provide to the municipality as-built plans indicating the exact location of below-ground utilities.
- B. Notwithstanding any of the foregoing, the Village Board of Trustees shall require from the subdivider an affidavit stating that all bills and accounts for materials and labor used in the construction of improvements have been paid before said improvements will be accepted by the Village Board of Trustees for public use and maintenance.

**ARTICLE IV  
Subdivision Standards**

**§ 53-9. Standards and requirements.**

- A. General standards. The subdivider shall observe the following general land subdivision standards:
  - (1) The proposed subdivision shall conform to the Official Map, Zoning Ordinance, Master Plan and all other local laws and regulations of the Village of Port Dickinson.
  - (2) The arrangement of streets in the subdivision shall provide for the continuation of collector streets in adjoining subdivisions or for their proper projection when adjoining property is not subdivided and shall be of a width at least as great as that of such existing connecting streets. When streets are completed for only a portion of an approved subdivision, the extension of which are to be completed at a later date, the subdivider shall provide a turnaround roadway as specified for dead-end or cul-de-sac streets.

- (3) Dead-end or cul-de-sac streets shall not in general exceed five hundred (500) feet in length and shall be equipped with a turnaround roadway with a minimum radius of forty (40) feet for the outside curb at the closed end. The turnaround, where the end of the street abuts adjoining property of other owners, shall have the perimeter of the one-hundred-foot diameter circle touch but not intersect such property line. Where a plat submitted shows a turnaround at the end of a street and such turnaround does not touch the property line of adjoining property, the Village Engineer may, when in his judgment the terrain is suitable for an extension of such dead-end street, at some future date require that a strip of land of the same width as the proposed street and extending from the dead-end of the proposed street to the property line of adjoining property be dedicated to the village as a right-of-way for future extension of such dead-end street. No reserve strips shall be retained by the owner of any plat or map submitted to the Village Board of Trustees.
- (4) Block lengths generally shall not exceed one thousand two hundred (1,200) feet in length, nor shall they be less than three hundred (300) feet unless unusual topographic limitations make this impractical.
- (5) Each normal block shall be planned to provide two (2) rows of lots, but irregularly shaped blocks indented by cul-de-sac streets and containing interior parks will be acceptable when properly designed and covered by agreements as to maintenance of interior parks.
- (6) Curb radii at intersections shall not be less than twenty (20) feet. Property lines shall be adjusted accordingly.
- (7) Side lines of lots, so far as practicable, shall be at right angles or radial to street lines.
- (8) Reversed frontage of lots at street intersections shall be avoided where possible, and a series of narrow lots shall not be encouraged.
- (9) Comer lots shall be increased in size whenever necessary so as to provide that any structure to be placed thereon shall conform to the building line of each street.
- (10) Land subject to flooding and deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other use as may increase danger to health, life or property or aggravate the flood hazard. Such uses as shall be endangered by periodic or occasional inundation shall be permitted.

- (11) In case a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical further subdivisions.
- (12) No reserve strips controlling access to land dedicated or to be dedicated to public use shall be permitted.
- (13) In general, street lines with a block deflecting from each other at any one (1) point more than ten degrees ( $10^{\circ}$ ) shall be connected with a curve, the radius of which, for the inner street lines, shall not be less than three hundred fifty (350) feet on main thoroughfares, two hundred fifty (250) feet on secondary thoroughfares and one hundred (100) feet on local streets. The outer street line in each case shall be parallel to such inner street lines.
- (14) Areas of reasonable size shall be set aside for neighborhood parks or other recreation uses. In lieu thereof, the Planning Board may require payment by the subdivider to the village of an amount to be determined by the Village Board of Trustees. Such amount shall be available for use by the village for park and playground purposes. In general the location, size and type of park or other recreation facility shall be determined by the Planning Board. Recreation space shall be provided by the subdivider on the basis of six hundred (600) square feet of usable land for each lot shown on the final plat drawing. In cases where the Planning Board deems it impractical or undesirable for the subdivider to meet these requirements, he will be required to make a payment equivalent to the value of land which would otherwise be donated, prior to approval of the final plat. The mount of payment will be determined by the Village Board of Trustees pursuant to § 7-730 of the Village Law.
- (15) Adequate storm drainage systems shall be required in all new subdivisions. In lieu thereof, the Planning Board may require the subdivider to contribute a lawful and reasonable sum for placement in a fund to be used by the village for the construction of storm drainage systems in the subdivision at some future date when the Planning Board and/or the Village Board of Trustees deems them to be necessary.
- (16) The subdivision design shall encourage the preservation of existing trees.
- (17) All street, sidewalk and appurtenant construction shall be pursuant to the street standards of the Village of Port Dickinson (**Local Law No. 6-1975**).<sup>1</sup>

<sup>1</sup> Editor's Note: See Ch. 51, Street Construction



ARTICLE V  
**Variances and Modifications**

**§ 53-10. Variance of regulations due to hardship.**

When the Planning Board finds that extraordinary and unreasonable hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done.

**§ 53-11. Waiver of requirements.**

When the Planning Board finds that, due to the special circumstances of a particular area, the provision of certain required improvements is not necessary in the interest of public health, safety and general welfare or is inappropriate due to the inadequacy or lack of existing or proposed connecting facilities in the area of a proposed subdivision, it may waive such requirements subject to appropriate conditions it may wish to impose.

**§ 53-12. Modification of zoning regulations.**

In the review and approval of subdivision plats, the Planning Board shall have the authority to modify applicable provisions of the Zoning Ordinance, as long as modifications are in accordance with § 7-738 of the Village Law.

ARTICLE VI  
**Enforcement**

**§ 53-13. Penalties for offenses.**

Any violation of this chapter is an offense punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment not exceeding sixty (60) days, or by both such fine and imprisonment. Each day's continued violation shall constitute a separate additional violation. A first violation shall be deemed to have occurred from the date of written notification of violation issued by the Enforcement Officer or from such date as may be designated in such written notice.

**§ 53-14. Complaints of violation.**

Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Enforcement Officer who shall properly record such complaint and immediately investigate any report thereon.

**ARTICLE VII  
Amendments**

**§ 53-15. Amendment of regulations.**

These regulations may, from time to time, be revised, modified or amended as prescribed by local law.



**Chapter 54****SWIMMING POOLS, PRIVATE**

- § 54-1. Legislative intent.**
- § 54-2. Definitions.**
- § 54-3. Applicability.**
- § 54-4. Permit required.**
- § 54-5. Application for permit.**
- § 54-6. Regulations.**
- § 54-7. Use standards.**
- § 54-8. Fees.**
- § 54-9. Preexisting conditions.**
- § 54-10. Penalties for offenses.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 7-9-74 as Local Law No. 4-1974. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Building construction — See Ch. 26.  
Sewers — See Ch. 49.  
Water — See Ch. 62.  
Zoning — See Ch. 65.

**§ 54-1. Legislative intent.**

By enactment of this chapter of the Village Code, the Board of Trustees finds as a matter of legislative intent and public policy that the installation, construction and maintenance of private swimming pools present problems which directly affect the health, safety and welfare of residents of the village and others and, therefore, should be subject to certain regulations and controls.

## **§ 54-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**PERSON** — Any owner, lessee or occupant of any land or property within the Village of Port Dickinson, whether an individual, corporation, partnership, club, group or other association.

**SWIMMING POOL** — Any enclosure or container, whether prefabricated or individually constructed above or beneath the surface of the ground, which is designed, intended or used for swimming or bathing and which has a capacity in excess of three thousand seven hundred sixty (3,760) gallons of water.

## **§ 54-3. Applicability.**

Nothing in this chapter shall be construed to apply to any public swimming pool facility which would be subject to regulation and control by the New York State Department of Health or any similar public authority.

## **§ 54-4. Permit required.**

No person shall install, construct or enlarge a private swimming pool within the Village of Port Dickinson without first having obtained a building permit to do so.

## **§ 54-5. Application for permit.**

Each application for a permit pursuant to this chapter shall be made to the Village Building Inspector in writing on forms to be provided by the village and shall be accompanied in duplicate by a set of the following:

A. A plot plan showing:

- (1) The boundary lines of the property or land upon which the proposed pool is to be constructed, installed or located.
- (2) All existing buildings and other structures.
- (3) The exact location and dimensions of the proposed pool and all auxiliary structures.

- (4) The distance from the pool to any residence building as well as from the pool to the various boundary lines of the property on which it is to be located.
- B. A detailed description of the fence or other enclosure proposed to surround the pool, including the type of material, height of the enclosure and number and location of gates and doors.
- C. A statement of the method proposed for disposing of waste water from the pool.

#### **§ 54-6. Regulations.**

The following regulations shall govern the construction, installation, location and maintenance of private swimming pools:

- A. No pool may be constructed, installed or located on any front or side lawn or yard, within five (5) feet of the rear lot line, within five (5) feet of any side lot line nor within ten (10) feet of any residence, except the residence of the owner.
- B. A swimming pool shall be provided with adequate drainage. Drainage shall be into the storm sewer system. Upon inspection of the property by the Code Enforcement Officer, approval may be issued by him to discharge the pool water into a lawn, in fields or woods, or to a dry well or to a series of dry wells, provided water does not overflow into adjoining property.
- C. Lighting of swimming pools and any electrical installations in connection therewith shall be approved by the New York State Fire Underwriters Board.
- D. There shall be erected around all swimming pools a fence designed to prevent small children from wandering into said pool and so constructed as will not shut off light or air to any building. An above-ground pool will not require separate fencing. Such fencing required by this sub section shall completely surround the area of the swimming pool but shall not be less than three (3) feet from the edge of the swimming pool except where an integral part of the pool. Any and all gates shall have locking devices and shall be locked while the premises are not under the supervision of an adult or experienced swimmer. Any structure adjacent to the pool may serve as a portion of the fence.
- E. Any access ladder or steps used to enter or leave an above surface pool which is not entirely fenced by separate fencing shall be removed from the pool when the same is not in use.

#### **§ 54-7. Use standards.**

Use of the swimming pool shall be in a reasonable manner and at reasonable times so as not to cause undue discomfort, noise and/or annoyance to adjacent residents.

#### **§ 54-8. Fees.**

Each application for a permit to construct or install a swimming pool or enlarge an existing pool shall be accompanied by a fee of five dollars (\$5).

#### **§ 54-9. Preexisting conditions.**

Any swimming pool and its appurtenant structures, including fencing, already constructed on the date of the enactment of this chapter shall not be subject to the requirements hereof relating to location of the pool, distance from boundary lines and other structures, location or type of fence, so long as there is in existence a fence surrounding the pool, unless an enlargement of the existing facilities is applied for. Neither shall the owner, lessee or the operator of the pool be required to secure a permit or pay a fee therefor, except in the event of an enlargement. Notwithstanding the foregoing, however, every pool whether heretofore or hereafter constructed or installed shall be subject to all other provisions of this chapter.

#### **§ 54-10. Penalties for offenses.**

- A. Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.
- B. In addition to the above provided penalties the Village Board of Trustees may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this chapter. The Village may also seek restitution for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. [Underlined text added 5/8/12, LL 3-2012]

**TAXATION**

**Chapter 56**

**TAXATION**

**ARTICLE I**

**Senior Citizens' Tax Exemption**

- § 56-1. Title.**
- § 56-2. Exemption provided.**
- § 56-3. Application for exemption.**
- § 56-4. Penalties.**

**ARTICLE II**

**Utilities**

- § 56-5. Imposition of tax.**
- § 56-6. Definitions.**
- § 56-7. Application of provisions.**
- § 56-8. Disposition of revenues.**
- § 56-9. Collection and enforcement; rules and regulations.**
- § 56-10. Filing of returns; contents.**
- § 56-11. Payment of tax.**
- § 56-12. Penalty for noncompliance.**
- § 56-13. Tax part of operating costs.**
- § 56-14. Failure to file or insufficient return.**
- § 56-15. Review of final determination.**
- § 56-16. Notices.**
- § 56-17. Refunds.**
- § 56-18. Review of proceedings for refund.**
- § 56-19. Additional tax limitations; exceptions.**
- § 56-20. Village Treasurer; powers and duties.**
- § 56-21. Action to enforce payment of tax.**



## ARTICLE III

**Alternative Veterans Exemption****§ 56-22. Purpose.****§ 56-23. Exemption granted.**

**[HISTORY: Adopted by The Board of Trustees of the Village of Port Dickinson: Article I, 9-13-66 as Local Law No. 1-1966; Repealed 9-14-93; Reenacted 9-14-93 as Local Law No. 4-1993; Article II, 12-17-68 as Local Law No. 1-1968; Article III, 11-20-84 as Local Law No. 6-1984; Repealed 8-10-93; Reenacted 8-10-93 as Local Law No. 3-1993. Amendments noted where applicable. ]**

## ARTICLE I

**Senior Citizens' Tax Exemption**

**[Adopted 9-13-66 as Local Law No. 1-1966;  
Repealed 9-14-93; Reenacted 9-14-93 as Local Law No. 4-1993]**

**§ 56-1. Title**

This Local Law shall be known and cited as "A Local Law Providing a Partial Exemption from Village Taxation to Persons Sixty-Five Years of Age or Older Pursuant to the Provisions of Section 467 of the Real Property Tax Law of the State of New York."

**§ 56-2. Exemption Provided**

- A. Real property situate within the bounds of the Village of Port Dickinson, Broome County, New York, owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife or siblings, i.e., a brother or sister whether related through half blood, whole blood or adoption, one of whom is 65 years of age or over, shall be exempt from taxation for real estate taxes to be levied by the Village of Port Dickinson for the year 1996 and thereafter by the percentage of exemption specified for the annual income ranges listed below. Such exemption shall be based upon the assessed valuation of the exempt real property and shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed.

	Annual Income Ranges	Exemption Percentage
1)	\$13,000 or less	50%
2)	More than \$13,000 but less than \$14,000	45%
3)	\$14,000 or more but less than \$15,000	40%
4)	\$15,000 or more but less than \$16,000	35%
5)	\$16,000 or more but less than \$16,900	30%
6)	\$16,900 or more but less than \$17,800	25%
7)	\$17,800 or more but less than \$18,700	20%
8)	\$18,700 or more but less than \$19,600	15%
9)	\$19,600 or more but less than \$20,500	10%

[Revised 1-14-97 by Local Law 1-1997.]

B. Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property as provided in subparagraph (3) of paragraph (c) of the subdivision, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts or inheritances. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income;

C. No exemption shall be granted:

- (1) unless the title of the property shall have been vested in the owner or one of the owners of the property for at least twelve consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months. In the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of

computing such period of twelve consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation. Where the owner or owners transfer title to property which as of the date of transfer was exempt from taxation under the provisions of this section, the reacquisition of title by such owner or owners within nine months of the date of transfer shall be deemed to satisfy the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation under such provisions, becomes vested, by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means within nine months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months shall be deemed satisfied; **[Amended 2-13-96 by Local Law 1-1996]**

- (2) unless the property is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section;
- (3) unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property: except where, (i) an owner is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in section twenty-eight hundred one of the public health law, provided that any income accruing to that person shall only be income only to the extent that it exceeds the amount paid by such owner, spouse, or co-owner for care in the facility, and provided further, that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or (ii) the real property is owned by a husband and/or wife, or an ex-husband and/or ex-wife, and either is absent from the residence due to divorce, legal separation or abandonment and all other provisions of this section are met provided that where an exemption was previously granted when both resided on the property, then the person remaining on the real property shall be sixty-two years of age or over.

- D. The real property tax exemption on real property owned by husband and wife, one of whom is sixty-five years of age or over, once granted, shall not be rescinded solely because of the death of the older spouse so long as the surviving spouse is at least sixty-two years of age.
- E. Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply to any real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to subdivision one, two or three of paragraph c, were such person or persons the owner or owners of such real property. **[Added 2-13-96 by Local Law 1-1996]**

### **§ 56-3. Application for Exemption**

- A. Application for such exemption must be made by the owner or all of the owners of the property on forms to be furnished by the Town of Dickinson Assessor's Office; such applications shall furnish the information and the forms are to be executed in the manner required or prescribed in such forms and shall be filed in such Assessor's Office by taxable status date. However, such form may be filed with the assessor after the appropriate taxable status date but not later than the last date on which a petition with respect to complaints of assessment may be filed, where failure to file a timely application resulted from: (a) a death of the applicant's spouse, child, parent, brother or sister; or (b) an illness of the applicant or of the applicant's spouse, child, parent, brother or sister, which actually prevents the applicant from filing on a timely basis, as certified by a licensed physician. The assessor shall approve or deny such application as if it had been filed on or before the taxable status date. Any person otherwise qualifying under the section shall not be denied the exemption under this section if he becomes sixty-five years of age after the appropriate taxable status date on or before December thirty-first of the same year.
- B. At least sixty days prior to the appropriate taxable status date, the assessor shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before taxable status date and be approved in order for the exemption to be granted. The assessors shall, within three days of the completion and filing of the tentative assessment roll, notify by mail any applicant who has included with this application at least one self-addressed, prepaid envelope, of the approval or denial of the application; provided, however, that the assessors shall, upon the receipt and filing of the application, send by mail notification of receipt to any applicant who has included town such envelopes with the application. Where an applicant is entitled to a notice of denial pursuant to this subdivision, such notice shall be on a form prescribed by the state board and shall state the reasons for such denial and shall further state that the applicant may have such determination reviewed in the manner provided by law. Failure to mail any such application form or notices or the failure of such person to receive any of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

- C. Any person who has been granted exemption pursuant hereto on five (5) consecutive completed assessment rolls, including any years when the exemption was granted to a property owned by a husband and/or wife while both resided in such property, shall not be subject to the requirements set forth in paragraph (b) of this Section, however said person shall be mailed an application form and a notice informing him of his rights. Such exemption shall be automatically granted on each subsequent assessment roll. Provided, however, that when tax payment is made by such person a sworn affidavit must be included with such payment which shall state that such person continues to be eligible for such exemption. Such affidavit shall be on a form prescribed by the State Board of Equalization and Assessment. If such affidavit is not included with the tax payment, the collecting officer shall proceed pursuant to section five hundred fifty-one—a of this chapter.
- D. (1) Notwithstanding the provisions of subparagraph A of this section, where a person who meets the requirements for an exemption pursuant to this ordinance, purchases property after the levy of taxes, such person may file an application for exemption to the assessor within thirty days of the transfer of title to such person. The assessor shall make a determination of whether the parcel would have qualified for exempt status on the tax roll on which the taxes were levied, had title to the parcel been in the name of the applicant on the taxable status date applicable to the tax roll. The application shall be on a form prescribed by the state board. The assessor, no later than thirty days after receipt of such application, shall notify both the applicant and the board of assessment review, by first class mail, of the exempt amount, if any, and the right of the owner to a review of the exempt amount upon the filing of a written complaint. Such complaint shall be on a form prescribed by the state board and shall be filed with the board of assessment review within twenty days of the mailing of this notice. If no complaint is received, the board of assessment review shall so notify the assessor and the exempt amount determined by the assessor shall be final. If the applicant files a complaint, the board of assessment review shall schedule a time and place for a hearing with respect thereto no later than thirty days after the mailing of the notice by the assessor. The board of assessment review shall meet and determine the exempt amount, and shall immediately notify the assessor and the applicant, by first class mail, of its determination. The amount of exemption determined pursuant to this paragraph shall be subject to review as provided in article seven of the Real Property Tax Law of the State of New York. Such a proceeding shall be commenced within thirty days of the mailing of the notice of the board of assessment review to the new owner as provided in this paragraph. **[Added 2-13-96 by Local Law 1-1996]**

- (2) Upon receipt of a determination of exempt amount as provided in subparagraph (1) of this paragraph, the assessor shall determine the pro rata exemption to be credited toward such property by multiplying the tax rate or tax rates for each municipal corporation which levied taxes, or for which taxes were levied, on the appropriate tax roll used for the fiscal year or years during which the transfer occurred times the exempt amount, as determined in subparagraph (1) of this paragraph, times the fraction of each fiscal year or years remaining subsequent to the transfer of title. The assessor shall immediately transmit a statement of the pro rata exemption credit due to each municipal corporation which levied taxes or for which taxes were levied on the tax roll used for the fiscal year or years during which the transfer occurred and to the applicant. **[Added 2-13-96 by Local Law 1-1996]**
  - (3) Each municipal corporation which receives notice of pro rata exemption credits pursuant to this subdivision shall include an appropriation in its budget for the next fiscal year equal to the aggregate amount of such credits to be applied in that fiscal year. Where a parcel, the owner of which is entitled to a pro rata exemption credit, is subject to taxation in said next fiscal year, the receiver or collector shall apply the credit to reduce the amount of taxes owed for the parcel in such fiscal year. Pro rata exemption credits in excess of the amount of taxes, if any, owed for the parcel shall be paid by the treasurer of a municipal corporation which levies such taxes for or on behalf of the municipal corporation to all owners of property entitled to such credits within thirty days of the expiration of the warrant to collect taxes in said next fiscal year. **[Added 2-13-96 by Local Law 1-1996]**
- E. (1) Notwithstanding the provisions of paragraph A of this section, where a person who meets the requirements for an exemption pursuant to this ordinance, purchases property after the taxable status date but prior to the levy of taxes, such person may file an application for an exemption to the assessor within thirty days of the transfer of title to such person. The assessor shall make a determination within thirty days after receipt of such application of whether the applicant would qualify for an exemption pursuant to this section on the assessment roll if title had been in the name of the applicant on the taxable status date applicable to such assessment roll. The application shall be made on a form prescribed by the state board. **[Added 2-13-96 by Local Law 1-1996]**

- (2) If the assessor's determination is made prior to the filing of the tentative assessment roll, the assessor shall enter the exempt amount, if any, on the tentative assessment roll and, within ten days after filing such roll, notify the applicant of the approval or denial of such exemption, the exempt amount, if any, and the applicant's right to review by the board of assessment review. **[Added 2-13-96 by Local Law 1-1996]**
- (3) If the assessor's determination is made after the filing of the tentative assessment roll, the assessor shall petition the board of assessment review to correct the tentative or final assessment roll in the manner provided in title three of article five of the Real Property Tax Law, with respect to unlawful entries, in the case of wholly exempt parcels, and with respect of clerical errors, in the case of partially exempt parcels, if the assessor determines that an exemption should be granted and, within ten days of petitioning the board of assessment review, notify the applicant of the approval or denial of such exemption, the amount of such exemption, if any, and the applicant's right to administrative or judicial review of such determination pursuant to article five or seven of the Real Property Tax Law, respectively. **[Added 2-13-96 by Local Law 1-1996]**
- F. If, for any reason, a determination to exempt property from taxation is provided in paragraph e of this section is not entered on the final assessment roll, the assessor shall petition the board of assessment review to correct the final assessment roll. **[Added 2-13-96 by Local Law 1-1996]**
- G. If, for any reason, the pro rata tax credit as provided in paragraph d of this section is not extended against the tax roll immediately succeeding the fiscal year during which the transfer occurred, the assessor shall immediately notify the municipal corporation which levied the tax or for which the taxes were levied of the amount of pro rata exemption credits for the year in which such transfer occurred. Such municipal corporation shall proceed as provided in subparagraph (3) of paragraph D of this section. **[Added 2-13-96 by Local Law 1-1996]**

- H. If, for any reason, a determination to exempt property from taxation as provided in paragraph e of this section is not entered on the tax roll for the year immediately succeeding the fiscal year during which the transfer occurred, the assessor shall determine the pro rata tax exemption credit for such tax roll by multiplying the tax rate or tax rates for each municipal corporation which levied taxes or for which taxes were levied times the exempt amount and shall immediately notify such municipal corporation or corporations of the pro rata exemption credits for such tax roll. Such municipal corporation shall add such pro rata exemption credits for such property to any outstanding pro rata exemption amounts and proceed as provided in subparagraph (3) of paragraph D of this section.  
**[Added 2-13-96 by Local Law 1-1996]**

#### **§ 56-4. Penalties**

The making of any willful false statement in the application for an exemption under this ordinance shall be a violation thereof and a conviction for any such violation shall be punishable by a fine of not more than \$100.00 and shall disqualify the applicant or applicants from further exemption for a period of five years.

### **ARTICLE II**

#### **Utilities**

**[Adopted 12-17-68 as Local Law No. 1-1968]**

#### **§ 56-5. Imposition of tax.**

Pursuant to the authority granted by Article 6, § 6-640 of the Village Law of the State of New York,<sup>1</sup> from, on and after April 1, 1968, there is hereby imposed:

- A. A tax equal to one percent (1%) of the gross income of every utility doing business in the Incorporated Village of Port Dickinson which is subject to the supervision of the New York State Department of Public Service and which has an annual gross income in excess of five hundred dollars (\$500.), except motor carriers or brokers subject to such supervision under Article 3-B of the Public Service Law.
- B. A tax equal to one percent (1%) of the gross income of every other utility doing business in the Incorporated Village of Port Dickinson which has an annual gross operating income in excess of five hundred dollars (\$500.).

<sup>1</sup> Editor's Note: For current provisions regarding Village authorization to impose taxes on utilities, see §5-530 of the Village Law of the State of New York



## § 56-6. Definitions.

As used in this Article the following terms shall have the meanings indicated:

### **GROSS INCOME –**

- A. In the case of a utility engaged in selling telephony or telephone service, only receipts from local exchange service wholly consummated within the village.
- B. In the case of a utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated with the village.
- C. In the case of any utility other than described in Subsections A and B above:
  - (1) Receipts received in or by reason of any sale, conditional or otherwise, except sales hereinafter referred to with respect to which it is provided that profits from the sale shall be included in gross income, made or service rendered for ultimate consumption or use by the purchaser in the village, including cash, credits and property of any kind or nature; whether or not such sale is made or such service is rendered for profit, without any deductions therefrom on account of the cost of the property sold, the cost of the materials used, labor services or other costs, interest or discount paid or any other expense whatsoever.
  - (2) Profits from the sale of securities.
  - (3) Profits from the sale of real property growing out of the ownership or use of or interest in such property.
  - (4) Profits from the sale of personal property other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the period for which a return is made.
  - (5) Receipts from interest, dividends and royalties derived from sources within the village (other than such as are received from a corporation, a majority of whose voting stock is owned by the taxing utility) without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof.
  - (6) Profits from any transaction, except sales for resale and rentals with the village whatsoever.

**GROSS OPERATING INCOME –** Receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water, refrigeration, telephone or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigerator, telephone or telegraph service in the village, account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid or any other expense whatsoever.

**PERSON** – Persons, corporations, companies, associations, joint-stock associations, copartnerships, estates, assignee of rents, any person acting in a fiduciary capacity or any other entity; and persons, their assignees, lessees, trustees or receivers appointed by any court whatsoever, or by any other means; and excepting the state, municipality, public districts, and corporations and associations organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

**UTILITY –**

- A. Every person subject to the supervision of the State Department of Public Service, except:
- (1) Persons engaged in the business of operating or leasing sleeping and parlor railroad cars.
  - (2) Persons engaged in the business of operating or leasing railroads other than street surface, rapid transit, subway and elevated railroads.
  - (3) Omnibus corporations subject to supervision under Article 3-A of the Public Service Law.
- B. Every person who sells gas, electricity, steam, water, refrigeration, telephony or telegraphy delivered through mains, pipes or wires, whether or not such person is subject to the supervision of the State Department of Public Service.
- C. Every person who furnishes gas, electric, steam, water, refrigerator, telephone or telegraph service by means of mains, pipes or wires, regardless of whether such activities are the main business of such person or are only incidental thereto, or of whether use is made of the public streets.

**§ 56-7. Application of provisions.**

This Article and the tax imposed thereby shall:

- A. Apply only within the territorial limits of the Village of Port Dickinson.

- B. Not apply and the tax shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of Port Dickinson, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.
- C. Be in addition to any and all other taxes and fees imposed by any other provisions of law.
- D. Apply to all subject income received on and after July 1, 1968.

**§ 56-8. Disposition of revenues.**

All revenues resulting from the imposition of the tax imposed by this Article shall be paid into the treasury of the village and shall be credited to and deposited in the general fund of the village.

**§ 56-9. Collection and enforcement; rules and regulations.**

The Village Treasurer shall be the chief enforcement officer of this Article and shall make and be responsible for all collections hereunder. He shall also have the power and authority to make any rules or regulations or directives, not inconsistent with law, which, in his discretion, are reasonably necessary to facilitate the administration of this Article and the collection of the taxes imposed hereby. Copies of all such rules and regulations and directives, as may from time to time be promulgated, shall be sent by registered mail to all utilities subject to this Article which register as such with the Village Treasurer. All such rules, regulations and directives shall be deemed a portion of this Article.

**§ 56-10. Filing of returns; contents.**

- A. Time of filing. Every utility subject to a tax hereunder shall file on or before July 1 and January 1 a return for the six (6) calendar months preceding each return date, including any period for which the tax imposed hereby or any amendment hereof is effective. However, any utility whose average gross income or gross operating income for the aforesaid six-months period is less than three thousand dollars (\$3,000.) may file a return annually on October 1 for the twelve (12) calendar months preceding each return date, including any period for which the tax imposed hereby or any amendment thereof is effective. Any utility, whether subject to tax under this Article or not, may be required by the Village Treasurer to file an annual return.
- B. Contents. Returns shall be filed with the Village Treasurer on a form to be furnished by him for such purpose and shall show thereon the gross income or gross operating income for the period covered by the return and such other information, data or matter as the Village Treasurer may require to be included therein. Every return shall have annexed thereto a certification by the head of the utility making the same or of the owner or of a copartner thereof, or of a principal corporate officer, to the effect that the statements contained therein are true.

#### **§ 56-11. Payment of tax.**

At the time of filing a return as required by this Article, each utility shall pay to the Village Treasurer the tax imposed hereby for the period covered by such return. Such tax shall be due and payable at the time of the filing of the return or if a return is not filed when due, on the last day on which the return is required to be filed.

#### **§ 56-12. Penalty for noncompliance.**

Any utility failing to file a return or a corrected return, or failing to pay any tax or any portion thereof within the time required by this Article shall be subject to a penalty of five percent (5%) of the amount of tax due, plus one percent (1%) of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed or such tax became due; but the Village Treasurer, if satisfied that the delay was excusable, may remit all or any portion of such penalty.

#### **§ 56-13. Tax part of operating costs.**

The tax imposed by this Article shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others but shall constitute a part of the operating costs of such utility.

#### **§ 56-14. Failure to file or insufficient return.**

In case any return filed pursuant to this Article shall be insufficient or unsatisfactory to the Village Treasurer, he may require at any time a further or supplemental return, which shall contain any data that may be specified by him, and, if a corrected or sufficient return is not filed within twenty (20) days after the same is required by notice from him, or, if no return is made for any period, the Village Treasurer shall determine the amount due from such information as he is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. He shall give notice of such determination to the utility liable for such tax. Such determination shall finally and irrevocably fix such tax unless the utility against which it is assessed shall, within one (1) year after the giving of notice of such determination, apply to him for a hearing or unless the Village Treasurer, of his own motion, shall reduce the same. After such hearing he shall give notice of his decision to the utility liable for such tax.

#### **§ 56-15. Review of final determination.**

Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or for any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if the proceeding is commenced within ninety (90) days after the giving of notice of such final determination; provided, however, that any such proceeding under said Article 78 shall not be instituted unless the amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law, ordinance or resolution, shall be first deposited and an undertaking filed, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

#### **§ 56-16. Notices.**

Any notice authorized or required under the provisions of this Article may be given by mailing the same to the utility for which it is intended, in a postpaid envelope, addressed to such utility at the address given by it in the last return filed by it under this Article, or if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the utility to which addressed. Any period of time which is determined according to the provisions of this section by the giving of notice shall commence to run from the date of mailing of such notice.

#### **§ 56-17. Refunds.**

If within one (1) year from the giving of notice of any determination or assessment of any tax or penalty, the person liable for the tax shall make application for a refund thereof and the Village Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Village Treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Village Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Village Treasurer as hereinbefore provided unless the Village Treasurer, after a hearing as hereinbefore provided, or of his own motion, shall have reduced the tax or penalty or it shall have been established in a proceeding in the manner provided in the Civil Practice Law and Rules that such determination was erroneous or illegal. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of and the Village Treasurer may receive additional evidence with regard thereto. After making his determination the Village Treasurer shall give notice thereof to the person interested and he shall be entitled to commence a proceeding to review such determination in accordance with the provisions of the following section hereof.

#### **§ 56-18. Review of proceedings for refund.**

Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the Village Treasurer, and he shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that such proceeding is instituted within ninety (90) days after the giving of the notice of such denial that a final determination of tax due was not previously made and that an undertaking is filed with the Village Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

#### **§ 56-19. Additional tax limitations; exceptions.**

Except in the case of a willfully false or fraudulent return with the intent to evade the tax, no assessment or additional tax shall be made with respect to taxes imposed under this Article after the expiration of more than three (3) years from the date of filing of a return; provided, however, that where no return has been filed as required hereby, the tax may be assessed at any time.

#### **§ 56-20. Village Treasurer; powers and duties.**

In addition to any other powers herein given the Village Treasurer and in order to further insure payment of the tax imposed hereby, he shall have the power to:

- A. Prescribe the form of all reports and returns required to be made.
- B. Take testimony and proofs, under oath, with reference to any matter hereby entrusted to him.
- C. Subpoena and require the attendance of witnesses and the production of books, papers, records and documents.

#### **§ 56-21. Action to enforce payment of tax.**

Whenever any person shall fail to pay any tax or penalty imposed by this Article, the Village Attorney shall, upon the request of the Village Treasurer, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Village Treasurer. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by § 186-a of the Tax Law is made a lien.

## ARTICLE III

### **Alternative Veterans Exemption [Adopted 11-20-84 as L.L. No. 6-1984; Repealed 8-10-93; Reenacted 8-10-93 as L.L. No. 3-1993]**

#### **§ 56-22. Purpose.**

The purpose of this law is to reduce the maximum veterans exemption allowable pursuant to Section 458-a of the Real Property Tax Law of the State of New York.

#### **§ 56-23. Exemption granted.**

Pursuant to the provisions of subdivision 2(d) of Section 458-a of the Real Property Tax Law of the State of New York, the maximum veterans exemption from real property taxes allowable pursuant to Section 458-a of the Real Property Tax Law is established as follows:

- A. Qualifying residential real property shall be exempt from taxation to the extent of fifteen percent of the assessed value of such property, provided, however, that such exemption shall not exceed the lesser of nine thousand dollars or the product of nine thousand dollars multiplied by the latest state equalization rate, or in the case of a special assessing unit, the latest class ratio for the Village of Port Dickinson.
- B. In addition to the exemption provided by paragraph (a) of the subdivision, where the veteran served in a combat theatre or combat zone of operations, as documented by the award of a United States campaign ribbon or service medal, qualifying residential real property also shall be exempt from taxation to the extent of ten percent of the assessed value of such property, provided, however, that such exemption shall not exceed the lesser of six thousand dollars or the product of six thousand dollars multiplied by the latest state equalization rate or in the case of a special assessing unit, the latest class ratio for the Village of Port Dickinson.
- C. In addition to the exemptions provided by paragraphs (a) and (b) of this subdivision, where the veteran received a compensation rating from the United States Veteran's Administration because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by fifty percent of the veteran's disability rating, provided, however, that such exemption shall not exceed the lesser of thirty thousand dollars or the product of thirty thousand dollars multiplied by the latest state equalization rate or in the case of a special assessing unit, the latest class ratio for the Village of Port Dickinson.

## CHAPTER 57

### STANDARDS FOR THE PLANTING, MAINTENANCE AND REMOVAL OF TREES ALONG STREETS AND PUBLIC AREAS

§ 57-1. Purpose.

§ 57-2. Definitions.

§ 57-3. Street Tree Species to be Planted.

§ 57-4. Spacing.

§ 57-5. Distance from Curb and Sidewalk

**§ 57-6. Distance from Street Corners, Driveways, Fire Hydrants, Stop Signs or  
Traffic Markers, Utility Poles, Street Lights, Underground Utility Lines.**

§ 57-7. Overhead Primary Electric Power Lines.

§ 57-8. Public Tree Care.

§ 57-9. Tree Topping.

§ 57-10. Pruning; Clearance.

§ 57-11. Dead or Diseased Street Tree Removal.

§ 57-12. Penalty.

§ 57.13. Tree Board

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson November 13,  
2001 as Local Law 16-2001 & Amended by Local Law No. 10-2008]**

§ 57-1. Purpose.

The purpose of this local law is to enhance the safety, health and welfare of the people of the Village of Port Dickinson by establishing standards for tree planting, maintenance and removal in the area between the public sidewalk and highway curb.



## § 57-2. Definitions.

BOARD OF TRUSTEES — The duly elected Mayor and Trustees of the Village of Port Dickinson.

PROGRAM TREES — Trees planted by the Village as part of an official improvement or renovation project or program.

PUBLIC TREES — Trees, shrubs, bushes and all other woody vegetation on lands belonging to the Village other than street lawns.

STREET TREES — Trees, shrubs, bushes and all other woody vegetation on land lying between the curb line and the sidewalks on either side of the streets within the Village.

VILLAGE — The Village of Port Dickinson, Broome County, New York.

## § 57-3. Street Tree Species to be Planted.

The following list constitutes the Street Tree species for the Village of Port Dickinson. Additional trees may be added at the recommendation of the Village Tree Board and the approval of the Village Board of Trustees. No species other than those included in the Street Tree list may be planted by property owners as Street Trees without written permission of the Board of Trustees: **(Amended by Local Law No. 10-2008)**

- American Hornbeam
- Goldenrain Tree
- Flowering Crabapple
- Japanese Tree Lilac
- Ivory Silk Lilac
- Honeylocust (thornless)
- Kwanzan Oriental Cherry
- Callery Pear
- Cleveland Select Pear
- Swamp White Oak
- London Planetree
- Accolade Elm
- Frontier Elm
- Zelcova
- Katsura Tree
- Linden Tree (silver or little leaf)
- Freeman Maple (Red Sunset, Scarlet Sentinel, or Armstrong)
- Sky Master English Oak

#### **§ 57-4. Spacing.**

The spacing of Street Trees will be in accordance with the tree species size classes listed in Section 57-3, and no trees may be planted closer together than the following: Small Trees, 25 feet; and Medium Trees, 35 feet; except in special planting approved by the Board of Trustees.

#### **§ 57-5. Distance from Curb and Sidewalk.**

The distance trees may be planted from curbs or curblines, and sidewalks will be in accordance with the tree species size classes listed in Section 57-3 and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 1 and one-half (1.5) feet; and Medium Trees, 3 feet.

#### **§ 57-6. Distance from Street Corners, Driveways, Fire Hydrants, Stop Signs or Traffic Markers, Utility Poles, Street Lights, Underground Utility Lines.**

No Street Tree shall be planted closer than: 30 feet from any street corner, measured from the point of nearest intersecting curbs or curblines; 10 feet from any driveway; 10 feet from any fire hydrant; 20 feet from any stop sign or traffic marker; 10 feet from a utility pole; 20 feet from a street light; and five feet from any underground utility line, except in exceptional circumstances, with the written permission of the Board of Trustees.

#### **§ 57-7. Overhead Primary Electric Power Lines.**

No Street Trees, other than those species listed as Small Trees in Section 57-3, may be planted under or within 10 lateral feet of any overhead primary electric power line.

#### **§ 57-8. Public Tree Care.**

The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and other public grounds, as may be necessary to insure public safety, or to preserve or enhance the symmetry and beauty of such public grounds. The Board of Trustees may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature, is injurious to utility lines or other public improvements. This section does not prohibit the planting of Street Trees by adjacent property owners provided that the selection and location of said trees is in accordance with Sections 57-3 through 57-7.

### **§ 57-9. Tree Topping.**

It shall be unlawful, as a normal practice, for any person or firm to “top” any tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged or certain trees under obstructions where other pruning practices are impractical may be exempted from this limitation by the Board of Trustees.

### **§ 57-10. Pruning; Clearance**

Every owner of any tree on private property overhanging any street or right-of-way or sidewalk within the Village shall prune the branches so that they do not obstruct the light from any street lamp or obstruct the view of any street intersection or obstruct persons using public sidewalk and so that there shall be a clear space of seven feet (7') above the surface of the street or sidewalk. Property owners shall remove all dead, diseased or dangerous trees on private property or broken or decayed limbs which constitute a menace to the safety of the public. The Village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light from a street light or interferes with visibility of any traffic control device or obstructs the view of any intersection.

### **§ 57-11. Dead or Diseased Street Tree Removal.**

On the recommendation of the Commissioner of Public Works, the Village shall have the right to cause the removal of any dead or diseased Street Trees within the Village, when such trees constitute a hazard to life and property or have caused the upheaval of public sidewalks. All stumps of Street Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

### **§ 57-12. Penalty.**

Any person violating any provisions of this Local Law shall be, on conviction or a plea of guilty, subject to a fine not to exceed \$200.00.

§ 57-13. Tree Board (**Added by Local Law No. 10-2008 Dated 12-9-2008**)

The Village of Port Dickinson hereby establishes a Village Tree Board to oversee the reforestation of the Village. The Tree Board shall be in charge of all Street Tree planting by the Village of Port Dickinson and shall be in charge of all tree planting on public property within the Village.

In addition, the Tree Board shall be in charge of any incentive programs offered to Village residents to encourage additional tree planting on private property.

The Tree Board will consist of three members to be appointed by the Village Mayor. Two of these members will be private citizens of the Village. The third member will be the current Village Arborist. The terms will be for three years with the exception of the first Board. On this Board the first member will serve a two year term, the second member will serve a three year term. The Village Arborist will serve at the pleasure of the Village Mayor. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term. Members of the Board shall serve without compensation.

It shall be the responsibility of the Board to study, investigate, counsel, develop, update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of street trees and public care trees. Such plan will be presented annually to the Board of Trustees and upon their acceptance and approval shall constitute the official comprehensive Village Tree Plan. The Tree Board, when requested by the Board of Trustees, shall consider, investigate, make findings, report and recommend upon any special matter or questions coming within the scope of their work.

The Board shall choose its own officers, make its own procedural rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

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## **Chapter 58**

### **UNSAFE BUILDINGS AND COLLAPSED STRUCTURES**

- § 58-1. Purpose.**
- § 58-2. Title.**
- § 58-3. Definitions.**
- § 58-4. Investigation and Report.**
- § 58-5. Board of Trustees Order.**
- § 58-6. Notice; Contents.**
- § 58-7. Service of Notice.**
- § 58-8. Filing of Notice.**
- § 58-9. Refusal to Comply.**
- § 58-10. Assessment of Expenses.**
- § 58-11. Emergency Cases.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson ?August 11, 1998 as Local Law 3-1998.]**

#### **§ 58-1. Purpose.**

Unsafe buildings pose a threat to life and property in the Village of Port Dickinson. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for young children who may be injured therein, as well as point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation thereby creating a health menace to the community. It is the purpose of this local law to provide for the safety, health protection and general welfare of persons and property in the Village of Port Dickinson by requiring such unsafe buildings be repaired or demolished and removed.

#### **§ 58-2. Title.**

This local law shall be known as “Unsafe Buildings Law” of the Village of Port Dickinson.

### **§ 58-3. Definitions.**

- (1) "Building" means any building, structure or portion thereof used for residential, business or industrial purpose.
- (2) "Building Inspector" means the building inspector of the Village of Port Dickinson or such other person appointed by the Village Board of Trustees to enforce the provisions of this local law.

### **§ 58-4. Investigation and Report.**

When in his own opinion or upon receipt of information that a building:

- (1) Is or may become dangerous or unsafe to the general public,
- (2) Is open at the doorways and windows making it accessible to and an object of attraction to minors under eighteen years of age, as well as vagrants and other trespassers,
- (3) Is or may become a place of rodent infestation;
- (4) Presents any other danger to the health, safety, morals and general welfare of the public; or
- (5) Is unfit for the purposes for which it may lawfully be used, the Building Inspector shall cause or make an inspection thereof and report in writing to the Board of Trustees his findings and recommendations in regard to its repair or demolition and removal.

### **§ 58-5. Board of Trustees Order.**

The Board of Trustees shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building is unsafe and dangerous and order its repair if the same can be safely repaired or its demolition and removal, and further order that a notice be served upon the persons and in the manner provided herein.

**§ 58-6. Notice; Contents.**

The notice shall contain the following:

- (1) a description of the premises,
- (2) a statement of the particulars in which the building is unsafe or dangerous,
- (3) an order outlining the manner in which the building is to be made safe and secure, or demolished and removed,
- (4) a statement that the securing or removal of such building shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter, unless for good cause shown such time shall be extended,
- (5) a date, time and place for a hearing before the Board of Trustees in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than five business days from the date of service of the notice, and
- (6) a statement that in the event of neglect or refusal to comply with the order to secure or demolish and remove the building, the Board of Trustees is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of demolition, including legal expenses.

**§ 58-7. Service of Notice.**

The said notice shall be served:

- (1) By personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in such unsafe building as shown by the records of the receiver of taxes (or tax collector) or of the county clerk; or if no such person can be reasonably found by mailing such owner by registered mail a copy of such notice directed to his last known address as shown by the above records,
- (2) By personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found, and
- (3) By securely affixing a copy of such notice upon the unsafe building.



**§ 58-8. Filing of Notice.**

A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Broome.

**§ 58-9. Refusal to Comply.**

In the event of the refusal or neglect of the person so notified to comply with said order of the Board of Trustees and after the hearing, the Board of Trustees shall provide for the demolition and removal of such building or structure either by Village employees or by contract. Except in emergency as provided in Section 11 hereof, any contract for demolition and removal of a building in excess of \$20,000.00 shall be awarded through competitive bidding.

**§ 58-10. Assessment of Expenses.**

All expenses incurred by the Village in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, and all reasonable and necessary legal expenses incidental thereto, shall, at the option of the Board of Trustees, either:

- (1) Be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in the Village Law for the levy and collection of Village taxes, or
- (2) Be collected by commencement of a special proceeding against the owner of said unsafe or dangerous building or structure pursuant to General Municipal Law Section 78-b.

**§ 58-11. Emergency Cases.**

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building is immediately repaired and secured or demolished, the Board of Trustees by resolution authorize the building inspector to immediately cause the repair or demolition of such unsafe building. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in Section 10 hereof.

**VEHICLES, ABANDONED**

**§ 59-1. Purpose.**

**§ 59-2. Definitions.**

**§ 59-3. Prohibitions.**

**§ 59-4. Notice of violation; abatement by village.**

**§ 59-5. Restoration permits.**

**§ 59-6. Amnesty period.**

**§ 59-7. Additional rules and regulations.**

**§ 59-8. Penalties for offenses.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson ?6-15-65 as Local Law No. 1-1965; amended in its entirety 7-11-72 as Local Law ?No. 1-1972. Section 59-8 amended during codification. Other amendments noted where applicable.]**

**GENERAL REFERENCES**

Property maintenance — See Ch. 45. Vehicles and traffic — See Ch. 60.

**§ 59-1. Purpose.**

The seriousness of the matter of the outdoor storage of abandoned, junked, discarded or inoperative motor vehicles upon privately owned properties within the village increases with the passage of time. It is a source of vexation and annoyance, not only to the members of the traveling public, but to the owners and occupants of adjoining lands. The outdoor storage of such vehicles upon private lands is unsightly. It constitutes an attractive nuisance to children and a peril to their safety in case of fire or explosion whenever gasoline is left in the fuel tanks of such vehicles. It depreciates the values of neighboring properties. The preservation of peace and good order, the suppression of vice, the benefit of trade, the preservation of public health, the protection of property and the prevention and extinguishment of fires and explosions compel the Board of Trustees of the Village of Port Dickinson to legislate upon this subject matter. It is hereby declared that the adoption of this chapter has for its purpose the effective termination of such obnoxious practice.

## **§ 59-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**MOTOR VEHICLE** — All vehicles propelled or drawn by power, other than muscular power, originally intended for use on public highways, private roads or trails, or across open terrain, which said definition shall include but not be limited to: trailers, detachable truck bodies and campers, pumps, tanks or any other device used in connection with a motor vehicle as hereinbefore defined.

**OPENLY STORED** — Storage other than in a completely enclosed structure such as a garage, which such structure shall be constructed completely of wood, brick, masonry blocks or metal.

## **§ 59-3. Prohibitions.**

It shall be unlawful and a violation of this chapter for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise, to openly store or deposit, or cause or permit to be stored or deposited, any old, unregistered or secondhand motor vehicle no longer intended or in condition for legal use on the public highway, or parts or waste material from such motor vehicles, upon any private or public land or premises within the corporate limits of the Village of Port Dickinson.

## **§ 59-4. Notice of violation; abatement by village.**

In the event of a violation of the provisions of § 59-3 of this chapter, the Village Clerk shall serve or cause to be served, either personally or by mail, a written notice upon the owner, occupant, lessee, agent, tenant or person having charge of the land where such violation occurs to comply with the provisions of this chapter. If the person so served fails or refuses to comply with the provisions of this chapter within ten (10) days after the service of such notice, the Village of Port Dickinson shall cause such motor vehicle or parts thereof prohibited by § 59-3 of this chapter to be removed and destroyed and such nuisance to be suppressed. The cost incurred by the village in causing the removal and destruction of any such motor vehicle, motor vehicles or parts thereof shall be assessed against the land where the violation occurs, shall constitute a lien thereon and shall be collected as provided by law.

**§ 59-5. Restoration permits.**

- A. Upon written application and the deposit of thirty dollars (\$30.), the village Enforcement Officer may, in his discretion, issue a permit for the open storage of one (1) motor vehicle otherwise prohibited by this chapter, pending the making of such repairs as are necessary to place this vehicle in condition for legal operation for use on the public highway or for such use as it was originally intended.
- B. The application shall:
- (1) Include a representation and agreement by the applicant that the applicant intends within the permit period to make all such necessary repairs and that if such repairs have not been made by the end of the permit period that the applicant will terminate the open storage of such motor vehicle within the Village of Port Dickinson.
  - (2) State whether the applicant is the owner of said vehicle or, if not, the name and address of the owner, together with a complete description of the vehicle, the repairs to be effected and whether the applicant will make the repairs himself or, if not, the person or persons who will make such repairs.
  - (3) Set forth the place where the vehicle is presently stored, the place where the repairs will be made and the name and address of the owner of such property or the tenant in possession.
  - (4) Contain a license to the village to enter the premises where the vehicle is stored for the purpose of inspecting the same, for removing the vehicle from said premises and for destroying the same following the expiration of the permit. Such license shall be irrevocable for a period of ninety (90) days from the expiration of the permit.
- C. A five dollar (\$5.) fee shall be charged for the permit and the applicant shall deposit with the village thirty dollars (\$30.), which deposit shall be refunded if within the period the vehicle shall cease to be a motor vehicle prohibited by the provisions of this chapter or shall cease to be openly stored within the Village of Port Dickinson at the owner's expense, but if neither condition is complied with, such thirty dollar (\$30.) deposit shall be forfeited to the Village of Port Dickinson.
- D. A separate permit shall be required for each vehicle and shall only be valid as to that vehicle and as to that particular place of storage designated in the application. All permits shall be issued for not in excess of sixty (60) days and may be extended only once up to fifteen (15) days.

- E. Vehicles in violation of this chapter after the expiration of the permit herein provided for shall be removed and destroyed by the village pursuant to the provisions of § 59-4 of this chapter.

#### **§ 59-6. Amnesty period.**

- A. No legal action shall be taken against any person, firm or corporation with regard to any violation of this chapter prior to this amendment, which violation exists on the date of the enactment of this amendment to this chapter; provided, however, that such person, firm, or corporation terminates all violations either by removal, repair or permit, as herein provided, within thirty (30) days of the effective date of this amendment.
- B. The provisions of this amnesty clause shall not be interpreted as making legal for any other purpose the storage of any vehicle or to create any nonconforming use or to create any break in time with regard to the length of time that the storage of any vehicle has been illegally stored.

#### **§ 59-7. Additional rules and regulations.**

An enforcement officer and or the Village Board of Trustees may make reasonable rulings and may issue reasonable regulations for the furtherance of this chapter.

#### **§ 59-8. Penalties for offenses.<sup>1</sup>**

- A. Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.
- B. In addition to the above provided penalties, the Village Board of Trustees may also maintain an action or proceeding, in the name of the village, in a court of competent jurisdiction, to compel compliance with or to restrain by injunction the violation of this chapter. The Village may also seek restitution for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. [Underlined text added 5/8/12, LL 3-2012]

<sup>1</sup> Editor's Note: Amended during codification; see Ch. 1, General Provisions, Article II.



## **Chapter 60**

### **VEHICLES AND TRAFFIC**

#### **ARTICLE I**

##### **General Provisions**

**§ 60-1. Definitions and word usage.**

**§ 60-2. Authority to install traffic control devices.**

**§ 60-3. Implementation of provisions.**

#### **ARTICLE II**

##### **Traffic Regulations**

**§ 60-4. Traffic control signals.**

**§ 60-5. Prohibited turns at intersections.**

**§ 60-6. Lanes reserved.**

**§ 60-7. Through streets.**

**§ 60-8. Stop intersections.**

**§ 60-9. Yield intersections.**

**§ 60-10. One-way streets.**

**§ 60-11. Speed regulations.**

#### **ARTICLE III**

##### **Street Closings for Certain Purposes**

**60-12. Weight exclusions.**

#### **ARTICLE IV**

##### **Parking, Standing and Stopping**

**§ 60-13. Application of Article.**

**§ 60-14. No parking at any time.**

- § 60-15. Seasonal parking restriction.
- § 60-16. Parking for repairs.
- § 60-17. Standing prohibited.
- § 60-17.1. No standing certain hours.
- § 60-18. Parking prohibited certain hours.
- § 60-19. Limited-time parking.
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## ARTICLE V

### Removal and Storage of Vehicles

- § 60-21. Authority to impound vehicles.
- § 60-22. Storage and charges.
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## ARTICLE VI

### Penalties; Miscellaneous Provisions

- § 60-24. Penalties for offenses.
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### Schedules

- § 60-28. Schedule I: Traffic Control Signals.
- § 60-29. Schedule II: Prohibited Turns at Intersections.
- § 60-30. Schedule III: Lanes Reserved.
- § 60-31. Schedule IV: Through Streets.
- § 60-32. Schedule V: Stop Intersections.
- § 60-33. Schedule VI: Yield Intersections.



- § 60-34. Schedule VII: One-Way Streets.**
- § 60-35. Schedule VIII: Speed Regulations.**
- § 60-36. Schedule IX: Weight Exclusions.**
- § 60-37. Schedule X: No Parking at Any Time.**
- § 60-38. Schedule XI: Standing Prohibited.**
- § 60-39. Schedule XII: No Parking Certain Hours.**
- § 60-40. Schedule XIII: Limited-Time Parking.**
- § 60-41. Schedule XIV: Bus Stops.**
- § 60-42. Schedule XV: No Standing Certain Hours.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 2-10-76 as Local Law No. 1-1976.1 Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Vehicles on sidewalks — See Ch. 52, § 52-13. Abandoned vehicles — See Ch. 59.

### **ARTICLE I**

#### **General Provisions**

#### **§ 60-1. Definitions and word usage.**

- A. The words and phrases used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them by Article I of the Vehicle and Traffic Law of the State of New York.
- B. The following words and phrases, which are not defined by Article I of the Vehicle and Traffic Law of the State of New York, shall have the meanings respectively ascribed to them in this section for the purposes of this chapter:

**CURBLINE** — The prolongation of the lateral line of a curb or, in the absence of a curb, the lateral boundary line of the roadway.

HOLIDAYS — New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

OFFICIAL TIME STANDARD — Whenever certain hours are named herein or on traffic control devices, they shall mean the time standard which is in current use in this state.

**§ 60-2. Authority to install traffic control devices.**

The Highway Department shall install and maintain traffic control devices, when and as required under the provisions of this chapter, to make effective the provisions of this chapter and may install and maintain such additional traffic control devices as the Board of Trustees may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provisions of §§ 1682 and 1684 of that law.

**§ 60-3. Implementation of provisions.**

The provisions of this chapter shall be implemented by the adoption of regulations by the Board of Trustees or an officer or agency authorized by it pursuant to § 1603 of the Vehicle and Traffic Law. Such regulations shall designate the specific area within which the provisions of this chapter shall be in effect by reference to the appropriate schedule established by this chapter for the recording of such regulations. Such schedules shall be attached to and form a part of this chapter, and the violation of any regulation contained in said schedules shall be deemed a violation of this chapter.

ARTICLE II  
**Traffic Regulations**

**§ 60-4. Traffic control signals.**

Traffic control signals shall be installed, maintained and operated at the intersections and locations described in Schedule I (§ 60-28), subject to the provisions of §§ 1682 and 1684 of the Vehicle and Traffic Law of the State of New York.

**§ 60-5. Prohibited turns at intersections.**

No person shall make a turn of the kind designated (left, right, all) at any of the locations described in Schedule II (§ 60-29).

**§ 60-6. Lanes reserved.**

The street lanes described in Schedule III (§ 60-30) are hereby reserved for the turn or purpose designated in said Schedule III.

**§ 60-7. Through streets.**

The streets or parts of streets described in Schedule IV (§ 60-31) are hereby designated as main arteries of travel, and all vehicles approaching these main arteries shall, before entering the main artery, come to a full stop unless otherwise directed by a peace officer or signal.

**§ 60-8. Stop intersections.**

The intersections described in Schedule V (§ 60-32) are hereby designated as stop intersections, and stop signs shall be erected as indicated.

**§ 60-9. Yield intersections.**

The intersections described in Schedule VI (§ 60-33) are hereby designated as yield intersections, and yield signs shall be erected as indicated.

**§ 60-10. One-way streets.**

The streets or parts of streets described in Schedule VII (§ 60-34) are hereby designated as one-way streets, and vehicles shall proceed in the direction indicated.

## **§ 60-11. Speed regulations.**

The maximum speed at which vehicles may proceed on or along any street or highway within the village is hereby established at thirty (30) miles per hour, except that the speed limit for vehicles proceeding on or along those streets or parts of streets described in Schedule VIII (§ 60-35) shall be as indicated in said schedule.

## **ARTICLE III Street Closings for Certain Purposes**

## **§ 60-12. Weight exclusions.**

- A. All vehicles used for commercial purposes in excess of the indicated maximum weight are hereby excluded from the streets or parts of streets described in Schedule IX (§ 60-36).
- B. The regulations established in this section shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles are otherwise excluded.

## **ARTICLE IV Parking, Standing and Stopping**

## **§ 60-13. Application of Article.**

The provisions of this Article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

## **§ 60-14. No parking at any time.**

The parking of vehicles is prohibited at all times in those streets or parts of streets described in Schedule X (§ 60-37).

### **§ 60-14.1. No Parking (Crosswalks).**

Except when necessary to avoid conflict with other traffic, or when in compliance with law or the directions of a police officer or official traffic-control device, no person shall stop, stand, or park a vehicle on a crosswalk. (Added 2/23/2021, LL 1-2021)

### **§ 60-14.2. No Parking (Driveways).**

Except when necessary to avoid conflict with other traffic, or when in compliance with law or the directions of a police officer or official traffic-control device, no person shall stand or park a vehicle,

whether occupied or not, except momentarily to pick up or discharge a passenger or passengers, in front of a public or private driveway. (Added 2/23/2021, LL 1-2021)

**§ 60-14.3. No Parking (Fire Station).**

Except when necessary to avoid conflict with other traffic, or when in compliance with law or the directions of a police officer or official traffic-control device, no person shall stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers, within twenty feet of the driveway entrance to any fire station and, when on the side of the street opposite to the entrance of any fire station, within seventy-five feet of said entrance, when properly signposted, unless a different distance is indicated by official signs, markings or parking meter. (Added 2/23/2021, LL 1-2021)

**§ 60-14.4. No Parking (Fire Hydrant).**

No person shall stop, stand or park a vehicle within fifteen feet of a fire hydrant except when such vehicle is attended by a licensed operator or chauffeur who is seated in the front seat and who can immediately move such vehicle in case of emergency, unless a different distance is indicated by official signs, markings or parking meter. (Added 2/23/2021, LL 1-2021)

**§ 60-14.5. No Parking (Left Side to Curb).**

Except where angle parking is authorized, every vehicle stopped, standing, or parked wholly upon a two-way roadway shall be so stopped, standing, or parked with the right-hand wheels of such vehicle parallel to and within twelve inches of the right-hand curb or edge of the roadway. (Added 2/23/2021, LL 1-2021)

**§ 60-14.6. No Parking (Wrong Side of One-Way Street).**

Except where angle parking is authorized, every vehicle stopped, standing, or parked wholly upon a one-way roadway shall be so stopped, standing, or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or edge of the roadway, or its left-hand wheels within twelve inches of the left-hand curb or edge of the roadway. (Added 2/23/2021, LL 1-2021)

**§ 60-14.7. No Parking (Handicapped Parking).**

No person shall stop, stand or park a vehicle in any area designated as a place for handicapped parking unless the vehicle bears a valid state or local permit or registration, and such vehicle is being used for the transportation of a severely disabled or handicapped person. (Added 2/23/2021, LL 1-2021)

**§ 60-15. Seasonal parking restriction. (Amended 10-13-09, LL 6-2009)**

Alternate side of the street parking of all vehicles is hereby established as follows:

(1) Alternate side of the street parking shall be in effect from 5:00 p.m. from the first day of November of each year and end at 5:00 p.m. on the first day of April of the following year.

(2) Parking is permitted on the even side of the street on even calendar days. The even side of the street shall be that side of the street having even residence house numbers.

(3) Parking is permitted on the odd side of the street on odd calendar days. The odd side of the street shall be that side of the street with odd residence house numbers.

(4) Parking shall be permitted from 5:00 p.m. daily and shall be in effect until 4:59 p.m. the following day.

(5) After 5:00 p.m., on even days, park on the odd side of the street so that you “Park for Tomorrow”.

(6) After 5:00 p.m. on odd days, park on the even side of the street so that you “Park for Tomorrow”.

(7) These parking restrictions shall apply on all Village streets except:

a. Miller Street between Chenango Street and Elizabeth Street on both sides of that street on which there will be no parking from November 1 to April 1 from 12:00 a.m. (midnight) to 7:00 a.m. (amended 9/13/11, LL 4-2011)

b. Village streets that have no parking on either side of the street allowed at present which include Church Street, Old State Road between Chenango Street and Route 7, Beacon Street from its intersection with Kirkwood Avenue north to Chenango Street

c. Grant Street at Chenango Street on both sides of that street on which there will be no parking 30 feet west of the curb line. **[added 1/14/2020, LL 1-2020]**

(8) This regulation shall be posted at the major entrances of the Village of Port Dickinson. Notice of this regulation shall also be made each year by the publication of one notice in the “Press & Sun Bulletin” and by an announcement on local radio and television, which said publication and announcement shall inform the public at least one (1) week in advance of the effective date of the alternate side of the street parking regulations for that year.

Section 2

All Ordinances, Local Laws and parts thereof inconsistent with the Local Law are hereby repealed.

Section 3

This Local Law shall take effect when it is filed in the Office of the Secretary of

State in accordance with Section 27 of the Municipal Home Rule Law.

**§ 60-16. Parking for repairs.**

The parking or standing of any motor vehicle for the purpose of repair on any street within the Village of Port Dickinson is hereby prohibited, except that the operator of such vehicle may make emergency repairs, provided that such repairs are completed and the vehicle removed within one (1) hour.

**§ 60-17. Standing prohibited.**

The standing of vehicles is hereby prohibited in the locations described in Schedule XI (§ 60-38), except that alternate side of the street parking and standing shall be permitted and enforced as provided in § 60-15.

**§ 60-17.1. No standing certain hours. [Added 12-6-77 by L.L. No. 6-1977]**

The standing of vehicles is hereby prohibited in the locations described in Schedule XV (§ 60-42) during the times indicated.

**§ 60-18. Parking prohibited certain hours.**

The parking of vehicles is hereby prohibited in the locations described in Schedule XII (§ 60-39) during the times indicated.

**§ 60-19. Limited-time parking.**

The parking of vehicles is hereby prohibited in the locations described in Schedule XIII (§ 60-40) for a longer period of time than that designated, during the hours indicated.

## **§ 60-20. Bus stops.**

The locations described in Schedule XIV (§ 60-41) are hereby designated as bus stops, and parking of vehicles is hereby prohibited in such locations.

## **ARTICLE V**

### **Removal and Storage of Vehicles**

## **§ 60-21. Authority to impound vehicles.**

- A. When any vehicle is parked or abandoned on any highway within this village during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway upon which said vehicle is parked or abandoned, said vehicle may be removed by the Highway or Police Department.
- B. When any vehicle is found unattended on any highway or street within this village where said vehicle constitutes an obstruction of traffic, said vehicle may be removed by the Highway or Police Department.
- C. When any vehicle is parked or abandoned on any highway within this village where stopping, standing or parking is prohibited, said vehicle may be removed by the Highway or Police Department.
- D. When any vehicle is parked or remains standing on streets and highways within the Village for a period of more than forty-eight (48) hours exclusive of holidays in the same location and the Enforcement Officer has given written notice to the owner of said vehicle to remove the same within twenty-four (24) hours of receipt of said notice, the vehicle may be removed by the highway or police department. In the event the owner of the vehicle cannot reasonably be located, said notice shall be served by certified mail, and return receipt requested to the owner's last known address. **[Added by L.L. 3-1997]**

## **§ 60-22. Storage and charges.**

After removal of any vehicle as provided in this Article, the Highway Department may store such vehicle in a suitable place at the expense of the owner. Such owner, or the person in charge of the vehicle, may redeem the same upon payment to the Police Department of the amount of all reasonable expenses actually and necessarily incurred in effecting such removal, together with any reasonable charges for storage. **[Amended by L.L. 5-1997]**

## **§ 60-23. Notice of removal.**

It shall be the duty of the Police Department to ascertain the name of the owner of such vehicle or person having charge of the same, and to notify him of the removal and disposition of such vehicle and of the amount which will be required to redeem the same.



ARTICLE VI  
**Penalties; Miscellaneous Provisions**

**§ 60-24. Penalties for offenses (Amended 9-14-10, LL 5-2010)**

A. “(i) Unless otherwise indicated herein, for a violation of any of the provisions of Article IV (Parking, Standing and Stopping), the initial fine for violations of that article shall be a fine of Twenty-five Dollars (\$25.00); however, each violator may, within seven business days, exclusive of the date on which the ticket was issued, or of the time when such notice was attached to such vehicle, pay to the Town Court of the Town of Dickinson as and for a penalty and in full satisfaction of such violation, the sum of Ten Dollars (\$10.00). If a plea of not guilty has not been filed nor the fine paid within 30 calendar days from the date on which the ticket was issued or of the time when such notice was attached to such vehicle, the fine shall be Fifty Dollars (\$50.00).

(ii) Violations of Section 60-14 (Seasonal Parking Restrictions) shall be punishable by a fine of twenty-dollars (\$20.00); however, each violator may, within seven business days, exclusive of the date on which the ticket was issued, or of the time when such notice was attached to such vehicle, pay to the Town Court of the Town of Dickinson as and for a penalty and in full satisfaction of such violation, the sum of Ten Dollars (\$10.00). If a plea of not guilty has not been filed nor the fine paid within 30 calendar days from the date on which the ticket was issued or of the time when such notice was attached to such vehicle, the fine shall be forty dollars (\$40.00).”

**[amended 1/14/2020, LL 1-2020]**

B. Each person convicted of a traffic infraction for any other violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than fifty dollars (\$50.) or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment; for a second conviction within eighteen (18) months thereafter, such person shall be punished by a fine of not more than one hundred dollars (\$100.) or by imprisonment for not more than forty-five (45) days, or by both such fine and imprisonment; and upon a third or subsequent conviction within eighteen (18) months after the first conviction, such person shall be punished by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

Section 2.

All Ordinances, Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 3.

This Local Law shall take effect when it is filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

**§ 60-25. When effective.**

- A. Except those parts, if any, which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York and § 46 of the Highway Law of the State of New York, this chapter and any regulations adopted hereunder shall take effect as provided by law.
- B. Any part or parts of this chapter and any regulations adopted hereunder which are subject to approval under § 1684 of the Vehicle and Traffic Law and § 46 of the Highway Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Department of Transportation.

**§ 60-26. Severability.**

If any Article, section, subsection, paragraph, sentence, clause or provision of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the Article, section, subsection, paragraph, sentence, clause or provision thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 60-27. Repealer.

All prior ordinances, regulations and rules, or parts of such, of this village regulating traffic and parking are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance, regulation or rule hereby repealed prior to the taking effect of this chapter.

ARTICLE VII  
Schedules

§ 60-28. Schedule I: Traffic Control Signals.

In accordance with the provisions of § 60-4, traffic control signals shall be installed. maintained and operated at the following intersections and locations:

Intersection (Location)  
(Reserved)

§ 60-29. Schedule II: Prohibited Turns at Intersections.

In accordance with the provisions of § 60-5, no person shall make a turn of the kind designated below at any of the following locations:

Name of Street	Direction of Travel	Prohibited Turn	At Inter--section of
(Reserved)			

§ 60-30. Schedule III: Lanes Reserved.

In accordance with the provisions of § 60-6, the following lanes are reserved for the purpose indicated:

Direction of Travel	Reserved for
Street Lane	
Chenango Street at Beacon Street	Left North Left turn

**§ 60-31. Schedule IV: Through Streets.**

In accordance with the provisions of § 60-7, the following streets are designated as through streets, and stop signs shall be erected on the entrances thereto:

<b>Direction From</b>		<b>Which Traffic</b>	
<b>Through Street</b>	<b>Location Intersection</b>	<b>Is to Stop</b>	
Beacon Street	From its easterly termination to	Kirkwood Avenue	East
		Hillcrest Avenue	East
	Chenango Street	Rochelle Road	East
Chenango Street	From Bromley Avenue to	Newton Street	East
	Dickinson Avenue	Miller Street	East
	Macomber Avenue	State Road	East
	Terry Avenue	West	
	Wayne Avenue	West	
	Watson Avenue	East	
	James Avenue	West	
	Church Street	East	
	Perkins Avenue	West	
	Gregory Avenue	West	
	Mill Street	East	
	Grant Street	West	
	Phelps Street	Both	
	Lincoln Street	West	
	Access Road D	East	
	Dickinson Avenue		
Rochelle Road	From Beacon going north	Hillcrest Avenue	West
	Avenue	Street to Dickinson	Avenue
		Kirkwood Avenue	West
Rochelle Road	From Kirkwood going south	Hillcrest Avenue	West
	Street	Avenue to Beacon	
State Road	From Brandywine Arterial Highway to Chenango Street	State Street	South
		Kinney Street	South
State Street	From the village line to State Road	Newton Street	Both
		Miller Street	Both

**§ 60-32. Schedule V: Stop Intersections.**

In accordance with the provisions of § 60-8, the following described intersections are designated as stop intersections:

<b>Direction Stop Sign on</b>	<b>of Travel</b>	<b>At Intersection of</b>
Elizabeth Street	South	Newton Street
Grant Street	West	River Street
Kinney Street	South	Miller Street
Kirkwood Avenue	Both	Rochelle Road
Macomber Avenue	West	Riverview Drive
<b>Mill Street [Repealed 12-7-76 by L.L. No. 8-1976]</b>		
Miller Street	East	Elizabeth Street
River Street	South	Mill Street
<b>[Added 12-7-76 by L.L. No. 18-1976]</b>		
Rochelle Road	North	Dickinson Avenue
Rochelle Road	South	Kirkwood Avenue
State Street	South	Bromley Avenue
Summer Street	North	Lincoln Avenue
Summer Street	South	Grant Street
Terry Avenue	West	Riverview Drive
Village of Port Dickinson Park Driveway	East	Chenango Street
<b>[Added 11-20-84 by L.L. No. 3-1984]</b>		

**§ 60-33. Schedule VI: Yield Intersections.**

In accordance with the provisions of § 60-9, the following in-tersections are designated as yield intersections:

<b>Yield Sign on</b>	<b>Direction of Travel (Reserved)</b>	<b>At Intersection of</b>
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**§ 60-34. Schedule VII: One-Way Streets.**

In accordance with the provisions of § 60-10, the following described streets or parts of streets are designated as one-way streets in the direction indicated:

<b>Name of Street</b>	<b>Direction</b>	<b>Limits</b>
King Avenue	North	From Phelps Street to Lin-coln Avenue
Lincoln Avenue	West	From King Avenue to Chen-ango Street
Miller Street	East	From Chenango Street east to
[Added 11-20-84 by L.L. No. 1-1984]		Elizabeth Street

**§ 60-35. Schedule VIII: Speed Regulations.**

In accordance with the provisions of § 60-11, speed limits are established as indicated upon the following streets or parts of streets:

<b>Speed Limit</b>		
<b>Name of Street</b>	<b>(mph)</b>	<b>Location</b>
King Avenue	25	Entire street
Phelps Street	25	West Service Road to Chenango Street

[Revised 6/10/14, LL7-2014]

**§ 60-36. Schedule IX: Weight Exclusions.**

In accordance with the provisions of § 60-12, all vehicles used for commercial purposes are excluded from the streets or parts of streets described below:

<b>Maximum</b>		
<b>Name of Streets</b>	<b>Weight</b>	<b>Location</b>
All streets and highways within the village, except for Brandywine Arterial Highway and Chenango Street	5 tons when loaded	As indicated

[Revised 2-14-95 by Local Law 2-1995.]

[Revised 6-23-08 by Local Law 6-2008]

B. In accordance with the provisions of § 60-12, all heavy construction vehicles with weight in excess of 5 tons, except those providing public services deemed necessary in preventing emergencies or in safeguarding the public health, safety and welfare, are excluded from the streets or parts of streets described below except those with a valid permit issued as provided in §60-36C.

**Name of Streets**

- Phelps Street from Chenango Street to Town of Dickinson line
- Old State Road from Chenango Street to Town of Dickinson line
- Lincoln Avenue Extension (formerly King Avenue)
- All roadways within Jeanne and John D. Wilfley Community Park

C. Permits and transfer of permits.

1. Vehicles which require access to the above listed Village streets may be issued individual or fleet permits issued in the name of the applicant and identifying covered vehicles by model year, manufacturer's name, vehicle identification number and registration number (tag number). Said permits are otherwise subject to all terms and conditions of §60-36.
2. Vehicle indemnification. The applicant shall provide a hold harmless agreement and shall indemnify the Village for any damage caused to Village streets while operating thereon.

3.Fees.

a. The following fee schedule shall apply to all permits issued under §60-36:

Permit Time Period			
Up to 1 <u>Month</u>	1 to 3 <u>Months</u>	3 to 6 <u>Months</u>	6 Months <u>to 1 Year</u>
\$75.00	\$125.00	\$175.00	\$250.00

b Utility companies and authorities that are subject to a gross receipt franchise tax, or similar purpose tax, are excepted from the permit fee requirements

D. Damage. With the exception of normal wear and tear, the owner of any vehicle operated on Village streets, whether that vehicle has a valid permit or not, is responsible for all damages done to the roadways, ditches, curbs, sidewalks or other improvements and to public utilities in the roadway. Upon due notice being given to the owner and at its option, the Village may ask the vehicle owner to repair all damages or the Village may prefer to arrange the necessary repairs and charge the vehicle owner for all labor and materials at the prevailing rates

E. Maintenance Bond and Liability Insurance. No permit shall be issued unless the person to whom the permit is to be issued shall have filed with the application for such permit a liability insurance policy or certificate thereof naming the Village as an additional insured with the minimum limits of coverage for bodily injury equal to \$1,000,000.00 for each person injured, \$2,000,000.00 for aggregate bodily injury resulting from each occurrence, and \$500,000.00 property damage.

The applicant shall also file a maintenance bond in the amount of \$100,000.00 and a bank letter of credit in the amount of \$10,000.00 in favor of the Village guaranteeing compliance with the provisions of the permit. At such time, if ever, that said letter of credit is expended, the permittee shall replace the same within 5 days written notice of the Village, failing which the permit shall be subject to revocation.

**[Revised 6-2008 by Local Law 6-2008]**



## **§ 60-37. Schedule X: No Parking at Any Time.**

In accordance with the provisions of § 60-14, no person shall park a vehicle at any time upon the following streets or parts of streets:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Church Street	Both	From its termination to Chenango Street
Grant Street	South	From Chenango Street west to River Street
<b>[Added 12-10-85 by L.L. No. 4-1985]</b>		
King Avenue	West	From Phelps Street to Lincoln Avenue
Lincoln Avenue	South	From King Avenue west to Chenango Street
Phelps Street	North	From King Avenue west to Chenango Street
<b>[Added 6-8-82 by L.L. No. 4-1982]</b>		
Riverview Road	West	From a point beginning at the south curbside of Macomber Avenue, extending north 190 feet
<b>[Added 2-13-90 by L.L. No. 4-1990]</b>		
Chenango Street	East	From the southerly curb line of Phelps Street to a point 105 feet south of the said curb line.
<b>[Added 4-13-93 by L.L. No. 2-1993]</b>		
Chenango Street	East	From the southerly curb line of State Road to a point 120 feet south of the said curb line.
<b>[Added 4-13-93 by L.L. No. 2-1993]</b>		
Chenango Street	East	From the southerly edge of pavement of Wayne Avenue, southerly for a distance of 150'+/-; From the Southerly curb line of James Avenue, southerly, for a distance of 150'+/-; From the southerly curb Line of Lincoln Street, southerly, for a distance of 175'+/-
<b>[Added 10-9-01 by L.L. No. 14-2001]</b>		
Mill Street		Both from its intersection with Chenango Street to its intersection with River Street in area between sidewalks and blacktop of street
<b>[Added 9-14-10, LL 4-2010]</b>		
Miller Street	South	225'+/- from the easterly curb line of Chenango Street to 330'+/- from the easterly curb line of Chenango Street, totaling 75'+/-
<b>[Added 6-14-05 by L.L. No. 4-2005]</b>		
All Village Streets	Both	In areas between sidewalks and blacktop of street
<b>(Added 1-8-13, LL 1-2013)</b>		
Grant Street	North	From the easterly curb line of Summer Street to a point 30 feet east of said curb line
<b>[added 10-8-19, LL 2-2019]</b>		
Grant Street	North	From the westerly curb line of Summer Street to a point 30 feet west of said curb line
<b>[added 10-8-19, LL 2-2019]</b>		

Grant Street	North	From the westerly curb line of Chenango Street to a point 30 feet west of said curb line [added 1/14/2020, LL 1-2020]
Summer Street	East	From the northerly curb line of Grant Street to a point 30 feet north of said curb line [added 10-8-19, LL 2-2019]
Lincoln Street	South	From the easterly curb line of Summer Street to a point 100 feet east of said curb line [added 10-27-2020, LL 10-2020]

**§ 60-38. Schedule XI: Standing Prohibited.**

In accordance with the provisions of § 60-17, the standing of vehicles is prohibited in the following locations:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Beacon Street	Both	From the south side of Kirk-wood Avenue north to Chenango Street- [Amended 6-8-82 by L.L. No. 2-1982]
Chenango Street	East	From the south end of the bridge over Phelps Creek continuing north to a point 117 feet north from the north curbline of Dickinson Avenue [Added 9-14-04 by LL No. 5-2004]
All Village Streets	Both	In area between sidewalks and blacktop of street (Added 1-8-13, LL 1-2013)

Chenango Street [**Added 12-7-76 by L.L. No. 3-1976;**  
**repealed 1-2-6-77 by L.L. No. 5-1977]**

Chenango Street [**Repealed 6-8-82 by L.L. No. 1-1982]**

Chenango Street [**Repealed 6-8-82 by L.L. No. 1-1982]**

Chenango Street [**Repealed 6-8-82 by L.L. No. 1-1982]**

Chenango Street	West	Entire street, except from the Town of Fenton - Village of Port Dickinson boundary line on the north, southerly to a point 50 feet north from where the north curbline of Dickinson Avenue, if extended, would in-tersect the west curbline of Chenango Street
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Dickinson Avenue  
**[Added 2-13-1990 by**  
**L.L. No. 1-1990] [Deleted by L.L. No. 2-2004]**

Gregory Avenue	South	Entire street
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**[Added 10-18-77 by**  
**L.L. No. 4-1977]**

James Avenue	South	Entire street
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Kinney Street	East	Entire street
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Lincoln Avenue	North	Entire street
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Mill Street	Both	From its intersection with Chenango Street to its intersection with River Street in area between sidewalks and blacktop of street
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**[Amended 9-14-10, LL 4-2010]**

Miller Street	North	From Chenango Street to a point 120 feet east of Chenango Street-
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**[Amended 12-7-76**  
**by L.L. No. 5-1976]**

Miller Street	South	From Elizabeth Street to a point 61 feet east of Chen-ango Street
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Newton Street	South	Entire street
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Phelps Street	North	From King Avenue west to Chenango Street
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**[Added 6-8-82 by L.L. No. 5-1982]**

River Street	East	From Mill Street north to Grant Street
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<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
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River Street	West	Entire street
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Riverview Road terminus	East	From Macomber Avenue south to its dead-end
<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Rochelle Road	East	From Dickinson Avenue south to Kirkwod Avenue
<b>[Added 2-13-1990 by L.L. No. 2-1990]</b>		
State Road	North	From a point where the west curbline, if extended, of State Street would intersect the north curbline of State Road continuing east to the village line
State Road	South	Entire street
State Street	East	Entire street
Summer Street	West	Entire street
Terry Avenue	South	Entire street
Watson Avenue	North	Entire street
Wayne Avenue	South	Entire street
<b>[Added 2-13-1990 by L.L. No. 3-1990]</b>		

#### **§ 60-39. Schedule XII: No Parking Certain Hours.**

In accordance with the provisions of § 60-18, the parking of vehicles is hereby prohibited in the following locations during the hours indicated:

<b>Name of Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
Chenango Street 4:00 p.m. on school days	East northerly to a point	7:30 a.m. to curb 390 feet	From a point 262 feet ± north of the line of Gregory Avenue ± north of the northerly curb line of Gregory Avenue.

#### **§ 60-40. Schedule XIII: Limited-Time Parking.**

- A. In accordance with the provisions of § 60-19, the parking of vehicles is hereby prohibited in the locations described below for a longer period of time than designated during the hours indicated:

<b>Name of Street</b>	<b>Side</b>	<b>Limit</b>	<b>Time Hours</b>	<b>Location</b>
Chenango	East	30 min.	All	From Phelps Street to a point 85 feet north of Phelps Street <b>[Added 12-8-92 by L.L. No. 3-1992]</b>
Dickinson Avenue	Both	1 hr.	8:00 a.m. to 6:00 p.m.	From Chenango Street east for a distance of 300 feet
Miller Street	South	15 min.	All	From Chenango Street to a point 61 feet east of Chenango Street

- B. No person, firm or corporation shall cause or permit his, her or its automobile, truck, motorcycle or other vehicle to park or remain standing on any village street for a period of more than forty-eight (48) hours, exclusive of holidays, in the same location. **[Added 2-13-1990 by L.L. No. 5-1990]**

**§ 60-41. Schedule XIV: Bus Stops.**

In accordance with the provisions of § 60-20, the following locations are designated as bus stops:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
		(Reserved)

**§ 60-42. Schedule XV: No Standing Certain Hours. **[Added 12-6-77 by L.L. No. 6-1977]****

In accordance with the provisions of § 60-17.1, standing vehicles is hereby prohibited in the following locations during the hours indicated:

<b>Name of Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
Chenango Street			<b>[Repealed by L.L. 3-1996]</b>



## **Chapter 62**

### **WATER**

- § 62-1. Rules and regulations to constitute contract.**
- § 62-2. Definitions.**
- § 62-3. Application for service.**
- § 62-4. Installation, repair and maintenance of water service.**
- § 62-5. Water meters.**
- § 62-6. Emergency shutoff of water.**
- § 62-7. Unmetered use.**
- § 62-8. Rates and bills. (Amended 2-10-09, LL 1-2009 & 2-2009, Amended 9-14-10, LL 6-2010)**
- § 62-9. Inspections.**
- § 62-10. Damages due to change in water pressure.**
- § 62-11. Temporary discontinuance of service.**
- § 62-12. Disputed bills.**
- § 62-13. Penalties for offenses.**
- § 62-14. Regulations regarding cross-connections.**
- § 62-15. Protection of potable water system within premises.**
- § 62-16. Discontinuance of service.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 7-2-63. Section 62-13 amended during codification; see Ch. 1, General Provisions, Article II. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Building construction — See Ch. 26. Sewers — See Ch. 49.**

#### **§ 62-1. Rules and regulations to constitute contract.**

The following rules and regulations are prescribed by the Board of Trustees of the Village of Port Dickinson, New York, and every person who shall be supplied or whose property? shall be supplied with water by the said village must agree to comply and must comply with these rules and regulations and the same shall constitute the contract existing between said persons and said village.

## § 62-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**AESTHETICALLY OBJECTIONABLE FACILITY** – One in which substances are present, which if introduced into the public water supply system could be a nuisance to other water customers, but would not adversely affect human health. Typical examples of such substances are: food-grade dyes, hot water, stagnant water from fire lines in which no chemical additives are used, etc.

**AIR GAP SEPARATION** – The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. The differential distance shall be at least double the diameter (D) of the supply pipe. In no case shall the air gap be less than 1 inch. (See illustration below)

**APPROVED BACKFLOW PREVENTION DEVICE** – An acceptable air gap, reduced pressure zone device or double check valve assembly as used to contain potential contamination within a facility.

**APPROVED CHECK VALVE** – A check valve that seats readily and completely. It must be carefully machined to have free moving parts and assured watertightness. The face of the closure element and valve seat must be bronze, composition, or other non-corrodible material which will seat tightly under all prevailing conditions of field use. Pins and bushings shall be of bronze or other non-corrodible, non-sticking material, machined for easy, dependable operation. The closure element, e.g. clapper, shall be internally weighted or otherwise internally equipped to promote rapid and positive closure in all sizes where this feature is obtainable.



**APPROVED DOUBLE CHECK VALVE ASSEMBLY** – Two single independently acting check valves, including tightly closing shutoff valves located at each end of the assembly and suitable connections for testing the watertightness of each check valve. (See illustration below)

**AUTOMATIC METER READING (“AMR”) TECHNOLOGY** – the technology of automatically collecting consumption, diagnostic, and status data from water meter devices and transferring that data to a central database for billing, troubleshooting, and analyzing. All provisions of this Chapter that reference “water meters” or “meters” shall apply equally where AMR technology has been or will be installed. **[added 2/14/12, LL2-2012]**

**BACKFLOW** – A flow condition, induced by a differential in pressure, that causes the flow of water or other liquids and/or gases into the distribution pipes of a public water supply from any source other than its intended source.

**BACKPRESSURE** – The resulting backflow of contamination, polluted, or otherwise unacceptable quality water from a plumbing fixture or other customer source(s) into a public water supply system due to a greater pressure within the customer’s water system. (See illustration below)

Example: Only the valve at A separates the potable and the sea water systems aboard a vessel. The vessel’s potable water system, at B, is being filled from the public water supply system at C which is delivering water at a pressure of 60 psi. At the same time, the sea water fire fighting system is activated, which provides sea water at a pressure of 120 psi. If valve A is open, or leaks, the sea water will be forced into the public water supply system.

**BACKSIPHONAGE** – The backflow of contaminated or polluted water, or water of questionable quality from a plumbing fixture or other customer source(s), into a public water supply system main due to a temporary negative or sub-atmospheric pressure within the public water supply system. (See illustration below)

**Example:** A hose is submerged in a laboratory sink at A. Both buildings are connected to the same public water supply system, C. This main often lacks adequate pressure. The building on the right has installed a booster pump in the basement at B, in order to alleviate low pressures. The booster pump could deplete the water in main C, thereby subjecting the customer's water system to a pressure less than atmospheric thus causing a reversal of flow from the laboratory in the opposite building.

**BAROMETRIC LOOP** – A loop of pipe rising approximately thirty-five feet, at its top-most point, above the highest fixture it supplies.

**BOARD** – The Board of Trustees of the Village of Port Dickinson, New York, or its duly authorized employees or agents.

**BRANCH LINE** – Any pipe connecting to a lateral.

**CERTIFIED BACKFLOW PREVENTION DEVICE TESTER** – A person who has received a “general tester” certification proving satisfactory completion of a training course for testers of backflow and prevention devices which have been approved by the New York State Health Department.

**CONTAINMENT** – Cross-connection control which isolates the customer’s entire facility from the public water system so as to provide the protection necessary to prevent contamination of the public water supply in the event of backflow from the customer’s facility.

**CONTAMINATION** – The presence in water of a substance that tends to degrade its quality.

**CROSS-CONNECTION** – A physical connection through which a water supply could be contaminated.

**HAZARDOUS FACILITY** – One in which substances may be present which if introduced into the public water system would or may endanger or have an adverse effect on the health of other water customers. Typical examples: laboratories, sewage treatment plants, chemical plants, hospitals, mortuaries.

**INTERCONNECTION** – A joining of two independently operated public water supply distribution systems.

**MAIN** – A pipe owned by the village used for supplying water to more than one (1) property.

**OWNER, APPLICANT, CUSTOMER, PERSON and CONSUMER** – Shall be construed to mean “or their lawful agent.”

**PERMIT** – Shall be construed to mean a permit from the Board of Trustees of said village.

**PERSONS and CONSUMERS** – Shall be construed to mean individual, fiduciaries, partnerships, corporations and associations.

**REDUCED PRESSURE ZONE (RPZ) DEVICE, ACCEPTABLE** – A minimum of two independently acting check valves, together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow the pressure between these two checks shall be less than the upstream (supply pressure). In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checks at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

VACUUM BREAKER - NONPRESSURE TYPE – A vacuum breaker which is designed so as not to be subjected to static line pressure.

VACUUM BREAKER - PRESSURE TYPE – A vacuum breaker designed to operate under conditions of static line pressure.

[Note: Various definitions amended by Local Law No. 7-1995 on 7-11-95.]

**§ 62-3. Application for service.**

- A. All persons desiring to use water from a main shall obtain a permit from the Village Clerk before a connection will be made with the main or water furnished.
- B. Each service line shall service only one (1) property.
- C. The owner of each property supplied shall be responsible for all charges for the water supplied to the premises.

**§ 62-4. Installation, repair and maintenance of water service.**

- A. Upon written application for water service as hereinbefore prescribed and upon payment of the applicable charge for the size service to be installed, the village will install, operate, maintain and, when necessary, replace, at its own cost and expense, the service pipe and connection between the main and the curb box shutoff. [Amended 2-4-69]
- B. Each service shall have a minimum inside diameter as follows:

<b>Number of Families Served</b>	<b>Size of Service (in inches)</b>
Not more than 3	#/4
4 to 6	1
7 to 12	1 1/4
More than 12	2

- C. Connections to existing mains outside the village having an outside diameter of less than six (6) inches will not be made unless the property owner signs a written agreement which provides that when the village or town decides that a main with an outside diameter of at least six (6) inches must be installed, said property owner will pay his share of the cost of such installation.

- D. The village shall tap the main, furnish and install a corporation cock and copper tubing of the required minimum inside diameter from the main to the curblin of the premises, and a curb cock, box and rod. The village will solicit bids each fiscal year for service installation. The owners applying for water service will be charged the current bid price per foot for water service from the water main to and including the curb stop, plus the current cost of meters, such charge to be paid at time of application. Service pipe and service connections shall not be trespassed upon nor interfered with in any respect. The curb stop may not be used by the customer for turning on or shutting off the water supply, but is for the exclusive use of the village. **[Amended 2-4-69]**
- E. The service line from the curb box to the building shall be of Type K copper tubing of the required minimum inside diameter. On the inside of the building an approved stop and waste valve shall be installed where the service line enters. The installation of the service line shall be at an elevation of five (5) feet below grade and shall be left exposed until inspected by the Board and, if satisfactory, connection to the main will be completed. Upon completion of grading the curb box shall be at grade for access at all times. All plumbing work shall be done by a duly licensed plumber and all materials and labor for the installation, repair and maintenance shall be at the property owner's expense.
- F. The consumer shall keep his own pipes and fixtures in good repair and protected from freezing and deterioration, at his own expense, and shall be responsible for the waste and damage resulting from the use of defective pipes or fixtures.
- G. Leaks between the curb cock and meter shall be repaired immediately by the property owner, at his own expense. In the event such repairs are not effected within the time specified by the Commissioner of Water and Sewer, the water will be shut off until the necessary repairs are made. Leaks between the main and the curb cock and including the curb cock shall be repaired by the Village, without charge to the property owner. All frozen service lines from the main in shall be thawed by the property owner at his own expense. **[Amended 1-11-00]**

#### **§ 62-5. Water meters.**

- A. All water service shall be metered, except as provided in § 62-7, and no more than one (1) meter may be installed on any one (1) service. **[Amended 2/25/20, LL2-2020]**
- B. The Board will supply and install each meter, for which a charge will be made to the property owner. Each meter shall be pretested and so designed that it cannot overrun or register a greater volume of water than passes through it.

- C. Each property owner shall provide an accessible location for the meter, which will be protected from freezing. Such location shall be kept free and accessible for the reading of the meter. Failure to keep the meter free and accessible for reading shall be cause for the discontinuance of service.
- D. The general repair and maintenance of meters shall be done by the village, at its expense, except that if a meter is damaged by freezing, hot water, steam, fire or any other similar cause, then a charge for repairing the meter shall be made to the property owner.
- E. Only the village may remove, reset or otherwise adjust meters
- F. (1) If the Board finds that the meter has been interfered with, tampered with, the seal broken, or the water has been diverted from passing through the meter and registering, or if there has been any other act which would indicate an attempt to defraud the Village, the Board may discontinue water service.  
(2) Additionally, the Board may charge the person in possession of that property with Criminal Tampering in violation of section 145.15 of the Penal Law of the State of New York or Theft of Services in violation of section 165.15 of said Penal Law or as having committed an offense against this provision of this chapter, in which event the person in possession of the property in which said meter had been installed shall be presumed to have committed such violation.  
(3) The property owner shall be responsible for having a new meter installed by the Village Water Department at a cost of Four Hundred Dollars (\$400.00), and shall be charged for the water which had been diverted from the meter for the period of time since the most recent correct meter reading in an amount that reflects the highest 6 month consumption during the past 5 years. (Amended 1-11-05 by LL No. 1 - 2005)
- G. In the event a meter shall be out of order or fail to function properly, this fact shall be reported to the Board, which shall repair or replace the meter.

#### **§ 62-6. Emergency shutoff of water.**

In the event of an emergency because of fire, repairing or installing mains or for any other cause, the Board reserves the right to shut off the water for as long as the emergency lasts. The Board reserves the further right to shut off water from all fountains or other running streams if they deem it necessary for the public safety and convenience.

#### **§ 62-7. Unmetered use. [Amended November 8, 2005 by Local Law 5 - 2005]**

- A. Any person desiring to use water directly from a hydrant in the construction of any building before the installation of a meter may do so upon the written consent of the Commissioner of Public Works or Commissioner of Water and Sewer and the payment of a fee of fifty dollars (\$50.00), which fee shall cover the cost of the water to be so used. Upon completion of the construction of said building, such use shall be discontinued and a meter will be immediately installed as hereinbefore provided.

- B. Other than as provided above, the taking of water from or the opening of the fire hydrants within the village, or the interference with or use for any purpose of such fire hydrants without the written consent of the Commissioner of Public Works or the Commissioner of Water and Sewer is strictly prohibited. (Renumbered to Section B by LL 7-2020, 6/9/2020)

**§ 62-8. Rates and bills. [Amended 9-4-73; 11-20-84 by L.L. No. 4-1984 and 3-19-95 by L.L. No. 3-1995 and 141-00 by L.L. No. 1-2000 and 2-10-09 by LL 1-2009 & LL 2-2009]**

**§ 62-8 (Rates and bills)** is amended to provide as follows:

- A. Water rates be as set forth by resolution of the Village Board from time to time. Water bills shall be due and payable to the designated agent of the Board of Trustees of the Village of Port Dickinson in February, May, August and November of each year and if not paid within thirty (30) days after receipt, a fee of fifteen percent (15%) will be added for the next twenty (20) days. If the bill is not paid by the end of said twenty-day period, the water may be shut off. Service will be restored M-F, 7a.m. to 2p.m. upon payment of the bill with a fifteen percent (15%) penalty and a \$75.00 service charge. If service is restored after the regular hours of M-F, 7a.m. to 2p.m., there will also be an additional after hours charge of \$200.00. **[Amended 6/9/2020, LL7-2020]**
- B. In the event that a meter is out of order and fails to register correctly, the consumer will be billed on the basis of the average daily consumption as shown by the meter when registering properly.
- C. There shall be filed annually with the Board a statement showing the unpaid water charges and penalties payable to the Village, with a brief description of the property upon which the water was used, the names of the persons or corporations liable to pay for the same and the amount chargeable to each, for the purpose of having such sums levied as a tax against the property liable.
- D. Deposits. As security for payment of charges, the Village may at any time require of any customer or applicant a deposit approximately equal to one and one-half(1 1/2) times the estimated average bill for the billing period plus other charges. No interest will be paid on such deposits. When service is disconnected and all charges due the Village are paid, such deposits will be returned.
- E. Discontinuance of Service. Water furnished to any property for any purpose, stands charged against such property regardless of change of ownership, and the Village reserves the right to discontinue the service from such property for any unpaid bill or bills, accumulated by former owner or owners, and refuses to turn same on again until all arrearages and penalties are paid. In case of transfer of a property the Commissioner of Water and Sewer shall be immediately notified so that proper adjustment may be made of any charges or repair bills against such property.
- F. (Added 9-14-10, LL 6-2010) Prior to each billing period as provided in paragraph A of this § 62-8, the Village shall mail to each owner or occupant a postage paid meter record card. It shall be the responsibility of the owner or occupant to read the water meter and record the usage on the meter record card and return the record card to the Village within ten (10) days thereafter. Failure to read the meter and record the reading on the record card and return the record card to the Village within ten (10) days shall subject the owner or occupant to a penalty of \$50.00. In the event that the owner or occupant fails to comply with such requirement on two (2) consecutive occasions, the Village may require the property owner to pay for the purchase and installation of an outside meter reading device.

**Section 2. Separability**

The provisions of this local law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this local law would



have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the local law or part thereof is held inapplicable, had been specifically exempt therefrom.

Section 3. Repealer

All Ordinances, Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 4. Effective Date

This local law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

### **§ 62-9. Inspections.**

The Board reserves the right to enter the premises of any consumer to examine the pipes and fixtures to determine the quantity of water used and the manner of use and to inspect, test, ~~or~~ read, repair, replace, or install the meter. [amended 2/14/12, LL 2-2012]

### **§ 62-10. Damages due to change in water pressure.**

The village shall not be liable for any damage or loss to property or to any business which may arise from or be caused by any change in water pressure, regardless of cause.

### **§ 62-11. Temporary discontinuance of service.**

Upon written notice to the Village Clerk service maybe temporarily discontinued; however, the consumer shall still be required to pay the minimum bill for the semiannual period in which such discontinuance occurred.

### **§ 62-12. Disputed bills.**

- A. Water bills which appear excessive may be brought to the attention of the Board, which shall investigate the billing within ten (10) days after notice. The meter shall be reread and, if the billing reading was incorrect, a corrected bill shall be prepared.
- B. If the bill is found to be correct, the Board shall, upon the request of the consumer, cause the consumer's pipes and fixtures to be inspected for leaks or defects resulting in waste and shall report the results of such inspection to the consumer.
- C. Where it appears waste has resulted because of circumstances beyond the control of the consumer, the Board may allow an allowance on the consumer's bill; however, such allowance shall not exceed fifty percent (50%) of that amount of the bill which exceeds the average bill for the billing period involved. No allowance shall be made where the consumer has been negligent in the installation and care of his pipes and fixtures, nor where water has been used for any purpose not disclosed in the consumers complaint to the Board.

- D. Allowance on disputed bills shall be at the sole discretion of the Board, except that each consumer shall be entitled to no more than one (1) such allowance each five (5) years.

**§ 62-13. Penalties for offenses.<sup>1</sup>**

- A. Any person committing an offense against any provision of this chapter shall, upon conviction be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.
- B. In addition to the above provided penalties, the Village Board of Trustees may also maintain an action or proceeding, in the name of the village, in a court of competent jurisdiction, to compel compliance with or to restrain by injunction the violation of this chapter. The Village may also seek restitution for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. [Underlined text added 5/8/12, LL 3-2012]

**§ 62-14. Regulations regarding Cross-connections.**

- A. Where protection is required.
1. Each service connection from a public water system for supplying water to premises having an auxiliary water supply shall have no interconnection into the public water system.
  2. Each service connection from a public water supply, for supplying water to premises on which any substance is handled under pressure in such fashion as to permit entry into the water system, shall be protected against backflow of the water from the premises into the public system. This shall include the handling of process waters and waters originating from the public water supply system which may have been subject to deterioration in sanitary or chemical quality.

1. Editor's Note: Amended during codification; see Ch.I, General Provisions, Article II.

3. Each service connection from a public water system for supplying water to a hazardous facility shall be protected against backflow of the water from premises into the public system.

B. Type of protection. The protection device required shall depend on the degree of hazard as tabulated below:

1. At the service connection to any premises defined as non-hazardous where there is an auxiliary water supply handled in separate piping system with no known cross-connection if the user justifies the need for a separate source of water, the public water supply shall be protected by:
  - a. Requiring the user to regularly examine the separate water source as to its quality;
  - b. Approving the use of only those separate water sources which are properly developed, constructed, protected and found to meet the requirements of Sections 5-1.51 and 5-1.52 of Subpart 5-1 of the New York State Sanitary Code;
  - c. Filing such approvals with the State annually;and
  - d. Requiring an internal plumbing control.
2. At any service connection to any premises defined as a hazardous facility, the public water supply shall be protected by an approved RPZ or air gap to be installed in the service connection to the public water distribution system. Each of the below listed facilities are considered hazardous facilities:

Type of Facility	Potential Hazard
Sewage & industrial wastewater treatment plants & pumping stations, sewer flushers, etc.	Sewage industrial waste-water, contaminated water, toxic chemicals, etc.
Paper manufacturing or processing, dye plants, petroleum processing, printing plants, chemical manufacturing or processing, industrial fluid systems, steam generation, rubber processing, tanneries	Toxic chemicals, water conditioning compounds Examples: Toxic dyes, acids, alkalies, solvents, quaternary ammonia compounds, mercury, chromium, etc.

Canneries, breweries, food processing, milk processing, ice manufacturing, meat packers, poultry processing, rendering companies, etc.	Process wastewater, steam, detergents, acids, caustics, refrigeration lines
Hospitals, clinics, laboratories, veterinary hospitals, mortuaries, embalmers, etc.	Bacterial cultures, laboratory solutions, blood & tissue waste, toxic materials, etc.
Metal-plating, photo-processing, laundries, commercial car washes, commercial refrigeration systems, dry cleaning establishments, etc.	Toxic chemicals, concentrated cleaning agents, solvents, etc. Examples: Cyanides, fluorides, copper, chromium, caustic & acid solutions, etc.
Commercial greenhouses, spraying & irrigation systems using weedicides, herbicides, exterminators	Toxic chemicals Examples: Ammonium salts, phosphates, 2,4 D sodium, arsenite, lindane, malathion, etc.

### **Type of Facility**

### **Potential Hazard**

Boiler systems, cooling towers or internal fire-fighting systems using conditioners, inhibitors, corrosion control chemicals, etc. Typically: apartment buildings, cooling towers, warehouses	Toxic chemicals Examples: Hydrazine, sodium compounds, antifreeze solutions, etc.
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- At any service connection to aesthetically objectionable facilities, an approved DCV must be installed in the service connection to the public water distribution system. Each of the below listed facilities are considered aesthetically objectionable facilities:

<b>Type of Facility</b>	<b>Potential Hazard</b>
Customer fire protection loops, fire storage tanks; with no chemical additives	Stagnant water, objectionable tastes, odors

High temperature potable water	Objectionable temperatures
Utilization of food grade dyes	Objectionable color
Complex plumbing systems in commercial buildings Typically: barber shops, beauty salons, churches, apartment buildings, gas stations, supermarkets, nursing homes, construction sites, carnivals	Plumbing errors, obsolete plumbing equipment, poor plumbing inspection/correction programs

- C. Frequency of inspection of protective devices. It shall be the duty of the water user on any premises on account of which backflow protective devices are installed, to have competent inspections made at least once a year, or more often in those instances where successive inspections indicate repeated failure. These devices shall be rebuilt or replaced at the expense of the water user whenever they are tested and found to be defective but at least every 5 years. These tests shall be performed by a certified backflow prevention device tester, and all test results will be provided to the water department within seventy-two hours after the test is made. Records of such tests, repairs and overhaul shall also be kept and made available to the water department and the local health department upon request.
- D. Recourse for noncompliance.
1. No water service connection to any premises shall be installed or maintained by the water department, unless the water supply is protected as required by state regulations and this local law.
  2. Service of water to any premises may be discontinued by the Village, if a backflow preventive device required by this local law is not installed, tested and maintained; if any defect is found in an installed backflow preventive device; if it is found that a backflow preventive device has been removed or bypassed; if unprotected cross-connections exist on the premises; and service will not be restored until such conditions or defects are corrected.

**§ 62-15. Protection of potable water system within premises.**

- A. Separate drinking water systems. Whenever the water department determines that it is not practical to protect drinking water systems on premises against entry of water from a source or piping system or equipment that cannot be approved as safe or potable for human use, an entirely separate public water supply shall be installed to supply water at points convenient for consumers.
- B. Fire systems. Water systems for fighting fire, derived from a supply that cannot be approved as safe or potable for human use shall, wherever practicable, be kept wholly separate from drinking water pipelines and equipment. In cases where the domestic water system is used for both drinking and fire-fighting purposes, approved backflow prevention devices shall be installed to protect such individual drinking water lines as are not used for fire-fighting purposes. Any auxiliary fire-fighting water supply which is not approved for potable purposes shall not be connected such that it may be introduced into potable water piping.
- C. Process waters. Potable water pipelines connected to equipment for industrial processes or operations shall be protected by a suitable backflow prevention device located beyond the last point from which drinking water may be taken, which device shall be provided on the feed line to process piping or equipment. In the event the particular process liquid is especially corrosive or apt to prevent reliable action of the backflow prevention device, air gap separation shall be provided. These devices shall be tested by the water user at least once a year, or more often in those instances where successive inspections indicate repeated failure. The devices shall be rebuilt or replaced whenever they are tested and found to be defective but at least every 5 years. These tests must be performed by a qualified backflow prevention device tester at least every year, and records of tests, repairs and replacement shall be kept and a copy forwarded to the water superintendent.
- D. Plumbing connections. Where the circumstances are such that there is special danger to health by the backflow of sewage, as from sewers, toilets, hospital bedpans and the like, into a drinking water system, a dependable internal plumbing control device shall be installed to prevent such backflow.

The purpose of these regulations is only to deal with those extraordinary situations where sewage may be forced or drawn into the drinking water piping. These regulations do not attempt to eliminate at this time the hazards of back-siphonage through flushometer valves on all toilets, but deal with those situations where the likelihood of vacuum conditions in the drinking water system is definite and there is special danger to health. Devices suited to the purpose of avoiding back-siphonage from plumbing fixtures are roof tanks, barometric loops or separate pressure systems separately piped to supply such fixtures, recognized approved vacuum or siphon breaker and other backflow protective devices which have been proved by appropriate tests to be dependable for destroying the vacuum.

Inasmuch as many serious hazards of this kind are due to water supply piping which is too small, thereby causing vacuum conditions when fixtures are flushed or water is drawn from the system in other ways, it is recommended that water supply piping that is too small be enlarged whenever possible.

- E. Marking safe and unsafe water lines. Where the premises contain dual or multiple water systems and piping, the exposed portions or pipelines shall be painted, banded or marked at sufficient intervals to distinguish clearly which water is safe and which is not safe. All outlets from secondary or other potentially contaminated systems shall be posted as being contaminated and unsafe for drinking purposes. All outlets intended for drinking purposes shall be plainly marked to indicate that fact.

Water supervisor. The health department and the water department shall be kept informed of the identity of the person responsible for the water piping on all premises concerned with these regulations. At each premises where it is necessary in the opinion of the water department, a water supervisor shall be designated. This water supervisor shall be responsible for the installation and use of pipelines and equipment and for the avoidance of cross-connections.

In the event of contamination or pollution of the drinking water system due to a cross-connection on the premises, the local health officer and water department shall be promptly advised by the person responsible for the water system so that appropriate measures may be taken to overcome the contamination.

**[Note: § 62-15 amended by Local Law 7-1995 on 7-11-95.]**

## **§ 62-16. Discontinuance of service.**

1. General rules. Water service may be discontinued by the Village for any of the following reasons:



- a. Use of water other than as represented in customer's application, or through branch connections on the street side of the meter or place reserved therefor.
- b. Willful waste of water through improper and imperfect pipes, or by any other means.
- c. Damaging or molesting any main, service line, seal, meter, or any other property or installation of the district.
- d. Nonpayment of bills for water or services rendered by the Village.
- e. Cross-connecting pipes carrying water supplied by the Village with any other source of supply, or with any apparatus which may endanger the quality of the Village's water supply without proper devices and prior approval.
- f. Refusal of reasonable access to the property for the purposes of reading, repairing, testing or removing meters or inspecting water piping and other fixtures.
- g. For violation of the rules of the department as set forth in its rules and regulations.
- h. For failure to repair leaky service lines after notice.

If any building is razed, moved or abandoned, it will be the responsibility of the owner or the authority which requires such razing, moving or abandonment by virtue of public improvement to notify the water department to remove the water meter. The owner may be required to discontinue the lateral line at the curb box by physically removing the service line connection at the curb box, under the supervision of the water department.

- 2. When for any reason the use of a service is discontinued, such service shall be shut off at the curb cock, and in case this section has not been complied with, such service may be so shut off, and all expense connected therewith shall be borne by the owner and chargeable against the property at which such service was discontinued regardless of whether or not such owner owned such property at the time that such service was discontinued. If the owner refused to reimburse the water department for service so rendered, the water will not be restored until payment is made.

**[Note: § 62-16 amended by Local Law 7-1995 on 7-11-95.]**



## **Chapter 65**

### **ZONING**

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- § 65-1. Title; short title.**
- § 65-2. Purpose.**
- § 65-3. Definitions, word usage.**

#### **ARTICLE II Establishment of Districts; Map**

- § 65-4. Establishment of districts.**
- § 65-5. Zoning Map.**
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#### **ARTICLE III General Regulations**

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#### **ARTICLE IV Supplementary Regulations**

- § 65-11. Application of Article.**
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- § 65-13. Visibility at intersections.**
- § 65-14. Off-street parking requirements.**

- § 65-15. Off-street loading requirements.
- § 65-16. Garages and filling stations.
- § 65-17. Billboards and display signs.
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- § 65-19. Private sewage disposal systems.
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## ARTICLE V Flood Damage Prevention

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- § 65-28. Standards.
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### **Adult Uses**

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## **Schedule of Zoning Regulations**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson ?6-10-58; amended in its entirety 8-18-74. Amendments noted where applicable.]**

### **GENERAL REFERENCES**

**Building construction — See Ch. 26.  
Street construction — See Ch. 51.  
Streets and sidewalks — See Ch. 52.  
Subdivision of land — See Ch. 53.**

## **ARTICLE I General Provisions**

### **§ 65-1. Title; short title.**

- A. The title of this chapter shall be: “An Ordinance Regulating the Location, Construction and Use of Buildings and Structures and Regulating the Use of Land in the Village of Port Dickinson, New York, and for Said Purposes Dividing the Village Into Districts.”
- B. This chapter may be known and may be cited as the “Village of Port Dickinson Zoning Ordinance.”

### **§ 65-2. Purpose.**

This chapter is enacted for the purpose of promoting the health, safety, morals and general welfare of the community by lessening congestion in the streets and securing safety from fire, panic and other dangers; by providing adequate light and air; by preventing the overcrowding of land; to protect and conserve the value of property by avoiding undue concentration of population; by facilitating the adequate provision of transportation, water, schools and other public requirements; and by regulating the location and use of buildings, structures and land for trade, residence and other purposes in accordance with the Comprehensive Plan.

### § 65-3. Definitions, word usage.

- A. Word usage. For the purpose of this chapter, words used in the present tense include the future; the plural includes the singular; the word “lot” includes the word “plot”; the word “building” includes the word “structure”; the word “shall” is intended to be mandatory; the word “occupied” includes the words “designed for occupancy or intended to be occupied.”
- B. Definitions of words and terms. As used in this chapter, the following terms shall have the meanings indicated:

**ACCESSORY BUILDING** — A subordinate building or a portion of the main building of a lot, the use of which is customarily incidental to that of the main or principal building, except that Handicap Access Ramps shall not be deemed to be an accessory building. (See Accessory Permitted Uses in Schedule of Zoning Regulations for Residential Districts) [Amended 12-9-03 by Local Law 5-2003]

**ACCESSORY USE** — A use customarily incidental and subordinate to the principal use of building and located on the same lot with such principal use of building.

**BUILDING** — Any structure on a lot resting upon a support or foundation and shall include any physical features other than a boundary wall or fence.

**BUILDING, HEIGHT OF** — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for fiat roofs, to the top line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**BUILDING LINE** — A line parallel to the street line drawn between the points of the front yard setback as measured along each side lot line and/or the required setback from property lines to the building proper, front, sides and rear.

**COVERAGE** — The percentage of the plot or lot area covered by the building area.

**CELLAR or BASEMENT** — A story partly underground, the walls of which are used as the foundation and/or substructure for those remaining stories of the structure partially or completely above mean grade level.

**DWELLING, MULTIPLE** — A building or portion thereof containing three (3) or more dwelling units.

**DWELLING, ONE-FAMILY** — A detached building designed for or occupied exclusively by one (1) family.

DWELLING, TWO-FAMILY — A detached building designed for or occupied by two (2) families living independently.

DWELLING UNIT — A building or portion thereof providing complete housekeeping facilities for one (1) family.

ELECTRICAL DISTRIBUTION SUBSTATION — An assemblage of equipment designed to receive energy from a high voltage distribution supply system, to convert it to a form suitable for local distribution and to distribute the energy to feeders through switching equipment designed to protect the service from the effects of faults.

**FAMILY [Amended 4/10/01, L.L. 2-2001]**

1. Any number of individuals related by blood, marriage or adoption, and their domestics and servants, if any, living and cooking together on the premises as a single housekeeping unit;
2. Not more than two (2) persons, not related by blood, marriage or adoption, together with their minor children by blood, marriage or adoption, living and cooking together on the premises as a single housekeeping unit though not related by blood, marriage or adoption; or
3. More than two (2) persons not related by blood, marriage or adoption, together with their minor children by blood, marriage or adoption, living together on the premises as a functional family unit subject to the issuance of a special permit by the Zoning Board of Appeals pursuant to the standards enumerated in Section 65-39 (B) (2A) of the Village Code.

**FLOOD - Deleted 8-14-01 by L.L. No. 11-2001 as now contained in Code Section 65-23.**

**FLOOD FRINGE - Deleted 8-14-01 by L.L. No. 11-2001 as now contained in Code Section 65-23.**

**FLOODWAY - Deleted 8-14-01 by L.L. No. 11-2001 as now contained in Code Section 65-23.**

**FLOOD, ONE-HUNDRED-YEAR - Deleted 8-14-01 by L.L. No. 11-2001 as now contained in Code Section 65-23.**



**FLOODWAY** – That portion of the flood hazard area adjacent to the channel of a stream which, after permitted encroachments have occurred in flood fringe areas, is designated to carry the waters of the one-hundred-year flood without increasing the water surface elevation of that flood more than one-half (1/2) foot at any point.

**FLOOD, ONE-HUNDRED-YEAR, (intermediate regional flood)** – A flood having an average frequency of occurrence in the order of once in one hundred (100) years, although the flood may actually occur in any year. The outer boundaries of the one-hundred-year flood in the Village of Port Dickinson are coterminous with the flood hazard area and are defined by the Army Corps of Engineers in the report(s) entitled “Flood Plain Information, Susquehanna and Chenango Rivers (Triple Cities Area) Broome County, New York”, December 1969.

**GROSS FLOOR AREA (GFA)** — The total area of all floors within the exterior walls of the building, excluding basements, cellars, garages, open or screened porches, patios or awning overhangs.

**HOME OCCUPATION** — Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. No person outside of the dwelling shall be employed in the home occupation. There shall be no external evidence of such use except an announcement or sign not over two (2) square feet in area.

**LOT** — A parcel of land occupied or capable of being occupied by one (1) building and accessory building and/or uses, including such open spaces as are required by this chapter.

**LOT, CORNER** — A lot situated at the junction of two (2) or more streets or highways.

**LOT DEPTH** — The mean horizontal distance between the front and rear lot lines, measured from the street or highway right-of-way line to opposite rear lot lines.

**LOT WIDTH** — The mean width of a lot measured at right angles to its depth.

**MOBILE HOME** — Any portable vehicle which is designed to be transported on its own wheels or those of another vehicle; which is used, designed to be used and capable of being used as a detached single family residence; and which is intended to be occupied as permanent living quarters containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities and plumbing and electrical connections for attachment to outside systems. This definition of “mobile home” includes all additions which are purchased and added thereto or additions made subsequent to installation. This definition does not include modular housing placed on a standard foundation or a travel trailer.

**MOBILE HOME TRAILER PARK** — Any parcel of land which is planned and improved for the placement of two (2) or more mobile homes which are used as dwellings and for occupancy of more than ninety (90) consecutive days.

**MODULAR HOUSING** — Prefabricated, modular or sectional housing units in excess of fourteen (14) feet in width, placed permanently on a standard foundation and which arrive on site in more than one component, and which meet all regulations of the New York State Building Code.

**NONCONFORMING BUILDING** — A building, structure or portion thereof, lawfully existing on the effective date of this chapter, or subsequent amendment thereof, which does not completely conform to the regulations applicable in the district in which it is located.

**NONCONFORMING USE** — A building, structure or use of land existing at the time of the enactment of this chapter, or subsequent district amendments, and which does not conform to the regulations of the district or zone in which it is situated.

**PARKING SPACE, OFF-STREET** — An off-street space, area or berth, with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

**PROFESSIONAL OFFICES** — An office located in the full-time residence of a professional, such as accountant, architect, dentist, medical doctor, engineer, insurance broker, lawyer, real estate broker, surveyor and the like. The office staff shall consist of no more than three (3) persons in addition to the professional and use a total area of no more than thirty-three percent (33%) of the combined gross floor area.

**PUBLIC UTILITY STRUCTURE** — A building, structure or lot used for or in connection with the transmission, distribution or regulation of water, electric, gas, telephone service or other public utility service.

**QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING** — A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale, as an industrial operation, and exclusive of the process of excavation and grading a lot preparatory to the construction of a building for which application for a building permit has been made.

**SIGN** — A structure, part thereof or device attached thereto, or painted or represented thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, device, trademark or other representation used as an announcement, designation, direction or display to advertise or promote any person, firm, group, organization, commodity, service, profession or enterprise when said display is placed out-of-doors in view of the general public.

A. **ADVERTISING SIGN** — A sign which directs attention to a business, industry, profession, commodity, service, or entertainment not sold or offered upon the same premises where the sign is located.

B. **SIGN, HEIGHT OF** — The vertical distance measured from the average elevation of the proposed finished grade along the face of the sign or structure on which the sign is located, to the

highest point of the sign or structure on which the sign is located. [Amended by LL 5-2021, 9/14/2021]

- C. **DIRECTIONAL** — A sign, which is not illuminated, used for the purpose of stating the name or location of a municipality, a municipal building, hospital, community center, church or school or the name or place of meeting of an official or civic body (e.g., Rotary, Lions or Kiwanis), with no advertising matter contained on such sign.
- D. **DOUBLE-FACED OR V-TYPE SIGN** — Any two-faced sign utilizing both faces or surfaces for display purposes.
- E. **FACING or SURFACE** — The surface of the sign upon, against or through which the message of the sign is exhibited.
- F. **GROUND SIGN** — A sign which is not attached to any building.
- G. **PROJECTING SIGN** — A sign which is attached to the wall of any building or structure and which extends beyond the surface of such wall a distance greater than twelve (12) inches. Projecting sign shall include marquees. See also Subsection I “wall sign.”
- H. **ROOF SIGN** — A sign constructed or supported upon the roof of any building or structure.
- I. **WALL SIGN** — A sign which is attached to the wall of any building or structure and which does not extend beyond the surface of such wall a distance greater than twelve (12) inches. See also Subsection G “projecting sign.”

**TRAVEL TRAILER** — A travel trailer is any portable vehicle which is designed to be transported on its own wheels; which is temporary living quarters for travel, recreational or vacation purposes, or for office use; and which may or may not include one (1) or all of the accommodations and facilities in a mobile home.

**YARD, FRONT** — An open unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

**YARD, REAR** — An open unoccupied space, except for accessory buildings, on the same lot with the building between the rear line of said building and the rear lot line and extending the full width of the lot.

YARD, SIDE — An open unoccupied space on the same lot with the building, between the side line of the building and the side lot line and extending from the front yard to the rear yard. Any lot line not a rear or front line shall be deemed, a side lot line.

## ARTICLE II Establishment of Districts; Map

### **§ 65-4. Establishment of districts. [Amended 12-5-78 No. 1-1978]**

For the purposes of this chapter, the Village of Port hereby divided into the following types of districts:

R District: Residential District  
RM District: Multiresidential District  
C District: Commercial District  
I District: Industrial District  
PUD District: Planned Unit Development District (Added 4/14/98, L.L. No. 2-1998)

### **§ 65-5. Zoning Map.**

- A. Said districts are shown, defined and bounded on a map entitled “Zoning Map, Village of Port Dickinson,” adopted on June 10, 1958, updated on July 29, 1974, and certified by the Village Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter.
- B. The Village Clerk shall engage a qualified person (civil engineer, licensed surveyor, etc.) to make changes map as directed by the Village Clerk, which map shall be available for public inspection.

### **§ 65-6. Interpretation of district boundaries.**

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.

- B. Where district boundaries are indicated as approximately following the center lines of streets or highways, street, lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as may be indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- D. Where uncertainty exists in determining the precise location of any district boundary line, the Board of Appeals shall interpret the intent and purpose of the Zoning Map.

**§ 65-7. Lots in more than one district.**

Where a district boundary line divides a lot which is in single or joint ownership of record at the time such boundary line was established, the regulations for the less restricted portion of such lot shall extend not more than twenty (20) feet into the more restricted portion, provided the lot has frontage on a street or highway in the less restricted portion.

**ARTICLE III  
General Regulations**

**§ 65-8. Application of regulations.**

Except as hereinafter provided:

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

**§ 65-9. Nonconforming buildings and uses.**

- A. Continuation of nonconforming buildings or uses. The lawful use of any building or use of land existing at the time of the enactment of this chapter may be continued, although such use may not conform with the provisions of this chapter, except as hereinafter provided.
- B. Changes. A nonconforming use may not be changed to a more intensive nonconforming use, nor shall a conforming use be changed to a nonconforming use. Any nonconforming use, when changed to a conforming use, shall not thereafter be changed back to a nonconforming use. A nonconforming use, building or structure shall not be enlarged.
- C. Restoration. No building which has been damaged by fire or other natural causes to the extent of fifty percent (50%) of its replacement cost shall be repaired or rebuilt except in conformity with the regulations of this chapter. However, single- or two-family dwellings shall be permitted to be rebuilt on the same foundation if practical difficulties make it a hardship to meet the yard setback requirements of this chapter.
- D. Alterations and extensions. No nonconforming building shall be altered, or nonconforming use of building or land extended, except as authorized by the Zoning Board of Appeals.
- E. Abandonment and discontinuance. Whenever a nonconforming use has been abandoned or discontinued for a period of one (1) year, any future use shall be in conformity with provisions of this chapter.

**§ 65-10. Schedule of regulations. [Amended 12-5-78 by L.L. No. 1-1978]**

Regulations relating to zoning districts are hereby created and established as shown on Attachments I through VII, entitled “Schedule of Zoning Regulations, Village of Port Dickinson,” which schedule is hereby adopted as a part of this chapter and which, with all explanatory matter thereon, is hereby made a part of this chapter.

**Section 65-10 A                      Appointment of Ad Hoc Members to Planning Board**  
**[Added 3-14-00 by Local Law 3-2000]**

- A. The Mayor of the Village of Port Dickinson subject to the approval of the Board of Trustees may, in any year it deems necessary, appoint temporary ad hoc members to its Planning Board to serve as provided in this section.

- B. The number of temporary members so appointed pursuant to this section in any year shall not exceed three (3).
- C. Each temporary member shall be appointed for a one-year term of office.
- D. The chairman of the Planning Board shall assign the temporary members as necessary when absence of regular members of the board or conflicts of interest of regular members of the Board would otherwise prevent five (5) members of the Board from considering any pending matter.
- E. No more than two (2) temporary members shall sit in determination on any pending matter.
- F. The temporary members shall be designated on a rotating basis in the manner provided in general governing rules of the Planning Board so that each temporary member shall be afforded an equal opportunity to serve.
- G. Once designated to serve on a particular matter before the Board, the temporary member shall have the same powers and duties as regular members of the Board until the matter is concluded.
- H. Any determination by the Board consisting of temporary members shall have the same weight and be entitled to the same authority as the act or deed of the regular Planning Board and all laws, statutes and regulations shall apply and be applied with equal force and effect.



ARTICLE IV  
**Supplementary Regulations**

**§ 65-11. Application of Article.**

The provisions of this chapter shall be subject to such exceptions, additions or modifications as are provided by the supplementary regulations contained in this Article.

**§ 65-12. Dwellings on small lots.**

Nothing in this chapter shall prohibit the erection of a one-family dwelling on any lot of less than the required area, provided that all other provisions of this chapter are complied with, if, at the time of passage of this chapter, such lot was held under separate ownership or leaseholdship from the adjoining lots.

**§ 65-13. Visibility at intersections.**

Clear vision on corner lots shall be maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are twenty (20) feet distant from the point of intersection, measured along said street lines. In such area, no foliage, shrubbery, fence or other obstruction shall be permitted higher than three (3) feet, nor low foliage or branches of trees less than twelve (12) feet from the ground.

**§ 65-14. Off-street parking requirements.**

Each land user shall provide sufficient suitable on-site parking spaces with necessary ingress and egress to said spaces, as required by this chapter, in order to prevent any necessity for off-site parking. The number of parking spaces required per each use are defined on the attached "Schedule of Zoning Regulations."

**§ 65-15. Off-street loading requirements.**

Each business or industrial use hereafter erected shall provide off-street loading space, not located on a public street or highway, with necessary ingress and egress. The number of loading spaces required for nonresidential, commercial or industrial use are defined on the "Schedule of Zoning Regulations."

## **§ 65-16. Garages and filling stations.**

Garages and filling stations shall be subject to the issuance of a special permit by the Board of Appeals and shall also be subject to the following conditions:

- A. No garage or filling station lot shall be located within two hundred fifty (50) feet from a lot or parcel occupied by a public school, public or private hospital, public library or a church. The measurement distance shall be from the closest lot line to the closest lot line.
- B. No repair work shall be performed out-of-doors.
- C. Pumps and lubricating or other devices shall be located at least twenty (20) feet from any street line or highway right-of-way.
- D. All fuel, oil or similar substances shall be stored at least thirty-five (35) feet distant from any street or lot line.<sup>1</sup>
- E. All automobile parts, dismantled and/or unregistered vehicles and similar articles shall be stored within a building.<sup>2</sup>
- F. Any illumination shall be nonflashing, indirect or diffused, and shall be so constructed that the illumination shall not shine or reflect light into adjacent properties.

## **§ 65-17. Billboards and display signs.**

No billboard, poster, panel, advertising sign or display sign shall be erected or maintained in any district except as hereinafter provided.

### **A. Residence districts.**

(1) In residential districts, no advertising sign or structure, etc., will be permitted except:

- (a) One (1) small announcement or professional sign, not to exceed two (2) square feet in area, erected only in connection with a customary home occupation permitted in such district or districts.

1. Editor's Note: For additional provisions pertaining to the storage of flammable liquids, see Ch. 34, Fire Prevention.

2. Editor's Note: See also Ch. 59, Vehicles, Abandoned.

(b) One (1) sign, not to exceed three (3) square feet in area, for each tourist home, erected where permitted in such districts.

(c) SIGN, HEIGHT OF – The vertical distance measured from the average elevation of the proposed finished grade along the face of the sign or structure on which the sign is located, to the highest point of the sign or structure on which the sign is located. [Amended 9-14-2021 by LL 5-2021]

(d) One (1) sign, not to exceed sixteen (16) square feet in area, for each church or institutional building, erected where permitted in such districts.

(e) One (1) temporary real estate development sign, not to exceed thirty-six (36) square feet, directing attention to the opening of a new subdivision. Such sign shall require a permit issued by the Ordinance Administrator. Said permit shall be issued for a period of twelve (12) months and may be renewed upon application.

(f) Directional or information signs, not exceeding two (2) square feet in area and not illuminated. Said signs may be used for the purpose of stating the name or location of a town, hospital, community center, church, school, or the name or place of meeting of an official or civic body (i.e., Lions Club). No advertising matter shall be contained on signs of this type.

(g) Advertising signs not exceeding thirty-two (32) square feet in area located on the interior wall of the fence surrounding the Community Association baseball diamonds located on the property of the Port Dickinson Community Association at the northwest corner of Phelps Street and New York State Route 7. Said signs shall not extend above the top of the fence and in no instance shall be higher than five (5) feet. [**Added 12-7-76 by L.L. No. 6-1976**]

(2) The signs or bulletin boards listed above shall be set back from the street line one-third (1/3) the distance of any required yard but shall in no instance be closer than eight (8) feet to any lot line.

(3) The signs or bulletin boards listed above shall be at least one (1) foot clear above the ground but shall not exceed a height of six (6) feet above the ground.

B. Commercial and Industrial Districts. Within Commercial C and Industrial I Districts, only one (1) single-faced or double-faced billboard, display sign, etc. (a double-faced sign shall be considered as single-faced in computing display area), shall be allowed on any building lot, and it shall:

- (1) Not exceed two (2) square feet for every one (1) linear foot of street frontage on any lot upon which said billboard or display sign is located, but in no case shall any such billboard or display sign exceed three hundred (300) square feet in usable display area.
  - (2) Be located twenty-five (25) feet or more from any street or highway right-of-way line, shall be three (3) feet or more clear above the ground and shall be ten (10) feet or more from any lot line.
  - (3) Not exceed a height of twenty (20) feet above the ground.
  - (4) Be located at least one hundred fifty (150) feet or more from any public school, public park or playground, hospital, church or other similar places of public assembly. The distance shall be measured from building to building.
  - (5) Be located in such a manner so as not to be in the same line of vision as traffic control signals. If for some reason this alignment is not possible, no red, green or amber illumination or reflection shall be permitted.
  - (6) Be maintained by the owner or lessee to the satisfaction of the Ordinance Administrator or any other designated officer.
- C. Within any district where a billboard, poster, panel, advertising sign, display sign, etc., is permitted, the illumination of such sign shall be nonflashing, indirect or diffused and shall be so constructed so that the illumination shall not shine or reflect light into adjacent properties.
- D. Amorization of nonconforming signs. Any signs that are not in conformance with this chapter at the time of its enactment shall be brought into conformance with the chapter within two (2) years after enactment of the chapter.

#### **§ 65-18. Waste disposal.**

Dumping of refuse, waste materials and other substances is permitted subject to the issuance of a special permit by the Zoning Board of Appeals as provided in Article VIII, § 65-39. The dumping of refuse, etc., in districts where permitted shall not be allowed to become unsightly or constitute a menace to public health or safety. A permit from the Broome County Health Department shall be provided. The following regulations shall apply:

- A. Dumping shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m.

- B. Each day's dumping shall be covered with at least four (4) inches of clean fill dirt.
- C. The operator of the dump shall at all times keep fire hazard at a minimum.

**§ 65-19. Private sewage disposal systems.**

Private sewage systems shall be so located, constructed and maintained that they shall not be offensive and shall not by leakage or seepage offer a possible pollution of any water supply, adjacent surface waters or ground surfaces. Engineering evidence of compliance with this requirement shall be submitted by each applicant before the issuance of a building permit. A permit from the Broome County Health Department shall be obtained.

**§ 65-20. Site plan review.**

Notwithstanding other provisions of this chapter, a site plan shall be reviewed by the Planning Board and approved in writing thereon before a building permit is issued in all instances hereinafter stated, for the purpose of ensuring that the public welfare will be safeguarded by safe, adequate and sufficient ingress, egress, off-street parking and loading, surface water runoff control and open spaces required by this chapter.

A. Site plan approval shall be required of:

- (1) All nonresidential uses in R Districts.
- (2) All multiple dwellings and nonresidential uses in RM Districts.
- (3) All multiple dwellings and commercial uses in C Districts.
- (4) All uses in I Districts.
- (5) All uses in Planned Unit Development Districts. (**Added 4-14-98, L.L. No. 2-1998**)
- (6) Any filling of land within the Village in excess of 100 cubic yards, even if a building permit is not required. (**Added by L.L. No. 2-2006**)

B. A site plan to be reviewed by the Planning Board shall be drawn to a scale of not less than one (1) inch equals twenty (20) feet and shall show:

- (1) All proposed buildings and other structures.
- (2) All required off-street parking and loading spaces, driveways and points of access between the property or properties in question and any public roads.

(3) The existing topography, including contours with intervals not to exceed two (2) feet and any proposed regrading and structures to accommodate drainage of surface water.

(4) Grading drainage plan, pertinent soil characteristics and watercourses, or, if applicable, a Stormwater Pollution Prevention Plan consistent with the requirements of Articles 1 and 2 of the Village of Port Dickinson Stormwater Management and Erosion & Sediment Control Local Law (**Local Law 2-2007**). The approved site plan shall be consistent with the requirements of Articles 1 and 2 of the Village of Port Dickinson Stormwater Management and Erosion & Sediment Control Local Law (**Local Law No. 2-2007**). (**Added by L.L.No.5-2007**)

- C. Prior to the issuance of a building permit by the Administrative Officer, the Planning Board shall review and recommend either approval, approval subject to modification or disapproval of said site plan within sixty (60) days after receipt thereof. In agreement with the applicant, additional review time may be extended beyond the sixty-day period. Failure of the Planning Board to respond to said application in the designated time will permit the Administrative Officer to act without the Planning Board's recommendation. The building permit shall be issued subject to regulations contained in Article VII, § 65-35.
- D. The Planning Board is required to find the following in determining if a site plan, properly submitted, shall be approved:
- (1) All buildings and other structures proposed meet the minimum requirements of this chapter.
  - (2) Off-street parking and loading spaces, the means of reaching them, points of access with public roads, and required planting and buffer strips will be adequate and sufficient to assure safe and uncongested traffic movements at the present time and in the future and that adjacent properties are safeguarded from excessive noise, glare, dust and drainage of water.
  - (3) The means shown to accommodate the drainage of surface waters from the property or properties in question are approved by the village (Engineer, Public Works Superintendent) in writing.

**§65-20A-1 Purpose**

The purpose of this local law is to establish supplementary standards to regulate noise within the Village of Port Dickinson.

**§65-20A-2 Measurement of Noise**

- A. The measurement of noise or sound shall be made by the village enforcement officer or members of the Village of Port Dickinson Police Department as his designee with a sound level meter meeting the standards prescribed by the American National Standards Institute S1.4.
- B. The slow meter response of the sound level meter shall be used in order to determine that the average of three readings taken over a 15-minute period does not exceed the limiting sound levels set forth except when measuring sound relating to moving sound trucks, motor vehicles and motorcycles operating off public rights-of-way, recreational motorized vehicles operating off public rights-of-way and refuse collecting vehicles, in all of which circumstances one (1) reading exceeding the limiting sounds levels will suffice.
- C. Measurement of noise levels shall be made at the prescribed locations and shall be taken at least four (4) feet from ground level.
- D. Compliance with noise limits is to be maintained at all elevations at the boundary of the property.
- E. For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in **65-20A-3** shall be reduced by five (5) dBA.

**§65-20A-3 Maximum Permissible Sound Levels by Receiving Land Use**

No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category below when measured at or within the property boundary of the receiving land use.

SoundLevel	Receiving Land Use District	Time of Day	Limit, dBA
	Residential (R)	7:00 a.m. -9:00 p.m. 9:00 p.m. -7:00 a.m.	60 50
	Multi-Residential (R-M)	7:00 a.m. -9:00 p.m. 9:00 p.m. -7:00 a.m.	60 50
	Commercial (C )	All hours	60
	Industrial (I)	All hours	60
	Planned Unit Development –(PUD)		
	Residential	7:00 a.m. -9:00 p.m. 9:00 p.m. -7:00 a.m.	60 50
	Multi-Residential	7:00 a.m. -9:00 p.m. 9:00 p.m. -7:00 a.m.	60 50

**§65-20A-3****NOISE REGULATION AMENDMENT TO §65****§65-20A-5**

Commercial

All hours

60

Industrial

All hours

60

**§65-20A-4 Exemptions**

The provisions of § 65-20A-3 shall not apply to:

- A. The use of bells, chimes or sound amplifiers by churches engaged in church activities.
- B. Activities of the Village or Volunteer Fire Companies in the performance of their duties, drills or public demonstrations.
- C. Activities in public parks, playgrounds or public buildings under permission or authority of the Village.
- D. Motor vehicles and motorcycles operating off public rights-of-way pursuant to permission or authority of the Village.
- E. Refuse collecting vehicles
- F. Recreational motorized vehicles operating off public rights-of-way pursuant to permission or authority of the Village
- G. The use of snow blowers, lawn mowers and domestic power tools.
- H. Electrical distribution transformers.

**§65-20-A-5 Specific Prohibition**

Without limiting the general applicability of §65-20A-3, the following acts are further regulated as herein provided:

**A. Sound Trucks**

1. A sound truck as referred to herein shall mean a motor vehicle or trailer containing sound amplification equipment capable of generating a sound level reading of 65 dBA or more measured at a distance of 50 feet from the source.
2. Regardless of the provisions of Section 65-20-A-3, collect refuse or recycling with a refuse/recycling collection vehicle between the hours of 7:00 p.m. and 7:00 a.m. the following day in an R, RM, and Planned Unit Development-Residential and Planned Unit Development Multi-Residential Districts or noise sensitive zones as defined in **§65-20-A-5B. (amended 2/8/11, LL 1-2011)**



**B. Noise Sensitive Zones: Schools, Courts, Churches, Hospitals, Nursing Homes, etc.**

The creation of excessive noise on a street adjacent to a school, institution of learning, church or court while in use or adjacent to a hospital or nursing home, which unreasonably interferes with the working of the institution or which disturbs or unduly annoys patients in the hospital or nursing home, is prohibited provided that conspicuous signs are displayed in such a street indicating that it is a school, hospital, church or court street.

**C. Motor Vehicles and Motorcycles Operating Off Public Rights-of-Way**

No person shall operate or cause to be operated a motor vehicle or motorcycle off a public right-of-way at any time and in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the following levels measured at 50 feet or 15 meters:

**Maximum Sound Level in dBA**

Class	Speed Limit			Stationary	Vehicle
	35 MPH or less	Speed Limit Over 35 MPH	Runup		
Motor Carrier Vehicle engaged in commerce of GVWR or GCWR of 10,000 lbs. or more	86	90	88		interstate
All other motor vehicles of GVWR or GCWR of 10,000 lbs. or more	82	86			
Any motorcycle	82		86		
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76		80		

**D. Recreational Motorized Vehicles Operating Off Public Rights-of-Way**

1. Except as permitted below, no person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the following limits at a distance of 50 feet (15 meters) or more from the path of said vehicle.
2. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, go-carts, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats.

Vehicle Type	Sound Level, dBA
Snowmobile	75
Any Other Vehicle	82

#### E. Refuse and Recycling Collection Vehicles

No person shall:

1. Operate or permit the operation of the compacting mechanism of any motor vehicle which compacts refuse and which creates, during the compacting cycle, a sound level in excess of 80 dBA when measured at 23 feet (7 meters) from any point on the vehicle; or
2. Regardless of the provisions of Section 65-20-A-3, collect refuse or recycling with a refuse/recycling collection vehicle between the hours of 7:00 p.m. and 7:00 a.m. the following day in an R, RM, and Planned Unit Development-Residential and Planned Unit Development Multi-Residential Districts or noise sensitive zones as defined in **§65-20-A-5B. (Amended 1/11/11, LL 1-2011)**

#### F. Standing Motor Vehicles

No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached or intended to be attached to such a vehicle, while the vehicle is stationary, for reasons other than traffic congestion or emergency, loading or unloading in R, RM, C and Planned Unit Development-Residential and Planned Unit Development-Multi-Residential and Planned Unit Development-Commercial Districts or noise sensitive zones as defined in **§65-20-A-5B** or within 150 feet (46 meters) of such districts or noise sensitive zone.

#### G. Tampering

The moving or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by the Village or its designated employee or agent is prohibited, provided such device or the immediate area is clearly labeled to warn of the potential illegality of such tampering.

ARTICLE V  
**Flood Damage Prevention**  
[Added 4-7-87 by L.L. No. 2-1987<sup>1</sup>]

**§§ 65-21 through 65-22. (Reserved)**

<sup>1</sup> Editor's Note: This local law also repealed former Article V. Flood Management District, added 641-77 by LL. No. 3-1977.

**SECTION 65-23**  
**STATUTORY AUTHORIZATION AND PURPOSE**

**§65-23.1 FINDINGS**

The Board of Trustees of the Village of Port Dickinson finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Port Dickinson and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this Local Law is adopted.

**§ 65-23.2 STATEMENT OF PURPOSE**

It is the purpose of this Local Law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 1) Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- 2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction
- 3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- 4) Control filling, grading, dredging and other development which may increase erosion or flood damages;
- 5) Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- 6) Qualify and maintain for participation in the National Flood Insurance Program.

### **§65-23.3 OBJECTIVES**

The objectives of this Local Law are:

- 1) To protect human life and health
- 2) To minimize expenditure of public money for costly flood control projects;
- 3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4) To minimize prolonged business interruptions;
- 5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- 6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas
- 7) To provide that developers are notified that property is in an area of special flood hazard; and,
- 8) To ensure that those who occupy the area of special flood hazard assume responsibility for their actions.

### **SECTION 65-24 DEFINITIONS**

Unless specifically defined below, words or phrases used in this Local Law shall be interpreted so as to give them the meaning they have in common usage and to give this Local law its most reasonable application.

**“Appeal”** means a request for a review of the Local Administrator’s interpretation of any provision of this Local Law or a request for a variance.

**“Area of shallow flooding”** means a designated AO of VO Zone on a community’s Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**“Area of special flood hazard”** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

**“Base flood”** means the flood having a one percent chance of being equaled or exceeded in any given year.

**“Basement”** means that portion of a building its floor subgrade (below ground level) on all sides.

**“Breakaway wall”** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

**“Building”** means any structure built for support, shelter, or enclosure for occupancy or storage.

**“Cellar”** has the same meaning as “Basement.”

**“Coastal high hazard area”** means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1-30, VE, VO or V.

**“Development”** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

**“Elevated building”** means a non-basement building to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

**“Flood” or “Flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) The overflow of inland or tidal waters;
- 2) The unusual and rapid accumulation or runoff of surface waters from any source.

**“Flood Boundary and Floodway Map (FBFM)”** means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community’s Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studies in detail in the Flood Insurance Study.

**“Flood Hazard Boundary Map (FHBM)”** means an official map of a community , issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

**“Flood Insurance Rate Map (FIRM)”** means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**“Flood Insurance Study”** is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

**“ Flood-proofing”** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**“Floodway”** has the same meaning as “Regulatory Floodway.”

**“Floor”** means the top surface of an enclosed area in a building (including basement, i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

**“ Functionally dependent use”** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

**“ Highest adjacent grade”** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**“Lowest Floor|”** means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement is not considered a building’s lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

**“Manufactured Home”** means a structure, transportable in one or more sections, which is build on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or long and intended to be improved property.

**“Mean Sea Level”** means, for purposed of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

**“ Mobile Home”** has the same meaning as “Manufactured home.”

**“National Geodetic Vertical Datum (NDVD)”** as corrected in 129 is a vertical control used as a reference for establishing varying elevations within the floodplain.

**“New construction”** means structures for which the “start of construction” commenced on or after the effective date of this Local Law.

**“Principally Above Ground”** means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

**“100-year Flood”** has the same meaning as “Base Flood.”

**“Regulatory Floodway”** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 65-26.302 of this Law.

**“Sand dunes”** means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**“Start of construction”** means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the “actual start” means affixing of the manufactured home to its permanent site.

**“Structure”** means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

**“Substantial improvement”** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- 1) Before the improvement or repair is started; or
- 2) If the structure has been damaged and is being restored, before the damage occurred.

For the purposed of this definition “substantial improvement” is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- 1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- 2) Any alteration of a structure or contributing structure listed on the Nation Register of Historic Places or a State Inventory of Historic Places.

**“Variance”** means a grant of relief from the requirements of this Local Law which permits construction or use in a manner that would otherwise be prohibited by this Local Law.

## **SECTION 65-25 GENERAL PROVISIONS**

### **§ 65-25.1 LANDS TO WHICH THIS LOCAL LAW APPLIES**

This Local Law shall apply to all areas of special flood hazards within the jurisdiction of the Village of Port Dickinson.

### **§65-25.2 BAIS FOR EXTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “The Flood Insurance Study for the Village of Port Dickinson, \* of Broome County, New York,” dated May 2, 1977, with accompanying Flood Insurance Rate Maps and Flood Boundary Floodway Maps is hereby adopted and declared to be part of this Local Law. The Flood Insurance Study and maps are on file at the Village Hall, 786 Chenango St, Port Dickinson, Binghamton, New York.

\*Community No. 360053B



### **§65-25.3 INTERPRETATION, CONFLICT WITH OTHER LAWS**

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance. In their interpretation and application, the provisions of this Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this Local Law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards shall govern.

### **§ 65-25.4 SEVERABILITY**

The invalidity of any section or provision of this Local Law shall not invalidate any other section or provision thereof.

### **§ 65-25.5 PENALTIES FOR NON-COMPLIANCE**

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without fill compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions on conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Prot Dickinson from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 65-27 WILL BE DECLARED NON-COMPLIANT AND NOTIFICATION SENT TO THE Federal Emergency Management Agency.

## **§65-25.6 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this Local Law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur and on rare occasions. Flood heights may be increased by man-made or natural causes. This Local Law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Local Law shall not create liability on the part of the Village of Port Dickinson, any officers or employee thereof, of the Federal Emergency Management Agency, for any flood damages that result from reliance on this Local Law or any administrative decision lawfully made thereunder.

## **SECTION 65-26 ADMINISTRATION**

### **§65-26.1 DESIGNATION OF THE LOCAL ADMINISTRATOR**

The Code enforcement Officer is hereby appointed Local Administrator to administer and implement this Local Law by granting or denying development permit applications in accordance with its provisions.

### **§ 65-26.2 ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 65-25.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

#### **§ 65-26.2-1 APPLICATION STORAGE**

The following information is required where applicable:

- a) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;

- c) When required, a certificate from a licensed professional engineer or architect that the utility flood-proofing will meet the criteria in Section 65-27.1-3(1).
- d) Certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 65-27.2 ; and
- e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

## **§ 65-26.2-2 CONSTRUCTION STAGE**

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest flood, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood-proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

## **§ 65-26.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR**

Duties of the Local Administrator shall include, but not be limited to:

### **§ 65-26.3-1 PERMIT APPLICATION REVIEW**

- 1) Review all development permit applications to determine that the requirements of this Local Law have been satisfied.
- 2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- 3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this Local Law, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.

- i. If there is no adverse effect, then the permit shall be granted consistent with the provisions of this Local Law.
  - ii. If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- 4) Review all development permits for compliance with the provisions of Section 65-27.1-5, Encroachments.

#### **§ 65-26.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA**

When base flood elevation data has not been provided in accordance with Section 65-25.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to section 65-27.1-4(4) in order to administer Section 65-27.2, SPECIFIC STANDARDS and Section 65-27.3 FLOODWAYS.

#### **§ 65-26.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED**

- 1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- 2) For all new or substantially improved flood-proofed structures:
  - i. Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been flood-proofed; and
  - ii. Maintain the flood-proofing certifications required in Sections 65-27.2 and 65-27.2.
- 3) Maintain for public inspection, all records pertaining to the provisions of this Local Law including variances when granted and Certificates of Compliance.

#### **§ 65-26.3-4 ALTERATION OF WATERCOURSES**

- 1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.

- 2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

### **§ 65-26.3-5 INTERPRETATION OF FIRM BOUNDARIES**

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section 65-25.2 and/or Section 65-26.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

### **§ 65-26.3-6 STOP WORK ORDERS**

- 1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 65-25.5 of this Local Law.
- 2) All floodplain development found non-compliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 65-25.5 of this Local Law.

### **§ 65-26.3-7 INSPECTIONS**

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the Development Permit or the approved variance.

## **§ 65-26.3-8 CERTIFICATE OF COMPLIANCE**

- 1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Local Law.
- 2) All other development occurring within the designated flood hazard area will have upon completion of Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section 65-26.3-7 and/or any certified elevations, hydraulic information, flood-proofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

## **SECTION 65-27 PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **§ 65-27.1 GENERAL STANDARDS**

In all areas of special flood hazards the following standards are required:

#### **§ 65-27.1-1 ANCHORING**

- 1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- 2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or 2 feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

## **§ 65-27.1-2 CONSTRUCTION MATERIALS AND METHODS**

- 1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- 2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

## **§ 65-27.1-3 UTILITIES**

- 1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;
- 2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and
- 4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

## **§ 65-27.1-4 SUBDIVISION PROPOSALS**

- 1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- 2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- 3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- 4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 50 acres.

## **§65-27.1-5 ENCROACHMENTS**

- 1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in Section 65-26.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- 2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 65-26.3-2 or Section 65-27.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- 3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 65-26.3-2 the requirements of Section 65-27.3, Floodways, shall apply.

## **§ 65-27.2 SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 65-25.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section 65-26.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

### **§ 65-27.2-1 RESIDENTIAL CONSTRUCTION**

New construction and substantial improvements of any resident structure shall:

- 1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- 2) Have fully enclosed areas below the lowest floor that are subject to flood designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
  - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;



- ii. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
- iii. Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

## **§ 65-27.2-2 NONRESIDENTIAL CONSTRUCTION**

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either; have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be flood-proofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- 1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria;
  - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - ii. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
  - iii. Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- 2) If the structure is to be flood-proofed:
  - i. A licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

- ii. A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is flood-proofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

### **§ 65-27.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS**

New construction or substantial improvements of structures including manufactured homes shall have the lowest floor including basement elevated to or above the base flood elevation as may be determined in Section 65-26.3-2 or 2 feet above the highest adjacent grade where no elevation data is available.

- 1) New construction or substantial improvements of structures including manufactured home shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- 2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
  - i. A minimum of two Openings having a total net area of not less than one square inch for every square foot of enclosed are subject to flooding;
  - ii. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
  - iii. Openings may be equipped with louvers, valves, screens or other coverings or openings provided they permit the automatic entry and exit of floodwaters.

### **§ 65-27.3 FLOODWAYS**

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 65-24). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats, from potential erosion forces. When floodway data is available for a particular site as provided by Section 65-25.2 and Section 65-26.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

## **SECTION 65-27A**

### **VARIANCE PROCEDURE**

#### **§ 65-27A.1 APPEALS BOARD**

- 1) The Zoning Board of Appeals as established by the Village of Port Dickinson shall hear and decide appeals and requests for variances from the requirements of this Local Law.
- 2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this Local Law.
- 3) Those aggrieved by the decision of the Zoning Board of Appeals, may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- 4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluation, all relevant factors, standards specified in other sections of this Local Law and:
  - i. The danger that materials may be swept onto other lands to the injury of others;
  - ii. The danger to life and property due to flooding or erosion damage;
  - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - iv. The importance of the services provided by the proposed facility to the community;
  - v. The necessity to the facility of a waterfront location, where applicable;
  - vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

- vii. The compatibility of the proposed use with existing and anticipated development;
  - viii. The relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
  - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - x. The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
  - xi. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - xii. The costs of providing governmental services during and after flood conditions, including search and rescue operation, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- 5) Upon consideration of the factors of Section 65-27A.1 (4) and the purposes of this Local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Local Law.
- 6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal emergency Management Agency upon request.

## **§ 65-27A.2 CONDITIONS FOR VARIANCES**

- 1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 65-27A.1(4) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

- 2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the nation Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.
- 3) Variances must be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - i. The criteria of subparagraphs 1, 4, 5, and 6 of this section are met;
  - ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety
- 4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- 5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 6) Variances shall only be issued upon receiving written justification”
  - i. A showing of good and sufficient cause;
  - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing Local Laws or ordinances.
- 7) An applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

## **ARTICLE VI**

### **Special Use Permits**

#### **§ 65-28. Standards.**

Uses permitted after the issuance of a special permit by the Zoning Board of Appeals shall conform to the following:

- A. The provisions prescribed herewith for each special permit use.
- B. All other applicable provisions for the district for which said use is permitted, unless said provisions are waived by the Board of Appeals.

#### **§ 65-29. Hotels and motels.**

Special permits for hotels in RM Residential Districts may be granted by the Zoning Board of Appeals provided that other than guest room facilities (i.e., food and beverage services, newsstands, cleaning and laundry facilities, etc.) are intended primarily for the use of hotel residents and guests.

#### **§ 65-30. Electrical distribution substations.**

Electrical distribution substations and other utility structures of a similar nature may be permitted in any district in the village, provided that a permit has been obtained from the Zoning Board of Appeals. The permit shall be granted only after the Zoning Board of Appeals is satisfied that there will be substantial compliance with the following standards:

- A. The facility shall be surrounded by a fence set back from the property lines in conformance with the district regulations for front, side and rear yards.
- B. Suitable landscaping shall be provided in conformity to the area.
- C. Landscaping at corners of street intersections shall be so arranged so as not to obstruct clear vision.
- D. In residential areas, sound from the transformers shall be kept to a tolerable level in accordance with accepted standards as determined by local health authorities in conformity with standards of the New York State Department of Health and/or the Public Service Commission.

### § 65-31. Mobile home trailers.

Special permits for mobile home trailers located in mobile home parks in RM Residential Districts may be granted by the Zoning Board of Appeals provided that the mobile home trailer comply with the regulations as outlined for a single-family residence in an R Residential District. The Zoning Board of Appeals may impose other controls which are deemed necessary as outlined in Article VIII, § 65-39.

### § 65-32. Professional offices.

A professional office may be permitted in residential districts provided that:

- A. The professional office staff shall consist of no more than three (3) people in addition to the professional, himself. The staff may include employees or associates.
- B. One (1) vehicle parking space, with a minimum dimension of ten by twenty (10 x 20) feet, with necessary ingress and egress to said parking space and not on any public right-of-way, shall be provided for each fifty (50) square feet of gross floor area.
- C. The professional office shall be an integral part of the full-time residence of the professional and shall contain no more than thirty-three percent (33%) of the combined gross floor area.
- D. Appropriate landscaping shall be provided in conformity with the district in which such office is located.
- E. The Zoning Board of Appeals shall review the site and make a determination that the use will not constitute a traffic hazard. The Zoning Board of Appeals may place conditions on use to alleviate such hazard.
- F. A professional, within the meaning of this section, shall be limited to the following: accountant, architect, dentist, doctor, engineer, insurance broker, lawyer, real estate broker and surveyor.

### § 65-33. Signs.

A special permit to exceed the requirements as set forth for permitted signs may be granted if the use for which such permit is sought will meet the requirements of Article IV, § 65-17.

### § 65-33A Driveways

No automobiles, motorized vehicles, boats, trailers or other large equipment or objects shall be parked on any open area in front of the dwelling unit or between such unit and the adjacent street without the issuance of a special permit. For purposes of this section the words “open area” shall include areas covered by grass, dirt, gravel or similar substance, but shall not include any paved driveway the width of which shall not exceed the total width of the door(s) of the garage to which the driveway leads **plus a width of ten (10) feet**, or in the event there is no garage on the premises, then a total width of not more than **twenty (20) feet**. In the event there is circular drive leading to the garage, the width of the driveway shall not exceed fifty percent (50%) of the total width of the doors of the garage. For the purposes of this section the words “doors of the garage” refers to those doors allowing entry of the automobiles, etc being stored therein, and not doors intended for entry by occupants of the property.

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## **ARTICLE VII**

### **Administration and Enforcement**

#### **§ 65-34. Enforcing official.**

This chapter shall be enforced by the Administrative Officer, a designated official appointed by the Village Board of Trustees who shall in no case, except under written order of the Zoning Board of Appeals, grant any building permit or certificate of occupancy for any building or premises, where the proposed construction, alteration or use thereof would be in violation of any provision of this chapter.

#### **§ 65-35. Building permit and site plan approval.**

- A. No building shall be erected, added to or structurally altered, nor shall any land be used in any district, until a permit has been issued by the Administrative Officer in accordance with requirements of this chapter and as hereinafter set forth.
- B. All applicants for a building permit shall submit two (2) copies of either a plot plan or site plan approved by the Planning Board, or a plot plan or approved site plan accompanied by a written order of the Board of Appeals, where such approval is required by other sections of this chapter.
- C. A plot plan shall be drawn to scale, with all dimensions indicated, showing the exact location of all buildings and required driveways, parking areas, utilities and other appurtenances.
- D. Building permits shall expire one (1) year from the date of issuance. In the event that construction is not complete at the end of one (1) year, an extension of no more than six (6) months may be granted by the Administrative Officer.

#### **§ 65-36. Permit fees.**

A fee may be charged for every permit issued. The amount of such fee shall be as determined by the Village Board in Section 26-9 of this Code. **[Amended by Local Law 5-1996.]**

### **§ 65-37. Certificate of occupancy.**

- A. A certificate of occupancy shall be applied for coincident with the application for a building permit. A certificate of occupancy shall be issued by the Administrative Officer upon completion of a structure erected or altered for the occupancy of the structure and the use designated in the permit for the building, provided that the structure and the premises actually comply with the provisions of this chapter. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this chapter.
- B. No nonconforming use shall be renewed, changed or extended except as authorized by Section 65-9 of this Code and until a building permit and a certificate of occupancy has been issued by the Administrative Officer. **[Amended by Local Law 5-1996.]**
- C. The Administrative Officer shall maintain a record of all certificates, and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.

## **ARTICLE VIII Zoning Board of Appeals**

### **§ 65-38. Creation; appointment; organization.**

A Zoning Board of Appeals is hereby created. Said Board shall consist of five (5) members, to serve for five-year terms expiring at the end of each official year, to be appointed by the Village Board. Vacancies shall be filled in the like manner; provided, however, that an unexpired term shall be filled for such unexpired term only. There shall be a Chairperson and an Acting Chairperson. The procedure of the Board and the conduct of its members shall be in conformity with § 7-712 of the Village Law and any rules of procedure adopted by said Board. **[Amended by Local Law 5-1996.]**

#### Section 65-38 A      Appointment of Ad Hoc Members **[Added 3-14-00 by Local Law 2-2000]**

- A. The Mayor of the Village of Port Dickinson subject to the approval of the Board of Trustees may, in any year it deems necessary, appoint temporary ad hoc members to its Zoning Board of Appeals to serve as provided in this section.
- B. The number of temporary members so appointed pursuant to this section in any year shall not exceed three (3).

- C. Each temporary member shall be ap[ointed for one-year term of office.
- D. The chairman of Zoning Board of Appeals shall assign the temporary members as necessary when absence of regular members of the Board or conflicts of interest of regular members of the Board would otherwise prevent five (5) members of the Board from considering any pending matter.
- E. No more than two temporary members shall sit in determination on any pending matter.
- F. The temporary members shall designated on a rotating basis in the manner provided in the general governing rules of the Zoning Board of Appeals so that each temporary member shall have the same powers and duties as regular members of the Board until that matter is concluded.
- G. Once designated to serve on a particular matter before the Board, the temporary member shall have the same powers and duties as regular members of the Board until that matter is concluded.
- H. Any determination by the Board consisting of temporary members shall have the same weight and be entitled to the same authority as the same authority as the act or deed of the regular Zoning Board of Appeals and all laws, statutes and regulations shall apply and be applied with equal force and effect.

#### **§ 65-38B Training Requirements [Added 6-12-01 by LL No. 7-2001]**

##### **§65-38B.1 Purpose and Intent.**

- A. The Board of Trustees (hereinafter the "Board") of the Village of Port Dickinson (hereinafter the "Village") finds that appropriate training of the Village Zoning Board of Appeals (hereinafter the "Zoning Board of Appeals") members is essential to the proper functioning of said Board.
- B. The Legislature of the State of New York has recognized the importance of training and has established training and attendance requirement in its recent amendments to the Planning Board and ZBA statutes (**Village Law Sections 271 and 267, respectively**) as contained in Chapter 662 of the Laws of 2006. (**Modified by L.L. No. 3-2006**)

- C. It is the purpose of this Local Law to assist the Zoning Board of Appeals members in obtaining appropriate training to enhance their ability to carry out their duties under applicable provisions of Law, and to pay the reasonable costs of such training as a Village charge.
- D. It is also the purpose of this local law to establish minimum training and continuing education course requirements for such members.

#### **§65-38B.2 Minimum Training Requirements.**

- A. All members and alternate members (hereinafter individually or collectively referred to as "Member") of the Zoning Board of Appeals shall be required to attend a minimum of six (6) hours in relevant training courses within the first year from the date of their initial appointment to such board; and thereafter, attend training sessions of not less than 4 hours every year thereafter. **(Modified by L.L. No. 3-2006)**
- B. Training received by a member in excess of 4 hours in any one year after the first year may be carried over into succeeding years in order to meet these requirements. **(Added by L.L. No. 3-2006)**
- C. Such training requirements can be waived or modified by resolution of the Village Board when, in the judgment of the Village Board, it is in the best interest of the Village to do so. **(Added by L.L. No. 3-2006)**
- D. Non-compliance with these minimum requirements relating to training shall result in ineligibility for reappointment and shall also be deemed a proper cause for removal from office. **(Modified by L.L. No. 3-2006)**
- E. The reasonable costs of such training courses, seminars, workshops or continuing education courses so designated shall be a Village charge. Members shall also be reimbursed for reasonable travel and meal expenses according to Village policies. Such training sessions shall be approved in advance by the Village Board.

#### **§65-38B.3 Approved Training Courses.**

Training sessions which relate to the duties of members of the Zoning Board of Appeals may include programs offered by the New York State Department of State, New York State Association of Towns, New York State Conference of Mayors, New York State Department of Environmental Conservation, the New York State Planning Federation, The Broome County Department of Planning and Economic Development, The Broome County Cooperative Extension and other such entities, as well as in-house up-dates or training seminars or Municipal Law seminars conducted by the Village Attorney of the Village of the Law Firm with which such Village Attorney is affiliated. The Village Board, after discussion with the Chairperson of the Zoning Board of Appeals, shall annually designate such training courses, seminars, workshops, or continuing education courses which may be offered within a reasonable distance and which may be helpful to or of assistance to the Zoning Board of Appeals in carrying out their functions in a timely, fair and lawful manner. **(Amended by L.L. No. 3-2006)**

#### **§65-38B.4 Lack of Training Not to Affect Validity of Members Actions.**

Notwithstanding the foregoing, the failure of a member of the Zoning Board of Appeals to obtain such training shall not affect said person's appointment to serve on such board, to entertain application , to vote on such applications, the validity of such member's actions or the validity of any decision, order or action of such Board.

#### **§65-38B.5 Procedure for Removal of a Member.**

The Chairperson of the Zoning Board of Appeals shall notify the Village Board in writing on or about December 1 in any year of any member who fails to comply with the minimum requirements for training in any calendar year. In the event a member of the Zoning Board of Appeals has failed to complete the minimum training requirements set forth in Section 3, then the Village Board may remove such member for cause as herein provided:

- A.** Notice. Such member shall be mailed a written notice specifying the nature of the failure of such member to meet the minimum requirements of Section 3 above.
- B.** Public Hearing. Such notice shall specify a date, not less than ten (10) nor more than thirty (30) days from the date of mailing such notice, when the Village Board shall convene and hold a public hearing on whether or not such member should be removed from service on such board. Such notice shall also specify the time, date and place of such hearing.
- C.** Public Notice. Public notice of such hearing shall be published in the official newspaper of the time at least ten (10) days prior to the date of the public hearing.
- D.** Conduct of Hearing. The public hearing on the charges shall be conducted before the Village Board. The member shall be given an opportunity to retain an attorney, present evidence, call witnesses to refute the charges, and cross-examine witnesses. A record of such hearing shall be made. The decision of the Village Board shall be reduced to writing together with specific findings of the Village Board with respect to each charge against such member. A copy of such decision and such findings shall be filed in the Office of the Village Clerk and mailed to the member.

**E.** Action by the Village Board. Following the hearing and upon a finding that such member has not met the minimum training established by this Local Law the Village Board may:

- i. Remove such member from the Zoning Board of Appeals; or
- ii. Issue a written reprimand to such member without removing such member from such board;  
or
- iii. If the Village Board shall find that the reasons for failing to meet the minimum training requirements are excusable because of illness, injury or other good and sufficient cause, the Village Board may elect to take no action.

**§65-38B.6 Removal for Cause.**

Nothing contained herein shall be deemed to limit or restrict the Village Board's authority to remove a member from the Zoning Board of Appeals for cause (i.e. for other than the reasons enumerated herein.) The procedural provisions of Section 6 (Procedure) of this Local Law shall govern any hearing to remove a member for cause.

## § 65-39. Powers and duties.

The Zoning Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows.

- A. Interpretation. Upon appeal from a decision by an administrative official to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- B. Use permits. To issue special permits pursuant to Village Law Section 7-725(b) for any of the uses for which this chapter requires the obtaining of such permits from the Zoning Board of Appeals, or for the extension of a building or use as such existed at the time of the passage of this chapter into a contiguous, more restricted district for a distance not exceeding thirty (30) feet, but not for any other use or purpose. **[Amended by Local Law 5-1996.]**
  - (1) No such special permit shall be granted by the Zoning Board of Appeals unless it finds that the use for which such permit is sought will not, in the circumstances of the particular case and under any condition that the Board considers to be necessary or desirable, be injurious to the neighborhood or otherwise detrimental to the public welfare.
  - (2) The Zoning Board of Appeals, after public notice and hearing, and on application, may issue a special permit for any use specified in Article VI, provided such special permit use complies with the general standards set forth as follows:
    - (a) Each special permit use must comply with the regulations of this chapter for the district within which it is to be located.
    - (b) Each special permit use shall be of such character, intensity, size and location that it will be in harmony with orderly development of the district in which it is to be located and will not adversely affect the neighborhood. **[Amended by Local Law 5-1996.]**
    - (c) Each special permit use may be located only in the district or districts permitted for such special permit use.
  - (3) In issuing a special permit, the Board shall impose reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit which it deems necessary (i.e., wall fencing, landscaping, etc.) to protect the value of adjacent properties and to provide for the orderly development of the surrounding area. **[Amended by Local Law 5-1996.]**
  - (4) The Board shall deny any application for a special permit which, in its judgment, is not in accordance with the general standards and would prove detrimental to adjacent properties.
  - (5) The Board may, when reasonable, waive any requirements for the approval, approval with modifications or disapproval of special use permits submitted for approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular special use permit. **[Added by Local Law 5-1996.]**

(6) Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Board for an area variance pursuant to Section 7-712-b-3 of the Village Law, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations. **[Added by Local Law 5-1996.]**

- C. Use variances. The Board, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this chapter. **[Added by Local Law 5-1996.]**
- D. Finding of facts for use variance. No such variance shall be granted by the Board without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located: **[Added by Local Law 5-1996.]**
  - (1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - (2) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - (3) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - (4) That the alleged hardship has not been self-created.
- E. Granting of use variance. **[Added by Local Law 5-1996.]**
  - (1) The Board, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.



- (2) The Board shall, in the granting of use variances, have the authority to impose such reasonable condition and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

**F. Area variances.** The Board shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of such ordinance or local law, to grant area variances from the area or dimensional requirements of this chapter. **[Added by Local Law 5-1996.]**

**G. Findings of fact for area variance.** In making its determination, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighted against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider: **[Added by Local Law 5-1996]**

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- 2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- 3) Whether the requested area variance is substantial;
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- 5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

**H. Granting of area variances.** **[Added by Local Law 5-1996]**

- 1) The Board, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- 2) The Board shall, in granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such condition shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

- I. Expiration of permits. Unless otherwise specified, any order or decision of the Board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within ninety (90) days from the date of the decision; however, the Board may extend this time an additional ninety (90) days. **[Added by Local Law 5-1996]**

(2A) The Zoning Board of Appeals, after public notice and hearing, and on application, may issue a special permit for a functional family unit use specified in subparagraph (c) of the definition of a “Family” provided such special permit use complies with the general standards set forth as follows:

A family as defined in Article I, Section 65-3, paragraph B, may be permitted by the Zoning Board of Appeals provided said Board finds the occupants constitute a “Functional Family Unit” which means a group of more than two (2) persons together with their minor children by blood, marriage or adoption, living together in a single dwelling unit and functioning as a family with respect to those characteristics that are consistent with the purposes of zoning restrictions in residential neighborhoods. In determining whether or not a group of unrelated individuals is a functional family unit under the definition set forth above, the Zoning Board of Appeals may consider, among other things, the following factors:

1. Whether the occupants share the entire dwelling unit as contrasted with a situation where the various occupants act as separate roomers.
2. Whether the household has stability with respect to the purpose of the Zoning Code. Evidence of such stability may include, among other things, the following:
  - i) The presence of minor, dependent children regularly residing in the household;
  - ii) The enrollment of dependent children in local schools;

- iii) The proof of the sharing of expenses for rent or ownership costs, utilities and other household expense;
  - iv) Whether the household has been living together as a unit for a year or more; either in the current dwelling unit or other location.
- 3. Whether the household appears to preserve and maintain the harmonious character of the residential district in which the household is located.
  - 4. Whether the rooms providing living, cooking, sanitary and sleeping facilities meet the minimum dwelling space requirements of the New York State Uniform Fire Prevention and Building Code.
  - 5. Whether the household as a temporary living arrangement or a framework for transient living such as a boarding house, a temporary residential home or a fraternity or sorority house.
  - 6. Whether adequate provision has been provided for off-street parking and related problems which are consistent with the regulations of the zoning district in which the household resides.
  - 7. Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family. **[Added 4/10/01, LL 2-2001]**

#### **§65-40 Procedure.**

- A. The Zoning Board of Appeals shall act in strict accordance with the procedure specified by Section 7-712a of the Village Law and by this chapter and by the rules adopted by said Board. All appeals and applications made to the Board shall be in writing, on form prescribed by the Board. Every appeal or application shall refer to the specific provision of the chapter involved and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought or the details or the variance that is applied for and the grounds on which it is claimed that the variance shall be granted, as the case may be. **[Added by Local Law 5-1996.]**
- B. At least ten (10) days before the date of the public hearing, the applicant shall transmit a copy of said application or appeal, together with a copy of the notice of the aforesaid hearing, to the owners of all lots which any part lies within two hundred (200) feet of any part of the lot in question **[Added 12-7-76 by LL No. 4-1976]**

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<sup>0</sup>Editor'sNote: This local law also provided for the relettering of former Subsections B and C to becomes C and D, respectively.

- C. At least fifteen (15) days before the date of the hearing required by law on an application to the Zoning Board of Appeals, the Secretary of said Board shall transmit to the Planning Board of the Village of Port Dickinson a copy of said application or appeal, together with a copy of the notice of the aforesaid hearing and shall request that the Planning Board submit to the Zoning Board of Appeals its advisory opinion on said application or appeal, and the Planning Board shall submit a report of such advisory opinion prior to the date of said hearing. **[Added by Local Law 5-1996.]**

- D. Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed together with all documents pertaining thereto in the office of the Village Clerk, by case number under one or another of the following headings: Interpretations; Special Permits; Variances. The Zoning Board of Appeals shall notify the Village Board of Trustees and the Village Planning Board of each special permit and each variance granted under the provisions of this chapter.

**§ 65-41. Fees for special permits and variances.**

A fee may be charged on all applications or appeals for special permits or variances. The amount of such fee shall be determined by the Village Board of Trustees.

**ARTICLE IX  
Penalties**

**§ 65-42. Penalties for offenses. [Amended by Local Law 1-2003 adopted Jan.14, 2003]**

- A. A violation of this chapter or regulation made thereunder is an offense, punishable as follows:
1. For conviction of a first offense: A fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both.
  2. For conviction of a second offense both of which were committed within a period of five years: A fine of not less than three hundred fifty dollars not more than seven hundred dollars or imprisonment for a period not to exceed six months, or both.
  3. For conviction of a third or subsequent offense all of which were committed within a period of five years: A fine of not less than seven hundred dollars or imprisonment for a period not to exceed six months, or both.
- B. A first violation shall be deemed to have occurred from the date of written notification of violation issued by the Administrative Officer or from such date as may be designated in such written notice.
- C. Each week's continued violation shall constitute a separate additional violation.
- D. In the event that any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of this ordinance or regulation made thereunder, in addition to other remedies, the Board of Trustees may institute any appropriate action or proceedings to prevent such unlawful act, to restrain, correct or abate such violation or to prevent any Illegal act thereunder.

**§ 65-43. Complaints.**

Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Administrative Officer, or other enforcing officer, who shall properly record such complaint and immediately investigate and report thereon.

## ARTICLE X Amendments

### **§ 65-44. Initiation of amendments.**

- A. The Village Board of Trustees may, from time to time, on its own motion or on petition or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this chapter. Every such proposed amendment or change, whether initiated by the Village Board of Trustees or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for.
- B. Whenever the owners of fifty percent (50%) or more of the street frontage in any district, or any specified part thereof, shall present to the Village Board of Trustees a petition duly signed and acknowledged, requesting an amendment, supplement, change, modification or repeal of the regulations prescribed for the Zoning Maps including said district or specified part thereof, it shall be the duty of the Village Board of Trustees to hold a public hearing thereon and cause notice thereof to be given in the manner prescribed above.

### **§ 65-45. Public hearings.**

The Village Board of Trustees, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:

- A. By publishing a notice once a week for two (2) consecutive weeks in at least one (1) newspaper of general circulation in the village.
- B. By mailing a notice thereof to every association of residents of the village which shall have registered its name and address for this purpose with the Village Clerk. The notice shall state the general nature of the proposed amendment as well as the text.

### **§ 65-46. Planning Board recommendations.**

Any proposed amendment shall be submitted to the Planning Board for report and recommendation prior to any action thereon by the Village Board of Trustees. If the Planning Board recommends against the enactment of any proposed amendment, or a protest is lodged as described in § 7-708 of the Village Law, the amendment shall become effective only by a favorable vote of three-fourths (3/4) of the members of the Village Board of Trustees as provided in § 7-708.

ARTICLE XI  
**Planned Unit Development**  
[Added 12-5-78 by L.L. No. 1-1978]

**§ 65-47. Purpose.**

- A. The purpose of the Planned Unit Development classification is to provide for the rezoning of land residential, multiresidential, commercial, industrial and recreational development zones either jointly or separately in conformance with the Village of Port Dickinson Plan and also with the provisions and standards ensure compatibility among all the land uses, foster innovation in site planning and development and encourage sound design practices.
- B. Provisions are included for planned unit development (PUD) to permit establishment of areas in which diverse uses may be brought together in a compatible and unified plan of development which shall be in the interest of the general welfare of the public. In Planned Unit Development Districts, land may be used and structures may be constructed and used for any lawful purpose in accordance with the provisions set forth herein. A planned unit development may be a development of diversified land uses integrated into a carefully considered plan. Any of the uses listed in the Schedule of Zoning Regulations may be permitted, subject to the requirements of that section. Industrial or obnoxious uses, however, shall not be allowed in established areas of PUD's if they are in conflict with overall character of the zone. Where development standards may be in conflict, or may be unnecessary due to the integrated nature of the plan, the Village Board may approve a PUD that does not meet all required standards, such as zero lot line developments, cluster housing, townhouses or such similar innovations, provided that a written explanation of the reasoning and efficiency of such modification is provided by the petitioner/developer/agent as part of the application.

#### **§ 65-48. Procedure for zoning change.**

The procedure for obtaining a change in zone for undertaking development within a Planned Unit Development District shall be as follows:

- A. The applicant/developer/agent shall have the opportunity to meet with the Village Planning Board at an informal preapplication session in order to discuss the proposed development plans in general, to present sketch plans thereof and to receive comments, procedural instructions to be followed, zoning ordinance requirements to be met and noncommittal pertinent information relative to the preparation of the formal preliminary development plan described below.
- B. The applicant or agent thereof, shall submit four (4) copies of a preliminary development plan to the Village Board as described in § 65-49 and an application for a change of zone. The Village Board shall refer the application and preliminary development plan to the Village Planning Board ten (10) days prior to the Planning Board's next scheduled meeting. Such referral shall be prior to the date of the public hearing required by law on any proposed amendment to the Zoning Ordinance and Zoning Map by the Village Board. In addition, the preliminary development plan shall be reviewed by the Broome County Department of Planning, which shall report its recommendation, in writing, to the Village Board, within thirty (30) days of written receipt thereof.
- C. The Planning Board shall discuss the application and shall review the preliminary development plan with the applicant/agent. The Planning Board shall prepare recommendations with regard to the preliminary development plan and the proposed change of zone.
- D. Within forty-five (45) days of receipt of the application and the preliminary development plan and at its regular meeting, the Planning Board shall transmit, in writing, to the Village Board its recommendation for approval, approval with conditions or modifications, or disapproval, in accordance with its findings as described in § 65-51. The Planning Board shall send a copy of its recommendations to the applicant/agent. Failure of the Planning Board to act within forty-five (45) days of receipt of the application shall permit, the Village Board to act without the Planning Board's recommendation.
- E. Within forty-five (45) days of receipt of the Planning Board's recommendation, public notice shall be given and public hearing held by the Village Board on the proposed change of zone, subject to the specifications of preliminary development plan.



- F. Within forty-five (45) days of the public hearing, the Zoning Ordinance may be amended so as to define the boundaries of the Planned Unit Development District, but such action shall have the effect only of granting permission for development of the approved preliminary development plan proposal in accordance with the Zoning Ordinance within the area so designated.
- G. If the preliminary development plan and change of zone are approved by the Village Board, an appropriate notation to that effect will be made on the face of four (4) copies of the preliminary development plan, and the Board's resolution of approval shall be attached thereto. One (1) copy will be retained by the Village Clerk, one (1) copy will be given to the Planning Board, one (1) copy will be given to the Administrative Officer and one (1) copy will be returned to the applicant/agent.
- H. In the event that the Village Board grants the change of zone subject to modifications in the preliminary development plan, the resolution granting the change of zone shall specify the required modification and shall specify the time period for completion of the final development plan, as specified in § 65-50E.
- I. In the event that the Village Board disapproves the application and preliminary development plan, it shall notify the applicant/agent, in writing, of the disapproval and of the reasons for such decision.
- J. Upon approval of the application on change of zone and the preliminary development plan, with or without required modification, the applicant shall submit for Planning Board review four (4) copies of a final development plan, as described in § 65-50, and the Planning Board shall take action within thirty (30) days after submission.
- K. When the Village Planning Board approves the final development plan as submitted, an appropriate notation to that effect will be made on the face of four (4) copies of the final development plan. One (1) copy will be retained by the Village Clerk, one ( 1 ) copy will be retained by the Planning Board, one (1) copy will be given to the Administrative Officer and one (1) copy will be returned to the applicant/agent.
- L. Prior to the issuance of a building permit, the Village Board shall approve as to the form and sufficiency of any performance bond obtained by the applicant and as to the acceptability of any offers of cession, deeds or restrictive covenants. In the event that the applicant desires change the use of the PUD from the original proposed use, a resubmittal of the final development plan shall be required.

#### **§ 65-49. Preliminary development plan.**

The applicant shall submit an application for a change of zone with a preliminary development plan at a scale of one (1) inch equals fifty (50) feet, which shall include the following:

- A. Site plan.
  - (1) For residential single-family development: a master site plan indicating individual lot layout, ten-foot contours, open spaces, land use areas, streets, utility easements, rights-of-way and adjacent land use.
  - (2) For all other development: a proposed site plan, including ten-foot contours, elevations, location and dimensions of proposed buildings, signs, open spaces, land use areas, streets, utility easements, rights-of way and adjacent land use.
- B. Location and dimensions of driveways and driveway intersections with streets and highways, proposed traffic circulation, parking and loading areas, pedestrian walks, lighting, landscaping and necessary screening.
- C. Proposed construction sequence for buildings, parking spaces and landscaping areas.
- D. Proposed public utilities plan, including water supplies, sewerage and stormwater drainage, with a letter of review from the Broome County Health Department.

#### **§ 65-50. Final development plan.**

- A. For site plan reviews in a PUD District, the applicant shall submit a final development plan at a scale of one (1) inch equals fifty (50) feet for review to the Village Planning Board prior to the issuance of a building permit. Plans and specifications shall bear the signature of the person responsible for the design and drawings and, where required by § 7302, as amended, of Article 147 of the Education Law of the State of New York, the seal of a licensed architect or licensed professional engineer.
- B. The final development plan shall include:
  - (1) A site plan showing location and dimensions of proposed buildings, signs, open spaces and land use areas, including any subdivision intended within the district.
  - (2) Location and dimensions of driveways and their intersections with streets and highways, traffic circulation, required parking and loading areas, pedestrian walks and lighting.

- (3) A description, in writing, of the proposed use, including hours of operation, number of employees, expected volume of business and type and amount of traffic to be generated.
- (4) Landscaping plan, including site grading and type of landscape plantings and structures and necessary screening.
- (5) Final drawings of buildings to be constructed in the current phase, including floor plans, exterior elevations and sections.
- (6) Final engineering plans, including street improvements, water supply, waste disposal and drainage system (approved by the County Health Department) and other public utilities. All improvements shall comply, where applicable, with construction standards outlined in the Village of Port Dickinson subdivision regulations.
- (7) Letters in appropriate cases directed to the Chairman of the Planning Board, signed by a responsible official of the agency, utility company, government authority or special district having jurisdiction in the area of public sewer, public water, telephone, electric or gas improvements, and a responsible and qualified official of the Fire Department and School Board, transmitting their findings concerning the plan.
- (8) Engineering feasibility studies for the solution of any anticipated problem which might arise due to the proposed development, as required by the Planning Board.
- (9) The need for a performance bond for the items in Subsection B(2), (4) and (6) above, and the bond amount shall be determined by and at the option of the Village Board (see § 65-50F).
- (10) Offers of cession and proposed restrictive covenants.
- (11) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas, as applicable.
- (12) Complete documentation of means for the continual maintenance of common open space and buildings.
- (13) Any environmental quality review as may be required by New York State, Broome County or the Village of Port Dickinson.

C. Building permits.

- (1) Building permits shall be issued by the Administrative Officer only in accordance with an approved site plan and by the Village Board, accurately representing the manner in which the project shall be constructed, and after receipt of a recommendation from the Planning Board. The Planning Board shall transmit the application with its written findings to the Administrative Officer within sixty (60) days. A failure to act within sixty (60) days of the receipt of the application will permit the Village Board to authorize the Administrative Officer to act without the recommendation of the Planning Board.
- (2) An applicant wishing to make substantial changes in a duly reviewed site plan shall make application for a new building permit.

- D. The final development for a PUD site shall be in general conformance with the approved preliminary development plan. Such approval for each phase shall be secured by the applicant/agent for each phase of the development. Such approval for each phase shall be valid for two (2) years, at which time, unless the proposed development has been completed or is in process, the final development plan approval shall terminate, and no additional building permits shall be issued. If five (5) or more lots with separate deeds are provided on the Planned Unit Development District, the final development plan shall be in such form as to be acceptable according to the subdivision regulations of the Village of Port Dickinson, as a final subdivision plat, and may be approved in accordance with the procedures and requirements of the subdivision regulations of the Village of Port Dickinson.
- E. Final approval of site plans in PUD Districts for each phase of development, if applicable, shall be secured by the applicant/agent for each phase. Such approval for each phase shall be valid for two (2) years, at which time, unless the proposed development has been completed or is in process, the development plan approval shall terminate, and no additional building permits shall be issued.
- F. Prior to construction and at the discretion of the Village Board, a performance bond may be required to ensure that final development plans and specifications are satisfactorily completed or to return the subject properties to a usable state within the intent of this Article.

## **§ 65-51. Requirements for preliminary plan approval.**

The Planning Board, after determining that the requirements of the Zoning Ordinance dealing with Planned Unit Development Districts have been met, shall recommend the approval, approval with modifications, or disapproval of the preliminary development plan to the Village Board. The Planning Board shall enter its reasons for such action in its records and transmit its findings by resolution to the Village Board. The Planning Board may recommend the establishment of a Planned Unit Development District, provided that it finds that the facts submitted with the preliminary development plan established that:

- A. The uses proposed will not be detrimental to the natural characteristic of the site or to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under any other district.
- B. Land surrounding the proposed development can be developed in coordination with the proposed development and be compatible in use.
- C. Land uses surrounding the proposed development will be adequately buffered from the proposed use, where necessary, by appropriate screening devices, such as a wall, fence or hedge. Where existing features of the property can serve this function, the design of the proposed development shall be such that these features are preserved for such purpose.
- D. The proposed change to a Planned Unit Development District is in conformance with the general intent of the Comprehensive Plan of the Village of Port Dickinson.
- E. Existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed district and in the vicinity of the proposed district.
- F. Existing and proposed utility services are adequate for the proposed development.
- G. Each phase of the proposed development, as it is proposed to be completed, contains the required parking spaces, landscapes and utility areas necessary for creating and sustaining a desirable and stable environment.

ARTICLE XII  
Adult Uses  
[Added 8-6-85 by L.L. No. 3-1985]

**§ 65-52. Purpose.**

The establishment of certain adult entertainment businesses in the Village of Port Dickinson will tend to result in the blighting and deterioration of the village. Accordingly, it is necessary that these businesses be regulated in such a manner as to prevent the erosion of the character of the village. It is necessary to regulate the establishment of such adult entertainment businesses within close proximity to residentially zoned areas, schools, churches, parks, playgrounds and day care centers so as to minimize the proliferation of criminal activity and a blighting and degrading effect upon surrounding neighborhoods and to prevent the erosion of the residential character of the village and its neighborhoods. (Amended 4-14-98; L.L. No. 2-1998)

**§ 65-53. Definitions.**

As used in this Article, the following terms shall have the meanings indicated:

ADULT ENTERTAINMENT BUSINESS — As used in § 65-54 hereof, includes the following:

- A. ADULT BOOKSTORE — An establishment having as a significant portion of its stock-in-trade books, films, magazines and other periodicals which are distinguished or characterized by an emphasis on depicting or describing ?sexual conduct or specified anatomical areas.
- B. ADULT MINI-MOTION-PICTURE THEATER — An enclosed building ?with a seating capacity of fewer than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
- C. ADULT MOTION-PICTURE ARCADE — Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically or mechanically controlled still- or motion-picture machines, projectors or ?other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time and where the images so ?displayed are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.

- D. **ADULT MOTION-PICTURE THEATER** — An enclosed building with a seating capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on depicting or describing ?sexual conduct or specified anatomical areas.
- E. **ADULT ENTERTAINMENT CABARET** — A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dancers and/or bottomless dancers, strippers, male or female impersonators or similar entertainers, or employees appearing in a bottomless and/or topless manner of dress. (Added 4-14-98; L.L. No. 2-1998)
- F. **MASSAGE ESTABLISHMENT** — Any establishment having a fixed place of business where any person, firm, association or corporation, engages in, carries on, or permits to be engaged in or carried on, any of the activities referred to in subparagraph (i) below. (Added 4-14-98; L.L. No. 2-1998)
- (i) The activities referred to herein are any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in the practice of massage. (Added 4-14-98; L.L. No. 2-1998)
  - (ii) This article XII, Adult Uses, shall not apply to licensed hospitals, licensed nursing homes, or clinics or persons holding an unrevoked certificate to practice any of the healing arts under the law of the State of New York, or persons working under the direct supervision and in the presence of any such persons or in any such establishments, nor shall this article apply to barbers or cosmetologists lawfully carrying out their particular profession of business and holding a valid unrevoked license or certificate of registration issued by the State of New York. (Added 4-14-98; L.L. No. 2-1998)
- G. **SEXUAL CONDUCT** — Includes the following:
- 1. The fondling or other touching of human genitals, pubic region, buttocks or female breasts.
  - 2. Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.

3. Acts of masturbation, sexual intercourse, oral copulation, or sodomy. (Added 4-14-98; L.L. No. 2-1998)
4. Human genitals in a state of sexual stimulation or arousal. (Added 4-14-98; L.L. No. 2-1998)

H. SPECIFIED ANATOMICAL AREAS — Include the following: human genitals, pubic region, buttocks and female breasts below the top of the areola.

**§ 65-54. Restrictions. (Amended 4-14-98; L.L. No. 2-1998)**

A. LOCATION RESTRICTIONS — Adult uses, including but not limited to adult entertainment businesses, shall be permitted in a Planned Unit Development - Entertainment (PUD-E) District, subject to the requirements of the Zoning Ordinance of the Village of Port Dickinson, including the requirement of a Special Use Permit pursuant to § 65-33A, and subject to the following restrictions and regulations:

- (i) No such adult use shall be located in any zoning district except a Planned Unit Development - Entertainment District, and in addition to the restrictions and regulations contained in this Article, shall be subject to all zoning requirements of Planned Unit Development - Entertainment Districts.
- (ii) No adult entertainment business shall be located within 500 feet of any residential dwelling or building containing a residential dwelling or rooming units, or within 1,000 feet of any church, school, park, playground, day care center, amusement arcade or existing adult entertainment business.
- (iii) The establishment of an adult entertainment business shall include the opening of such business as a new business, the relocation of such business or the conversion of an existing business location to any of the uses described in Section 65-53 hereof.
- (iv) A Site Plan review pursuant to § 65-20(A)(5) shall be required prior to the issuance of any Special Use Permit, to insure compliance with the above conditions.



B. REGULATIONS.

A. There shall be no exposure of the interior of any adult entertainment business to the outside and no outside displays of products, wares, books, magazines or any stock in trade of any adult entertainment business.

B. The legal age for admittance to any adult use establishment is 18 years of age.

**§ 65-55. Registration. (Repealed and replaced with the following 4-14-98; L.L. No. 2-1998)**

A. The owner of a building or premises, his agent for the purpose of managing or controlling or collecting rents or any other person managing or controlling a building or premises, any part of which contains an adult use, shall register the following information with the Village Clerk of the Village of Port Dickinson:

(1) The address of the premises.

(2) The name and address of the owner(s) of the premises and the names and addresses of the beneficial owners if the property is in a land trust.

(3) The name of the business or the establishment subject to the provisions of this Article XII.

(4) The name(s) and addresses of the owner, beneficial owner of the major stockholder(s) of the business or the establishment subject to the provisions of this Article XII.

(5) The date of initiation of the adult use.

(6) The nature of the adult use.

(7) If the premises or building is leased, a copy of said lease.

B. DISPLAY OF REGISTRATION — The owner, manager or agent of a registered adult use shall display in a conspicuous place in the premises of the adult use a copy of the registration filed with the Village Clerk.

- C. VIOLATION — It is a violation of this § 65-55 for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate thereon an adult use without having properly registered said adult use with the Village Clerk.

**§ 65-55A. Special Registration Use Permit. (Added 4-14-98; L.L. No. 2-1998)**

- A. No use as described in this Article XII shall be established until the issuance of a special registration use permit by the Zoning Board of Appeals of the Village of Port Dickinson.
- (1) Application for such special registration use permit shall be in writing to the Village Planning Board and shall consist of a description of the premises for which the permit is sought, a plain and concise statement of the use which is proposed, the full information required for Registration in § 65-55, and such additional information as shall be required by the Planning Board in order to hold a site plan review pursuant to § 65-20. Upon receipt of said application the Planning Board, upon notice to the applicant, shall hold a site plan review and within 30 days of said review shall transmit its findings and recommendations to the Zoning Board of Appeals.
- (2) Upon receipt of the findings and recommendations of the Planning Board, the Zoning Board of Appeals shall call and conduct a public hearing pursuant to § 65-40 and as the same may be amended from time to time for the purpose of considering the request for a special registration use permit.
- B. A special registration use permit issued under the provisions of this section shall not be transferable.
- C. Upon the issuance of such special registration use permit, a fee in the sum of One Hundred (\$100.00) Dollars shall be paid by the licensee to defray the administrative costs thereof and the cost of inspecting the premises during the term of such permit to insure compliance with this section.
- D. Approval by the Zoning Board of Appeals and registration by the Village Clerk shall be permitted only upon full compliance with the provisions of this section.

**§ 65-55B. Renewal/Revocation of Special Registration Use Permit. (Added 4-14-98; L.L. No. 2-1998)**

- A. Such special registration use permit shall be effective from the date of its issuance until the 31<sup>st</sup> day of December of the year of such issuance. Applications for renewal permits shall be submitted in the December preceding the year for which such renewal permit is sought and may be issued, either upon the applicant's reaffirmation of his original application and a statement showing any variations therein, or upon a new application as described in § 65-55A. Said application for renewal shall be accompanied with a fee of Fifty (\$50.00) Dollars to be paid by the applicant to defray the administrative cost of said application.
- B. Such special registration use permit may be revoked, or renewal thereof denied, by the Board of Trustees after a public hearing thereon at which the holder of said permit shall have an opportunity to be heard.
- C. Said special registration use permit shall be revoked, or renewal thereof denied, based upon:
  - (1) Conviction of the holder of said permit for violation of any section of Article 230 and Article 235 of the Penal Law of the State of New York.
  - (2) Any violation of § 65-55B.

**§ 65-55C. Penalty. (Added 4-14-98; L.L. No. 2-1998)**

Failure to register said adult use with the Village Clerk as hereinbefore directed is an offense in violation of this section and upon conviction thereof, is punishable by a fine not to exceed Five Hundred (\$500.00) Dollars. Continuation of such violation for each subsequent period of one week shall be a separate offense punishable by an additional fine not to exceed Five Hundred (\$500.00) Dollars.

**§ 65-55D. (Added 4-14-98; L.L. No. 2-1998)**

The following properties situate off Phelps Street located in an Industrial (1) District as defined in the Village Code is hereby rezoned and designated Planned Unit Development - Entertainment under said Code, subject to all regulations created and established relative to said Planned Unit Development - Entertainment District:

<b>Tax Map No.</b>	<b>Reputed Owner and Address</b>
129-13-2 -9	Overnite Transportation

**§ 65-56. Penalties for offenses.**

Violation of this Article is punishable by a fine not exceeding five hundred dollars (\$500.) or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment. Each day during any portion of which any violation of this Article is committed, permitted or continued shall constitute a separate offense.

In addition to the above prescribed penalties, the Board of Trustees may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with this local law by injunction, abatement or otherwise compel cessation of each violation, and obtain restitution to the Village for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees. **(Added by L.L. No. 2-2006)**

**§ 65-57. Severability.**

If any provisions or clause of this Article, or the application thereof to any person or circumstance, is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such validity shall not affect the other provisions or clauses or applications thereof, which can be implemented without the invalid provision, clause or application, and to this end, the provisions and clauses of this Article are declared to be severable.

**§ 65-58. When effective.**

This Article shall take effect immediately.



## INDEX INSTRUCTIONS

The main **INDEX**, beginning on page 1, will guide you to the legislation contained within the Code at the time the main **INDEX** was originally prepared. As new legislation is adopted, or existing legislation is amended, the Code pages are replaced by supplementary pages which include the new material, thereby causing some **INDEX** entries to become obsolete. **INDEX** entries to the new material will be provided for in the **SUPPLEMENTAL INDEX**, beginning on page SI-1.

The **SUPPLEMENTAL INDEX** should, therefore, be consulted first, since it refers to the more recent legislation. Then reference should be made to the main **INDEX**.

When received, **SUPPLEMENTAL INDEX** pages should be placed directly following this page and in front of the main **INDEX**, according to the instructions accompanying the supplement.

Numbers in the indices refer to section numbers in the Code, e.g., 39-3 is a reference to Chapter 39, Section 3.

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