

CODE OF THE VILLAGE OF MATINECOCK, NEW YORK, v10

Updated 09-01-2015

HISTORY

In pre-European times, the Matinecock Indian territory on the North Shore of Long Island stretched from Newtown on the west to the Nissequogue River on the east. With the arrival of European colonists, the general area of the North Shore from what is now Hempstead Harbor on the west to Oyster Bay on the east was known as Matinecock. In 1653, three English colonists from Cape Cod traded goods with Chief Asiapum for a tract of land, bounded by the Papaquatunk River (later called Beaver Swamp River and Beaver Brook) and by the Dutch province of New Netherland and the United Colonies of New England, that was to become the Town of Oyster Bay. On March 13, 1667, seven American Indian proprietors of Matinecock gave John Underhill, the best-known resident of Oyster Bay, 150 acres in the general area. Mr. Underhill named this spot "Killingworth." Other settlers and property owners, principally farmers at this time, were Pryer, Birdsall, Cock, Reddock, Hawxhurst, Frost and Williams. On September 29, 1677, Governor Andros set the western boundary for the Town of Oyster Bay at the east side of Hempstead Harbor, and on January 9, 1685, colonists made a new purchase of Matinecock land north and west of the first tract. In 1725, the Matinecock Meeting House opened for Quakers living in the area. During the American Revolution, Long Island was subjected to armed occupation from the Battle of Long Island in August 1776 until the British evacuation in 1783. On February 12, 1814, the third, fourth and fifth school districts in the area were established by three School Commissioners meeting at Norwich. On March 13, 1820, a post office called "Buckram" was established as part of Queens County, and in 1857 this name was changed to "Locust Valley." With the advent of the Industrial Revolution and the Civil War, a railroad was established in the area with its terminus at Locust Valley until 1889, when Oyster Bay was added as a final stop. In 1876, Friends Academy School was founded by Gideon Frost for "the children of Friends and those similarly sentimented." In 1901 Theodore Roosevelt, then Vice President, was sworn in as President on the death of President McKinley, and his home on Cove Neck called Sagamore Hill became the "Summer White House."

After the turn of the century, the Quaker farming community of the general area gradually began to give way to large country residences and estates, and the motor car increased transportation. From 1914 to 1918, World War I halted further development of the area, but following the war interest in home rule encouraged the formation of incorporated villages. On

April 2, 1928, the Village of Matinecock was incorporated by a vote of 19 to 8. C. Chester Painter, Town Supervisor, and Charles Ransom, Town Clerk, conducted the proceedings. The village remains a primarily residential community to this day.

PREFACE

HISTORY

In pre-European times, the Matinecock Indian territory on the North Shore of Long Island stretched from Newtown on the west to the Nissequogue River on the east. With the arrival of European colonists, the general area of the North Shore from what is now Hempstead Harbor on the west to Oyster Bay on the east was known as Matinecock. In 1653, three English colonists from Cape Cod traded goods with Chief Asiapum for a tract of land, bounded by the Papaquatunk River (later called Beaver Swamp River and Beaver Brook) and by the Dutch province of New Netherland and the United Colonies of New England, that was to become the Town of Oyster Bay. On March 13, 1667, seven American Indian proprietors of Matinecock gave John Underhill, the best-known resident of Oyster Bay, 150 acres in the general area. Mr. Underhill named this spot "Killingworth." Other settlers and property owners, principally farmers at this time, were Pryer, Birdsall, Cock, Reddock, Hawxhurst, Frost and Williams. On September 29, 1677, Governor Andros set the western boundary for the Town of Oyster Bay at the east side of Hempstead Harbor, and on January 9, 1685, colonists made a new purchase of Matinecock land north and west of the first tract. In 1725, the Matinecock Meeting House opened for Quakers living in the area. During the American Revolution, Long Island was subjected to armed occupation from the Battle of Long Island in August 1776 until the British evacuation in 1783. On February 12, 1814, the third, fourth and fifth school districts in the area were established by three School Commissioners meeting at Norwich. On March 13, 1820, a post office called "Buckram" was established as part of Queens County, and in 1857 this name was changed to "Locust Valley." With the advent of the Industrial Revolution and the Civil War, a railroad was established in the area with its terminus at Locust Valley until 1889, when Oyster Bay was added as a final stop. In 1876, Friends Academy School was founded by Gideon Frost for "the children of Friends and those similarly sentimented." In 1901 Theodore Roosevelt, then Vice President, was sworn in as President on the death of President McKinley, and his home on Cove Neck called Sagamore Hill became the "Summer White House."

After the turn of the century, the Quaker farming community of the general area gradually began to give way to large country residences and estates, and the motor car increased transportation. From 1914 to 1918, World War I halted further development of the area, but following the war interest in home rule encouraged the formation of incorporated Villages. On April 2, 1928, the

Village of Matinecock was incorporated by a vote of 19 to 8. C. Chester Painter, Town Supervisor, and Charles Ransom, Town Clerk, conducted the proceedings. The Village remains a primarily residential community to this day.

PREFACE

The Village of Matinecock has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the Village, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the Village. The recording of local law 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. Legislation must be more than mere chronological enactments reposing in the pages of old records. It 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 the Village's legislation.

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 Matinecock, including revisions or amendments to existing legislation deemed necessary by the Board of Trustees in the course of the codification.

Grouping of Legislation and Arrangement of Chapters

The various items of legislation are organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more items of legislation dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation pertaining to the regulation of streets and sidewalks may be found in the chapter entitled "Streets and Sidewalks." In such chapters, use of article or part designations has preserved the identity of the individual items of legislation.

Table of Contents

The Table of Contents details the alphabetical arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever a chapter is divided into two or more articles or parts, titles of the several articles or parts are listed beneath the chapter title.

Reserved Chapters

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new enactments. In this manner, new subject matter can be included alphabetically.

Pagination

A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 would begin on page 6:1. By the use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

Numbering of Sections

A chapter-related section-numbering system is employed in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 would be § 6-1, while the fourth section of Chapter 53 would be § 53-4.

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.

Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing parts or articles derived from more than one item of legislation, the source of each part or article is indicated in the text, under its title. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

Codification Amendments and Revisions

New chapters adopted during the process of codification are specifically enumerated in chapter Histories with reference to "Ch. 1, General Provisions," where the legislation adopting this Code and making such revisions will appear after final enactment. Sections amended or revised are

indicated in the text by means of Editor's Notes referring to the chapter cited above.

General References; Editor's Notes

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. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body 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.

Disposition List

The Disposition List is a chronological listing of legislation adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

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 will be supplemented and revised from time to time as new legislation is added to the Code.

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or complete new additions, should be adopted as amending the Code. In doing so, existing material that is not being substantively altered should not be renumbered.

Adding new sections. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 65-5 and 65-6 should be designated § 65-5.1).

Adding new chapters. New chapters should be added in the proper alphabetical sequence, utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the

alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the table of contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the table of contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 166 and 167 should be designated Chapter 166A).

Adding new articles. New articles may be inserted between existing articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" articles (e.g., a new article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 166-30 and Article XVII begins with § 166-31, Article XVIA should contain §§ 166-30.1 through 166-30.6). **NOTE:** In chapters where articles appear on the Table of Contents, simply add new articles to the end of the chapter since they are not arranged by subject matter.

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

The assistance of the Village officials is gratefully acknowledged by the editor. The codification of the legislation of the Village of Matinecock 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 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."

THE CODE

Chapter 1, GENERAL PROVISIONS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Adoption of Code [Adopted 7-18-2000 by L.L. No. 3-2000]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Village of Matinecock, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 195, together with an Appendix, shall be known collectively as the "Code of the Village of Matinecock," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Village of Matinecock" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Board of Trustees of the Village of Matinecock, and it is the intention of said Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

§ 1-3. Repeal of enactments not included in Code.

All local laws and ordinances of a general and permanent nature of the Village of Matinecock in force on the date of the adoption of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

§ 1-4. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, 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 Matinecock 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 Matinecock or any penalty, punishment or forfeiture which may result therefrom.
- 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 Matinecock.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Matinecock.
- E. Any local law or ordinance of the Village of Matinecock 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 Matinecock or any portion thereof.
- F. Any local law or ordinance of the Village of Matinecock 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 Matinecock or other instruments or evidence of the village's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for

municipal employees.

- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the village.
- N. Any local law adopted subsequent to 4-18-2000.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation 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, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Village Clerk of the Village of Matinecock 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 by the Village Clerk of the Village of Matinecock by impressing thereon the Seal of the Village of Matinecock, 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 said Code is in effect. The enactment and publication 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.

§ 1-7. 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 Matinecock" or any new local laws 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 shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or

resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Board of Trustees deems desirable.

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

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

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

Copies of the Code, or any chapter or portion of it, may be purchased from the Village Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the Board of Trustees. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-10. Penalties for tampering with Code.

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 Matinecock or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Village of Matinecock to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

§ 1-11. Changes in previously adopted legislation; new provisions.

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Village of Matinecock, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions

had been previously formally amended to read as such.

- B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith,^{EN(1)} to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Village of Matinecock, such local law 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.

§ 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, Use and Construction [Adopted 3-10-1974 by L.L. No. 1-1974 as Art. 1 of the 1974 General Ordinance]

§ 1-14. Citation.

The following chapters shall constitute and be designated the "Code of the Village of Matinecock" and may be so cited.

§ 1-15. Penalties for offenses. [Amended 7-18-2000 by L.L. No. 3-2000]

Any person who violates or fails to perform any duty imposed by any provisions of this Code shall, unless otherwise provided and except as limited by the Vehicle and Traffic Law, be punishable by a fine of not more than \$250 and/or imprisonment of not more than 15 days for each and every offense, or such greater amount as may be permitted by local law, and, in addition thereto, each such violation shall constitute and is hereby declared to be an offense against such provision of this Code. Penalties for zoning violations shall be as provided in Chapter 195, Zoning, § 195-38. Each day that a violation under any provision of this Code continues, such violation on each such separate day shall be deemed a separate offense. In

addition, the Village Board of Trustees may enforce obedience to any provisions of this Code by injunction or any other civil remedy.

§ 1-16. Amendment of Village Law § 20-2006. [Added 12-18-1975 by L.L. No. 2-1975]

Section 20-2006, Subdivision 1, of the Village Law, as last amended by Chapters 1028 and 1029 of the Laws of 1974, is hereby amended in its application to the Village of Matinecock to read as follows:

§ 20-2006. Violation of ordinances and local laws.

1. The Board of Trustees of a village may enforce obedience to its ordinances adopted prior to September 1, 1974, and to its local laws as follows:
 - a. By prescribing therefor civil fines for each violation thereof not to exceed \$250. Each day a violation is continued, after the violator is provided written notice of the violation from the village or enforcement officer, shall constitute a separate violation;
 - b. By prescribing therefor that each violation thereof shall constitute a separate violation pursuant to the Penal Law. However, in no case shall the fine imposed exceed \$250 for each separate violation, and each day a violation is continued after the violator is provided written notice of the violation from the village or enforcement officer shall constitute a separate violation;
 - c. In all cases the Board of Trustees may enforce obedience of its ordinances and local laws by injunction.

§ 1-17. Definitions and word usage.

A. Unless otherwise expressly defined or unless the context or subject matter requires otherwise, the terms used herein shall have the meanings set forth in the General Construction Law.

B. As used in this Code, the following terms shall have the meanings indicated:

FIRE DEPARTMENT -- Any Fire Department which normally operates within the village.^{EN(2)}

POLICE DEPARTMENT -- The Police Department operating within the village.

POLICE OFFICER -- Any member of the Police Department.

OWNER -- Any person having legal title, control or possession of real or personal property or said person's executor, legal representative, agent, lessee or officer.

VILLAGE -- The Incorporated Village of Matinecock, Nassau County, New York.

C. Words in the singular shall be deemed to be plural when the sense of any sentence, clause or phrase so requires.

§ 1-18. Authority of Mayor and Trustees.

The Mayor or, in his absence, any Trustee of the village shall have the power to issue any permit provided for herein or to perform the duties of any person or agency responsible for the enforcement of any of the provisions of this Code.

Chapter 4, ADVERTISING AND BILL POSTING

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Art. 12 of the 1974 General Ordinance. Amendments noted where applicable.]

GENERAL REFERENCES

Peddling and soliciting -- See Ch. 123.

Solid waste -- See Ch. 154.

§ 4-1. Prohibited acts.

No person shall post any bill or poster, written or printed, or write, print, paint or stamp or otherwise mark any words, letters, figures, signs or tokens of any kind on any tree, pole, wall, rock, roadway, flagstone, curb, sidewalk, fence, gate, building, structure or other object in or upon any public or private place or property in the village or distribute any printed or written matter upon any street or other public place in the village, except notices required or permitted by law to be posted or distributed.

§ 4-2. Certain signs exempted.

The provisions of § 4-1 of this chapter shall not apply to signs permitted by or authorized under the provisions of Chapter 195, Zoning, or to signs permitted by the Board of Trustees in

connection with a charitable or community event.

§ 4-3. Vendor presumed responsible for advertisement.

Where the matter described in § 4-1 of this chapter consists of a commercial advertisement, it shall be presumed that the vendor of the specified product, service or entertainment is a person who placed such advertisement or caused it to be placed upon the property.

Chapter 8, AIRCRAFT

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Art. 23 of the 1974 General Ordinance. Amendments noted where applicable.]

§ 8-1. Definitions.

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

AIRCRAFT -- Any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air for the carrying of persons or cargo.

§ 8-2. Restrictions on operation.

No person, except when permitted to do so by special permit issued by the Board of Trustees or in the case of a bona fide emergency, shall:

- A. Land, take off or operate any aircraft within the village; or
- B. Operate or fly an aircraft over the village at an altitude so as to create a safety hazard or a nuisance to a resident of the village.

Chapter 11, ALARM SYSTEMS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock as noted in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Fees and deposits -- See Ch. 64.
Noise -- See Ch. 109.

Peace and good order -- See Ch. 121.

ARTICLE I, Burglar Alarm Systems [Adopted 1-29-1986 by L.L. No. 1-1986]

§ 11-1. Purpose and objectives.

The purpose of this article is to provide regulations and standards applicable to alarm systems, alarm businesses, alarm agents and alarm users so as to reduce the incidence of false burglar alarms, maximize the efficient use of police personnel and resources and provide efficient police protection to Village residents.

§ 11-2. Definitions.

For the purpose of this article, the following definitions shall apply:

ALARM AGENT -- Any person who is employed by or otherwise represents any alarm business whose duties include any of the following: selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing, in or on any building, place or premises, any alarm system.

ALARM BUSINESS -- Any business, firm, proprietorship, partnership, corporation or other commercial entity which is in the business of owning, operating, maintaining, installing, servicing, repairing, altering, replacing, leasing, selling, monitoring, receiving signals from or responding to an alarm system.

ALARM SYSTEM -- Any combination of components which is used to transmit a signal directly or indirectly to the Police Department. Any alarm device which, when activated, causes a response by the Police Department shall be deemed to be an alarm system.

ALARM SYSTEM INSTALLATION -- The installation, replacement or significant modification of an alarm system. An expenditure of over \$500 for modification of an existing alarm system shall be deemed to be a significant modification of said system.

ALARM USER -- Any person or commercial entity who or which owns, rents or otherwise occupies any structure or premises on which an alarm system is owned, operated, used or maintained or permitted to be used or maintained.

APPROVED ALARM SYSTEM -- An alarm system that incorporates the following features and meets with the below requirements:

A. It has the approval of the Police Department as to the suitability and quality of all devices,

equipment and hardware and the approval of Underwriters' Laboratories, Inc.

- B. It has an exterior or interior audible signal which can be clearly heard in all portions of the protected structure when the alarm system is automatically activated. An audible signal is not required for alarm systems that are intentionally activated by a panic button or a similar device specifically designed to enable an alarm user to intentionally activate the alarm system.
- C. If an alarm system has an audible outdoor alarm signal, it must automatically terminate within 15 minutes of activation.
- D. It will not transmit more than two alarm messages upon a single activation to the Police Department (if applicable). The limitation of two messages shall include messages transmitted by recorded or taped devices.
- E. An automatic dialer (if applicable) shall be programmed to dial a Police Department approved telephone number for alarm systems. Under no circumstances shall any alarm system be programmed to dial 911 or 626-1300.
- F. It contains a thirty-second time lapse between initial activation of the alarm system and transmission of the alarm signal to the Police Department or central alarm station, with an abort feature or alternate means of canceling the alarm signal within the thirty-second period. An abort feature shall not be required for devices specifically designed to enable an alarm user to intentionally activate the alarm system.
- G. It contains such other technical features or requirements as shall be provided in the rules and regulations governing alarm systems as shall hereafter be duly approved and promulgated by the Old Brookville Board of Police Commissioners.
- H. An alarm user permit has been issued for the alarm system.

CENTRAL ALARM STATION -- An alarm business which receives, records or validates alarm signals and/or relays information to the Police Department. Any commercial entity that provides central alarm station services to premises in the Village shall be considered an alarm business subject to the licensing, regulatory and penalty provisions of this article.

DOING BUSINESS -- An alarm agent or alarm business shall be deemed to be doing business in the Village if he or it operates, maintains, modifies, installs, services, repairs, alters, replaces, leases, sells, monitors, receives a signal from or responds to or in any way conducts installation services or provides central station service for an alarm system in the Village.

FALSE ALARM -- Any message or signal which is transmitted directly or indirectly to the Police Department to which the Police Department responds and which signal or message is not the result of a criminal offense, fire or other emergency. The transmitting of a message or signal

due to an equipment malfunction or the unauthorized actions of an alarm business or alarm agent shall be deemed to be a false alarm and not an emergency.

POLICE DEPARTMENT -- The Old Brookville Police Department.

VILLAGE -- The Village of Matinecock.

VILLAGE JUSTICE COURT -- The Village Justice Court of the Village of Matinecock.

§ 11-3. Violations.

It shall be a violation of this article:

- A. For any alarm user, alarm agent or alarm business to permit, allow or undertake the installation of an alarm system in the Village which is not an approved alarm system or for which a valid alarm installation permit has not been issued.
- B. For any alarm user to operate or permit or allow the operation of an alarm system in the Village which is not an approved alarm system or one for which an alarm user permit has not been issued.
- C. For any person to fail to pay a false burglar alarm charge within 30 days after receiving notice to pay such charge.

§ 11-4. Alarm businesses and alarm agents.

- A. It shall be unlawful for any alarm agent or alarm business to do business in the Village without a license or to refuse to display the required identification upon request.
- B. Alarm businesses and alarm agents who or which are presently doing business in the Village under an existing license, as of the effective date of this article, may continue to do business under such license for a period of 90 days after the effective date of this article. Thereafter, they shall obtain the required license to do business in the Village.

§ 11-5. Licenses and permits.

- A. Alarm businesses and alarm agents. Applications for alarm business and alarm agent licenses and permits shall be filed with the Police Department on an approved form and accompanied by the required application fee. In addition, a fingerprint processing fee required by, and payable to, the New York State Division of Criminal Justice Services shall be submitted for the purpose of obtaining a criminal history record from the Division of Criminal Justice

Services and/or any other state where the alarm business officers or supervisors or alarm agents may have resided and/or the Federal Bureau of Investigation to determine their eligibility for a license or permit. Prior to processing the application, the Police Department may require the officers and supervisors of an alarm business and an alarm agent to be fingerprinted at police headquarters. Prior to the issuance of an alarm agent license, the alarm agent shall be photographed for identification purposes.

- B. Alarm installation permit. Application for an alarm installation permit shall be filed with the Police Department on the approved form and accompanied by installation specifications and plans and the alarm user permit fee. An alarm installation permit shall be obtained prior to installing any alarm system.
- C. Alarm user permit. After the required alarm user permit fee has been paid and the Police Department is satisfied that the alarm system complies with the requirements of this article and the rules and regulations, the Police Department shall issue an alarm user permit. An alarm system shall not be operated until an alarm user permit has been issued for the alarm system.
- D. License and permit period.
 - (1) An alarm business license and alarm agent license shall be valid for a two-year period.
 - (2) An alarm installation permit shall be valid for 90 days after issuance.
 - (3) An alarm user permit shall expire when an alarm system is replaced or significantly modified or when a change in ownership of the premises occurs.
- E. Renewal of licenses and permits. Alarm business and alarm agent licenses and alarm user permits may be renewed upon filing a renewal application with the Police Department and payment of the appropriate license or permit fee, provided that:
 - (1) All fines and charges for violating any provision of this article have been paid;
 - (2) There is full compliance with all rules, regulations and provisions of this article; and
 - (3) There are no existing unremedied violations of this article or of the rules and regulations.
- F. Multi-Village permit. A single alarm business or alarm agent license issued by the Police Department shall be recognized for doing business within the Village.

§ 11-6. Fees.

- A. The Police Department shall charge, collect and retain the processing fees set forth in

Chapter 64, Fees and Deposits.EN(3)

- B. For new installations or significant modifications to an existing alarm system, an alarm installation permit shall be issued free of charge when the alarm user permit fee has been paid.
- C. No refunds of license or permit fees shall be made. If revoked, a new license or permit fee must be paid to reinstate any revoked license or permit.

§ 11-7. Inspections.

- A. After a recurring problem of false burglar alarms at the premises, a representative of the Police Department, upon reasonable notice, shall be permitted to inspect and test an alarm system or alarm system installation. If permission to inspect is refused, it shall be grounds for revocation of the alarm user permit.
- B. If an inspection reveals any violations of or noncompliance with the provisions of this article or the rules and regulations, a written report shall be promptly mailed to the alarm user. Within 30 days after receipt of such report, the alarm user shall take corrective action so that the alarm system complies with the provisions of this article and the rules and regulations. If the alarm user fails to bring his alarm system into compliance, it shall be grounds for revocation of the alarm user's permit. The alarm user may, upon good cause, be granted a reasonable extension of time by the Chief of Police to correct or remedy such violation.

§ 11-8. Response to activated alarm system.

- A. If a burglar alarm is transmitted from premises for which no alarm user permit is currently in effect, the Police Department shall not be required to respond to said alarm signal, and the occupant(s) and owner(s) of the premises shall be in violation of this article.
- B. If an alarm system is activated and the premises are unoccupied, the police shall be authorized to enter the premises to investigate the alarm and make any adjustments to the alarm system, including disconnection of the audible alarm signal to terminate a nuisance condition. The Police Department shall notify the alarm user as soon thereafter as practical to indicate the adjustments made to the alarm system.
- C. An alarm user shall designate a person living within 15 miles of the premises containing the alarm system so as to provide access to the premises to investigate the alarm system and facilitate the prompt termination of any nuisance caused by the alarm system.
- D. If a central alarm station relays a false burglar alarm and does not have an alarm business

license, the central alarm station shall be in violation of this article.

§ 11-9. Denial, suspension or revocation of license or permit.

- A. The Chief of Police, in compliance with the requirements of Subsection E, may deny, suspend or revoke a license or permit for the following grounds:
- (1) False statement or willful and knowing misrepresentation made in a license or permit application;
 - (2) Failure to comply with any lawful order or notice issued by the Chief of Police;
 - (3) Repetitive or flagrant violation of the provisions of this article or the rules and regulations;
 - (4) Failure to correct any deficiencies in equipment, procedures or operations within 30 days of receipt of notice;
 - (5) The activation of more than 10 false alarms within a one-year period; or
 - (6) The conviction of an alarm agent or a partner, officer or manager of an alarm business of a criminal offense subject to the applicable provisions of the Correction Law.
- B. Any license, permit or identification card issued hereunder shall be surrendered to the Police Department upon the revocation, suspension or expiration of a license or permit or the termination of an alarm business operation.
- C. An alarm agent shall surrender his identification card to the Police Department within 10 days of termination of his employment with the alarm business.
- D. The cost of disconnecting any alarm system with the Police Department shall be the responsibility of the alarm user whose alarm permit has been revoked, suspended or expired.
- E. The Chief of Police may deny, suspend or revoke any license or permit for a violation of this article or any rule and regulation. Such denial, suspension or revocation shall become effective 30 days after written notice thereof is mailed to the violator by certified mail, return receipt requested. Within the thirty-day period, the licensee or permittee may appeal the Police Chief's action to the Board of Police Commissioners, which shall have the power to stay, affirm, reverse or modify the action of the Chief of Police.

§ 11-10. False alarm charges.

- A. Alarm user charge. An alarm user shall pay to the Village the below-noted charge for each

and every false alarm in each calendar year as follows: [Amended 7-18-2000 by L.L. No. 3-2000; 11-16-2004 by L.L. No. 2-2004^{EN(4)}]

Cumulative Number of False Alarms During a Year	Charge
1	\$0
2	\$0
3	\$50
4	\$50
5	\$100
6	\$100
7	\$100
8	\$100
9	\$100
10 and over	\$100

- B. Business alarm charges. An alarm business shall pay to the Village a charge for each and every false alarm resulting from its failure to verify whether an alarm is false. The charge schedule during a calendar year for alarm businesses shall be \$20 for each false alarm.
- C. New alarm system installations will be permitted two nonchargeable false alarms during a ninety-day period after installation of the alarm system.
- D. False alarm charge notification procedure. Whenever an alarm user or alarm business has a chargeable false alarm in any calendar year, the Village Clerk shall mail a notice requesting payment by certified mail, return receipt requested. If payment is not received by the Village within 30 days from the date of mailing or from the date of refusal (if the alarm user or alarm business refuses delivery of the notice), it shall be deemed a violation of this article.
- E. The full monetary charge shall become the property of the Village 30 days after its payment

to the Village, unless, before the end of the thirty-day period, the alarm user or alarm business submits a written request to the Chief of Police for review of the charge. If the Chief of Police sustains the charge, the alarm user or alarm business may appeal such action to the Board of Police Commissioners within 15 days after receiving written notice of the same. The Board of Police Commissioners shall have the power to affirm, reverse or modify the actions of the Chief of Police.

§ 11-11. Rules and regulations.

The Board of Police Commissioners, after a duly noticed public hearing, may promulgate rules, regulations and standards to ensure the quality, efficiency and effectiveness of the enforcement, interpretation and implementation of this article.

§ 11-12. Disclaimer and liability.

- A. Notwithstanding the payment of any license or permit fee, the issuance of any license or permit or inspection and approval by the Police Department of an alarm system, the Police Department and the Village, including their agents and employees, make no representation and shall be under no obligation whatsoever concerning the adequacy, operation or maintenance of an alarm system installation or of the operation of a central alarm station, nor do they assume any liability whatsoever for any failure of any such alarm system or central alarm station or for failure to respond to any such alarm system or for any act of omission or commission involving an alarm system.
- B. The foregoing subsection shall be printed conspicuously on all licenses and permits issued pursuant to this article.

§ 11-13. Existing alarm user permits.

- A. An alarm user maintaining and operating an existing alarm system pursuant to a valid alarm user permit immediately prior to the effective date of this article shall be subject to all provisions of this article, except that such alarm user shall not be required to:
 - (1) Modify his alarm system to comply with this article's technical requirements for an approved alarm system; or
 - (2) Obtain or be required to renew an alarm user permit or pay an alarm user permit fee, provided that there is compliance with the regulations in force immediately prior to the effective date of this article.

- B. Notwithstanding the provisions of Subsection A(1) and (2) immediately above, if an existing alarm user has three chargeable false alarms within any twelve-month period or if he replaces or significantly modifies his alarm system, said alarm user shall be subject to all provisions of this article and the rules and regulations, including but not limited to maintaining an approved alarm system, obtaining a new alarm user permit and paying the required permit fee after receiving written notification from the Police Department.^{EN(5)}
- C. An alarm user who has been charged with violating the provisions of the Village's burglar alarm regulations in force prior to the effective date of this article shall be governed by the provisions of said burglar alarm regulations and pay any false burglar alarm charges in accordance with such regulations.^{EN(6)}

Chapter 15, ANIMALS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Art. 19 of the 1974 General Ordinance. Amendments noted where applicable.]

§ 15-1. Definitions.

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

ANIMAL -- Any and all types of animals, fowl and fish, both domesticated and wild.

ANNOYING DOG -- A dog which, when it is not on the premises of its owner or custodian, without being provoked, harasses or threatens a person in such a manner so as to create the apprehension of fear of bodily injury by such person or deposits animal waste on or damages the real property of or damages or destroys the personal property of a person other than the dog's owner or custodian.

AT LARGE -- When an animal is not on the premises of its owner or custodian or is not on a leash and under the immediate control of its owner or custodian.

DANGEROUS ANIMAL -- Any animal which is capable of inflicting bodily harm upon a person, such as, but not limited to, poisonous snakes and reptiles, carnivorous birds, felines larger than domestic cats, large monkeys, apes and bears, excluding nonvicious dogs and other domestic animals.

VICIOUS DOG -- A dog which has once bitten any person or twice makes an unprovoked attack upon and bites another dog or other domestic animal while at large.

§ 15-2. Animals at large.

Any person who is the owner or harbinger or having custody or control of any animal shall not permit any animal, except dogs that are not declared vicious or annoying and house cats not exceeding 15 pounds in weight, to be at large in the village.

§ 15-3. Complaints.

- A. Complaint by village resident. Any village resident claiming that a dog is vicious or annoying as defined herein or is or was at large in violation of this chapter may make a written complaint to an officer of the Police Department, whose duty it shall be to issue an appearance ticket requiring the owner or person harboring such dog to appear before the Village Justice to determine such issue.
- B. Complaint by police officer. Upon reasonable belief by an officer of the Police Department that a dog is vicious or annoying as defined herein or is or was at large in violation of this chapter, it shall be his duty to issue an appearance ticket requiring the owner or custodian of such dog to appear before the Village Justice to determine such issue.
- C. Procedure and trial. The Village Justice shall hold a trial for the purpose of determining whether the dog which is the subject of the complaint is vicious or annoying as defined herein or was at large in violation of this chapter. If, after trial, the Village Justice finds that such dog is vicious or annoying, he shall order and declare that such dog is vicious or annoying and thereafter it shall be unlawful for such vicious or annoying dog to be at large in the village.

§ 15-4. Penalties for offenses; destruction of vicious dogs and dangerous animals.

- A. Upon a finding by the Village Justice that a dog is vicious or annoying or that an animal was at large in violation of this chapter, the owner or custodian of such animal shall be responsible in damages for any injury or damage caused by such animal and shall also be liable for a fine as provided for in Chapter 1, General Provisions, Article II. The Village Justice may order that any dangerous animal or vicious dog be destroyed.
- B. Any officer of the Police Department is authorized to kill any dangerous animal or vicious dog when it is necessary for the protection of any person or property.

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock as indicated in section histories. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board -- See Ch. 130.

Zoning -- See Ch. 195.

§ 18-1. (Reserved) ^{EN(7)}

§ 18-2. Amendment of Village Law § 7-712, Subdivision 11. [Adopted 7-20-1999 by L.L. No. 1-1999]

- A. Subdivision 11 of § 7-712 of the Village Law, which section was last amended by Chapter 137 of the Laws of 1998, is hereby superseded and amended in its application to the Village of Matinecock to read, in part, as follows:

§ 7-712

11. Alternate members.

- a. A Village Board of Trustees may, by local law or as a part of the local law creating the Zoning Board of Appeals, establish alternate Zoning Board of Appeals member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest or is otherwise absent. Alternate members of the Zoning Board of Appeals shall be appointed by the Mayor, subject to the approval of the Board of Trustees, for terms established by the Village Board of Trustees.
- b. The Chairperson of the Zoning Board of Appeals may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest or is otherwise absent on an application or matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made.

§ 7-712

11. Alternate members.

- c. All provisions of this section relating to Zoning Board of Appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.

- B. Pursuant to § 7-712, Subdivision 11, of the Village Law, as amended above, the Board of Trustees of the Incorporated Village of Matinecock hereby confirms the position of alternate member to the Zoning Board of Appeals previously authorized by § 18-1 of this chapter.
- C. If this section conflicts with any provision of § 18-1 of this chapter, then this section, to the extent of conflict, shall be deemed to supersede the conflicting provisions of § 18-1.

§ 18-3. Amendment of Village Law § 7-712-a. [Added 4-15-2003 by L.L. No. 1-2003]

The following subsection of § 7-712-a of the Village Law, as last amended by Chapter 476 of the Laws of 1999, is hereby superseded and amended in its application to the Village of Matinecock, New York, as follows:

§ 7-712-a. Board of appeals procedure.

- 9. Filing of decision and notice. The decision of the Board of Appeals on the appeal shall be filed in the office of the Village Clerk within 20 business days after the day such decision is rendered and a copy thereof mailed to the applicant.
 - (a) The Board of Appeals may render its decision in a summary format, setting forth the Board's decision and conditions imposed, if any, without enumerating detailed findings which formed the basis for its determination. Any person aggrieved by a decision of the Board may, within 30 days after the filing of the summary decision in the office of the Village Clerk, file a written demand with the Village Clerk, demanding that the Board of Appeals publish its findings which formed the basis for its decision. The Village Clerk shall deliver this demand to the Chairman of the Board of Appeals, who shall cause the Board of Appeals to publish and file its findings with the Village Clerk. If any aggrieved person seeks judicial review without having requested a findings statement, the

§ 7-712-a. Board of appeals procedure.

Chairman or a member of the Board of Appeals may submit the Board's findings by affidavit as part of the Board's court pleadings.

- (b) The date of filing of the Board of Appeals' decision in summary format with the Village Clerk shall be deemed the date of the filing of the Board's decision for all purposes, except when a timely written request is made for a statement of findings. In those cases, the date of filing of the findings statement with the Clerk shall be deemed the date of filing of the decision of the board for all purposes.

§ 18-4. Amendment of Village Law § 7-712-c. [Added 4-15-2003 by L.L. No. 1-2003]

The following subsection of § 7-712-c of the Village Law, as last amended by Chapter 476 of the Laws of 1999, is hereby superseded and amended in its application to the Village of Matinecock, New York, as follows:

§ 7-712-c. Article seventy-eight proceeding.

1. Application to supreme court by aggrieved persons. Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the Village, may apply to the supreme court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within 30 days after the filing of a decision of the Board in the office of the Village Clerk, as provided for in § 7-712-a(9)(b).

Chapter 20, APPEARANCE TICKETS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

§ 20-1. Definitions.

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

APPEARANCE TICKET -- A written notice, issued and subscribed by a public servant authorized by law to issue the same, directing a designated person to appear in a designated local criminal court at a designated future time charging him or her with the commission of a designated offense. A notice conforming to such definition constitutes an appearance ticket regardless of whether it is referred to in some other provision of law as a summons or by any other name or title.

§ 20-2. Officers authorized to issue tickets.

Code enforcement officers of the village are hereby authorized and empowered to issue and serve appearance tickets. Such service shall have the same force and effect as if served by a peace officer, without them being peace officers. Code enforcement officers shall include the Mayor, the Building Inspector, the Commissioner of Public Works or any other person duly authorized by the Mayor to enforce the provisions of the Code and serve appearance tickets and notices of hearings.

§ 20-3. Laws subject to issuance of tickets.

The following laws may be enforced by the issuance of appearance tickets:

- A. The New York State Uniform Fire Prevention and Building Code.
- B. The Village Code.
- C. The Nassau County Sanitary Code.

§ 20-4. Information on ticket.

Every appearance ticket that is issued pursuant to the provisions of this chapter shall include the following:

- A. The name and address of the party(ies) to whom the ticket is issued, when known.
- B. Citation of law(s) and the appropriate section(s) allegedly violated.
- C. The place and date of the alleged violation(s).
- D. The place, date and time that the party(ies) is (are) required to appear in court.
- E. The date of issuance of the appearance ticket(s).

F. The title and signature of the issuing officer(s).

Chapter 29, BRUSH, GRASS AND WEEDS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Art. 18 of the 1974 General Ordinance. Amendments noted where applicable.]

GENERAL REFERENCES

Solid waste -- See Ch. 154.

§ 29-1. Declaration of policy. ^{EN(8)}

It is hereby declared to be the policy of the village to provide for the proper use of land and to prevent unhealthful, hazardous or dangerous conditions due to accumulations of brush, grass, weeds or other like materials. By this chapter, the village seeks to remove such dangers to health, life and property by requiring owners of land to cut, trim or remove brush, grass, weeds or other like materials and, upon default, by causing the same to be done and assessing the cost against the real properties on which such brush, grass, weeds or other materials are found.

§ 29-2. Notice to be served.

The Board of Trustees may from time to time, by resolution, require notice to be served upon owners as hereinafter provided.

§ 29-3. Duty of property owner.

Any person, being the owner of real property in the village, shall be required to cut, trim or remove brush, grass, weeds or other materials upon his lands when ordered to do so by resolution of the Board of Trustees.

§ 29-4. Contents of resolution; service of notice.

Whenever the Board of Trustees shall adopt a resolution requiring the owner of land within the village to cut, trim or remove brush, grass, weeds or other materials upon his lands, the Village Board of Trustees shall specify the place, manner and time, not less than five days from the receipt of notice, within which such work shall be completed. A notice of the adoption of such resolution shall be served upon such owner or owners by certified mail addressed to his or their

last known address.

§ 29-5. Failure to comply with notice.

Whenever a notice or notices referred to in § 29-4 hereof has or have been served upon the owner of the respective lots or parcels of land to cut, trim or remove brush, grass, weeds or other materials and such owner shall neglect or fail to comply with the requirements of such notice or notices within the time provided therein, such failure shall constitute a violation of this chapter, and, in addition, the Board of Trustees may cause the work to be done and pay the cost thereof.

§ 29-6. Abatement by village; recovery of cost.

The village shall be reimbursed for the cost of work performed or services rendered by direction of the Board of Trustees as provided in § 29-5. When the village has effected the removal of such brush, weeds and like matter from such private property or has paid for its removal, the actual cost of such removal plus accrued interest at the rate of 6% per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be assessed against such property, which assessment shall be included in the next succeeding annual bill for village taxes for such property and shall become a lien thereon when such taxes become a lien.

Chapter 34, BUILDINGS, UNSAFE

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Art. 15 of the 1974 General Ordinance. Amendments noted where applicable.]

§ 34-1. Definitions.

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

DANGEROUS BUILDING -- Includes any building, shed, fence or other man-made structure which:

- A. Is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to health of the occupants of it or neighboring structures;
- B. Because of faulty construction, age, lack of proper repair or any other cause, is especially liable to fire and constitutes or creates a fire hazard;
- C. By reason of faulty construction or any other cause is liable to cause injury or damage by

collapsing or by a collapse or fall of any part of the structure; or

- D. Because of its condition or because of a lack of doors or windows is an attractive nuisance or is available to and frequented by trespassers, malfactors or disorderly persons who are not lawful occupants of the structure.

§ 34-2. Removal or repair required.

Any building in the village which, from any cause, may now be or shall hereafter become a dangerous building as defined herein or which is unsafe to the public, to the occupants thereof or to adjoining property or occupants shall be removed or repaired as provided in this chapter.

§ 34-3. Notice and order.

Upon receipt by the Board of Trustees of a report of an inspection by the Building Inspector of a building shown in such report to be a dangerous building, the Village Clerk shall cause to be served on the owner, either personally or by registered mail, addressed to the last known address, if any, of the owner as shown by the tax records of the village or in the records of the County Clerk of the County of Nassau, a notice containing a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous and an order requiring the same to be made safe and secure or removed and the time within which the person served with such notice shall commence and complete the securing or removal of such building, and if such service is made by registered mail, the Village Clerk shall cause a copy of such notice to be posted on the premises.

§ 34-4. Failure to comply; survey.

In the event of the neglect or refusal of the person served with the notice provided for in § 34-3 to comply with the same within the time therein specified, a survey shall be made by the Village Engineer and a practical builder, engineer or architect to be named by the Board of Trustees and a practical builder, engineer or architect appointed by the person notified as provided in § 34-3, and in the event of the refusal or neglect of the person so notified to appoint such surveyor, the two surveyors named shall make the survey and report. The aforesaid notice shall state that in the event that the building or other structure shall be reported unsafe or dangerous under such survey, an application will be made at the Village Justice Court not less than five nor more than 10 days following the receipt of said report of the surveyors by the Board of Trustees for an order determining the building to be a public nuisance and directing that it shall be repaired and secured or taken down and removed by the village.

§ 34-5. Compensation of surveyors.

The surveyors appointed as provided in § 34-4 shall receive reasonable compensation for their services as such.

§ 34-6. Posting of report.

Within five days following the receipt of a report of the surveyors by the Board of Trustees, the Village Clerk shall cause a signed copy of the report of survey to be posted on the building and mailed to the owner thereof in accordance with § 34-3.

§ 34-7. Recovery of costs.

When the village has effected the repairing, securing or removing of a dangerous or unsafe building or incurred costs and expenses for the same, the actual costs and expenses incurred plus accrued interest at the rate of 6% per annum from the date of completion of the work, if not paid by such owner prior thereto, shall be assessed against the lot or parcel of land where such building is or was located, which assessment shall be included in the next succeeding annual bill for village taxes for such property and shall become a lien thereon when such taxes become a lien.

Chapter 43, DEFENSE AND INDEMNIFICATION

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Court Officers and Employees [Adopted 6-13-1979 by L.L. No. 3-1979]

§ 43-1. Definitions.

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

COURT EMPLOYEE -- A court clerk, deputy court clerk or temporary worker permitted to perform the duties of the court clerk as authorized by the Board of Trustees.

COURT OFFICER -- A Village Justice, Acting Village Justice, prosecutor and deputy

prosecutor.

§ 43-2. Procedure.

- A. The village shall save harmless and indemnify all court officers and court employees of the Village Court from financial loss and legal expense arising out of any claim, demand, suit or judgment by reason of alleged past or future negligence or other act by such court officer or court employee, provided that such court officer or court employee, at the time damages were sustained, was acting in the discharge of his duties or within the scope of his employment, and provided, further, that such court officer or court employee shall, within five days of the time he is served with any summons, complaint, process, notice, demand or pleading, deliver the original or a copy thereof to the Attorneys for the village.
- B. Upon such delivery, the Attorney for the village or such other attorney selected by the Board of Trustees may assume control of the representation of such court officer or court employee. Such court officer or court employee shall cooperate fully with the Village Attorney's defense.
- C. This section shall not in any way impair, limit or modify the rights and obligations of any insurer under any policy of insurance or the common law rights of court officers or court employees.
- D. The benefits of this section shall inure only to court officers and court employees and shall not enlarge or diminish the rights of any other party.

ARTICLE II, Village Officers and Employees [Adopted 6-13-1979 by L.L. No. 4-1979]

§ 43-3. Definitions.

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

EMPLOYEE -- Any person working for the village for wages or a salary which is subject to the withholding of taxes or any independent contractor given employee status, for the purpose of this article, by resolution duly adopted by the Board of Trustees.

OFFICER -- The Mayor, Trustee, Planning Board member, Board of Zoning Appeals member, any duly appointed commissioner or deputy commissioner, Treasurer, Clerk and such other

officers, including deputies, as the Board of Trustees shall determine.

§ 43-4. Procedure.

- A. The village shall save harmless and indemnify all officers and employees of the village from financial loss and legal expense arising out of any claim, demand, suit or judgment by reason of alleged past or future negligence or other act by such officer or employee, provided that such officer or employee, at the time damages were sustained, was acting in the discharge of his duties and within the scope of his employment and that such damages did not result from the willful and wrongful act or gross negligence of such officer or employee, and provided, further, that such officer or employee shall, within five days of the time he is served with any summons, complaint, process, notice, demand or pleading, deliver the original or a copy thereof to the Attorneys for the village.
- B. Upon such delivery, the Attorney for the village or such other attorney selected by the Board of Trustees may assume control of the representation of such officer or employee. Such officer or employee shall cooperate fully with the Village Attorney's defense.
- C. This section shall not in any way impair, limit or modify the rights and obligation of any insurer under any policy of insurance.
- D. The benefits of this section shall inure only to officers and employees of the village and shall not enlarge or diminish the rights of any other party.

Chapter 52, ENVIRONMENTAL QUALITY REVIEW

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-28-1977 by L.L. No. 1-1977. Amendments noted where applicable.]

GENERAL REFERENCES

Excavating, filling and tree removal -- See Ch. 59.
Freshwater wetlands -- See Ch. 71.
Subdivision of land -- See Ch. 162.
Zoning -- See Ch. 195.

§ 52-1. Definitions and word usage.

- A. EN(9)As used in this chapter, the following terms shall have the meanings indicated:

APPLICANT -- A person, corporation, partnership or association submitting an application to

the Board of Trustees, Planning Board, Zoning Board of Appeals or other board or agency established by the Trustees or an appeal to the Zoning Board of Appeals.

BOARD -- The Board of Trustees, Planning Board, Zoning Board of Appeals or any board or agency established by the Trustees.

BUILDING INSPECTOR -- The Building Inspector of the village.

CLERK -- The Village Clerk.

DEIS -- Draft environmental impact statement.

EIS -- Final environmental impact statement.

PLANNING BOARD -- The Planning Board of the village.

RULES AND REGULATIONS -- The village's rules and regulations as adopted or amended by the Trustees for the implementation and administration of this chapter.

SEQR -- Article 8 of the Environmental Conservation Law of the State of New York, entitled "Environmental Quality Review," the state law.

6 NYCRR 617 OR PART 617 NYCRR -- The New York State rules and regulations for implementing SEQR which apply to all state and local government bodies and agencies.

6 NYCRR 617.1 THROUGH 617.14 -- Section numbers of Part 617 NYCRR.

TRUSTEES -- The Board of Trustees of the village.

TYPE I ACTIONS -- Actions or classes of actions as set forth in 6 NYCRR 617.4 and the rules and regulations that are likely to require preparation of an EIS because they will in almost every instance have a significant effect on the environment.

TYPE II ACTIONS -- Actions or classes of actions which have been determined not to have a significant effect on the environment and which do not require an EIS as set forth in 6 NYCRR 617.5 or the rules and regulations.

VILLAGE -- The Incorporated Village of Matinecock.

B. Unless the context or the above definitions shall otherwise require, the terms, phrases, words and their derivations used in this chapter shall have the same meaning as those defined in § 8-0105 of SEQR and in Part 617 NYCRR.

§ 52-2. Rules and regulations.

- A. The Trustees shall adopt and may amend from time to time, by resolution, rules and regulations for the implementation and administration of this chapter which shall be no less protective of the environment and consistent with SEQR and with Part 617 NYCRR.
- B. The rules and regulations may set forth additional Type I and Type II actions which shall be consistent with Part 617 NYCRR.
- C. The rules and regulations shall use the definitions and abbreviations set forth in § 52-1 above.

§ 52-3. Compliance required.

No decision to carry out or approve an action other than an action listed as a Type II action in the rules and regulations or in 6 NYCRR 617.12 shall be made by the Trustees or by any other board, officer or employee of the village until there has been full compliance with all requirements of this chapter and Part 617 NYCRR; provided, however, that nothing herein shall be construed as prohibiting:

- A. The conducting of contemporaneous environmental, engineering, economic feasibility or other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action which do not commit the village to approve, commence or engage in such action; or
- B. The granting of any part of an application which relates only to technical specifications and requirements, provided that no such partial approval shall entitle or permit the applicant to commence the action until all requirements of this chapter and Part 617 NYCRR have been fulfilled.

§ 52-4. Statement to be filed.

Applicants in all cases, unless otherwise specified in the rules and regulations and § 52-3 above, shall file a written statement with the board or officer designated by the rules and regulations setting forth the name of the applicant, the location of the real property affected, if any, a description of the nature of the proposed action and the effect it may have on the environment. In addition, applicants may include a detailed statement of the reasons why, in their view, a proposed action may or will not have a significant effect on the environment. Where the action involves an application, the statement shall be filed simultaneously with the application for the action. The statement required above shall be upon a form prescribed by the rules and regulations and shall contain such additional relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches and maps, if any,

together with any other relevant explanatory material required by the rules and regulations.

§ 52-5. Notice of application.

Upon receipt of a complete application and a statement, the Clerk shall cause a notice thereof to be posted in a conspicuous place, designated in the rules and regulations, describing the nature of the proposed action and stating that written views thereon of any person shall be received by the village no later than a date specified in such notice.

§ 52-6. Written determination; coordination of time limits.

- A. A written determination on such application shall be rendered within 15 calendar days following receipt of a complete application and statement with all required supporting documents; provided, however, that such period may be extended by mutual agreement. The determination shall state whether such proposed action may or will not have a significant effect on the environment. The board and/or its staff may hold informal meetings with the applicant and may meet with and consult any other person for the purpose of aiding it in making a determination on the application.
- B. To the extent practicable, other time limitations provided by statute or local law or the rules and regulations shall be coordinated with the time limitations provided in this chapter.

§ 52-7. Fees.

Every application for determination under this chapter shall be accompanied by fees, as determined and set forth in the rules and regulations, to defray the expenses incurred in rendering such determination. Such fees shall bear a reasonable relationship to the direct costs incurred in the processing and review of said application and to such other costs as may be provided for in the rules and regulations.

§ 52-8. Determination to be filed and circulated.

If the board determines that the proposed action is an exempt action or is a Type II action or that it will not have a significant effect on the environment, the board shall prepare, file and circulate such determination, as provided in 6 NYCRR 617.12, and thereafter the proposed action may be processed without further regard to this chapter. If the board determines that the proposed action is not an exempt action and is not a Type II action and that it may have a significant effect on the environment, the board shall prepare, file and circulate such determination, as provided in 6

NYCRR 617.12, and thereafter the proposed action shall be reviewed and processed in accordance with the provisions of this chapter and Part 617 NYCRR.

§ 52-9. Actions which may have a significant effect on the environment.

- A. Following a determination that a proposed action may have a significant effect on the environment, the board shall, in accordance with the provisions of Part 617 NYCRR:
 - (1) In the case of an action involving an applicant, immediately notify the applicant of the determination and require the applicant to prepare a DEIS; or
 - (2) In the case of an action proposed by a governmental agency, require that agency to prepare a DEIS.
- B. If an applicant decides not to submit a DEIS, the board shall notify the applicant that the application will not be further processed until said environmental impact statement is submitted and that no approval will be issued.

§ 52-10. Draft environmental impact statement.

- A. Upon completion of a DEIS prepared at the request of the board, a notice of completion containing the information specified in 6 NYCRR 617.12(a) shall be prepared, filed and circulated, as provided in 6 NYCRR 617.12(b) and (c). In addition, it shall be published in the official newspaper of the village at the applicant's expense, and a copy thereof shall also be posted in a conspicuous place designated in the rules and regulations. Copies of the DEIS and the notice of completion shall be filed, sent and made available, as provided in 6 NYCRR 617.12(b) and (c).
- B. If the board determines to hold a public hearing on a DEIS, notice thereof shall be filed, circulated and sent in the same manner as the notice of completion and shall be published in the official newspapers of the village at least 10 days prior to such public hearing. Such notice shall also state the place where substantive written comments on the DEIS may be sent and the date before which such comments shall be received. The hearing shall commence no less than 15 calendar days nor more than 60 calendar days from the filing of the DEIS, except as otherwise provided where the board determines that additional time is necessary for the public or other agency review of the DEIS or where a different hearing date is required as appropriate under other applicable law.
- C. If, on the basis of a DEIS or a public hearing thereon, the board determines that an action will not have a significant effect on the environment, the proposed action may be processed

without further regard to SEQR or this chapter.

- D. If, on the basis of a DEIS or a public hearing thereon, the board determines that the proposed action will have a significant effect on the environment, the board shall require the preparation of an EIS in accordance with the provisions of Part 617 NYCRR. Such EIS shall be prepared within 45 days after the close of any hearing or within 60 days after the filing of the DEIS, whichever last occurs; provided, however, that the board may extend this time as necessary to complete the statement adequately or where problems identified with the proposed action require material reconsideration or modification.

§ 52-11. Environmental impact statement.

- A. A notice of completion of an EIS shall be prepared, filed and sent in the same manner as provided in § 52-10 herein and shall be sent to all persons to whom the notice of completion of the DEIS was sent. Copies of the EIS shall be filed and made available for review in the same manner as the DEIS.
- B. No decision to carry out or approve an action which has been the subject of an EIS shall be made by the board until after the filing and consideration of the EIS. The board shall make a decision whether or not to approve the action within 30 calendar days of the filing of the EIS.
- C. When the board decides to carry out or approve an action which may have a significant effect on the environment, it shall make the following findings in a written determination:
 - (1) Consistent with social, economic and other essential considerations of state and local policy, to the maximum extent practicable, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects, including the effects disclosed in the relevant environmental impact statements; and
 - (2) All practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.
- D. For public information purposes, a copy of this determination shall be filed and made available as provided in Part 617 NYCRR.

§ 52-12. Public records.

The village shall maintain files open for public inspection of all notices of completion, draft and final environmental impact statements and written determinations prepared or caused to be prepared.

§ 52-13. Actions undertaken by village.

Where an action is proposed to be undertaken by a board of the village, the above procedures shall be followed except as otherwise provided by the rules and regulations.

§ 52-14. Actions involving multiple agencies.

Where more than one agency is involved in an action, the procedures of 6 NYCRR 617.14 and 617.9 shall be followed.

§ 52-15. Existing actions.

Actions undertaken or approved prior to the date specified in SEQR for local agencies shall be exempt from this chapter and the provisions of SEQR and Part 617 NYCRR; provided, however, that if after such date the board modifies an action undertaken or approved prior to that date and the board determines that the modification may have a significant adverse effect on the environment, such modification shall be an action subject to this chapter and Part 617 NYCRR.

Chapter 56, ETHICS, CODE OF

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 11-17-1970 by L.L. No. 1-1970. Amendments noted where applicable.]

§ 56-1. Purpose.

Pursuant to the provisions of § 806 of the General Municipal Law, the Board of Trustees of the Village of Matinecock 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 Matinecock. These rules shall serve as a guide for official conduct of the officers and employees of the Village of Matinecock. 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.

§ 56-2. Definitions. EN(10)

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

INTEREST -- A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee or his spouse, minor children and dependents; a firm, partnership or association of which such officer or employee is a member or employee; a corporation of which such officer or employee is an officer, director or employee; and a corporation any stock of which is accrued or controlled directly or indirectly by such officer or employee, unless the context otherwise requires.

MUNICIPAL OFFICER OR EMPLOYEE -- An officer or employee of the Village of Matinecock, 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 fire chief or assistant fire chief.

§ 56-3. Standards of conduct.

Every officer or employee of the Village of Matinecock 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 \$75 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in 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. EN(11)
- 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.

- 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 Matinecock, 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 Matinecock 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.

§ 56-4. Officer and employee 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 Matinecock 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 by law.

§ 56-5. Board of Ethics.

- A. There is hereby established a Board of Ethics consisting of three members to be appointed by the Board of Trustees and who shall serve without compensation and at the pleasure of the Board of Trustees. A majority of such members shall be persons other than officers or employees of the Village of Matinecock, but the Board shall include the Mayor of the Village of Matinecock.
- B. The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General

Municipal Law and shall render advisory opinions to the officers and employees of the Village of Matinecock with respect to Article 18 of the General Municipal Law and any Code of Ethics adopted pursuant to such article, under such rules and regulations as the Board may prescribe. In addition, the Board may make recommendations with respect to the drafting and adoption of amendments to this Code of Ethics upon request of the Board of Trustees.

§ 56-6. Distribution of code. EN(12)

The Mayor of the Village of Matinecock shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the village within 30 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. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code, nor the enforcement of provisions thereof.

§ 56-7. 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 code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

Chapter 59, EXCAVATING, FILLING AND TREE REMOVAL

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Art. 20 of the 1974 General Ordinance. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds -- See Ch. 29.
Environmental quality review -- See Ch. 52.
Freshwater wetlands -- See Ch. 71.
Subdivision of land -- See Ch. 162.
Zoning -- See Ch. 195.

§ 59-1. Findings.

It is found and declared that:

A. The removal of protective topsoil, sod, trees and flora as well as the removal of sod, topsoil,

subsoil, earth and gravel from areas within the village results in the washing of silt and mud into the village's catch basins and storm drains during and after heavy rainfalls and reduces the absorption of water into the soil, thereby creating flooding conditions after heavy rainfalls and creating unnecessary erosion and damage to public and private property within the village.

- B. The excavation of soil, subsoil, earth and gravel tends to result in unreasonable odors, smoke, dust, noise and vibrations and to result in dangers from pits, holes, gullies, water, cliffs, sharp declivities, sliding earth and hazardous machinery in close proximity to residential areas.
- C. The foregoing removal and excavation tend to destroy the natural rural aspect of the community, to depress property values, to create traffic hazards and to deteriorate the public roads and streets within the village.
- D. The foregoing removal and excavation result in such conditions and others which are detrimental to the public safety, health, welfare, good order and peace.
- E. Changing existing water levels, dredging and filling lowland, lakes, ponds, marshes or other watercourses results, or may result, in erosion, storm damage, flooding, pollution and other damage to the land so altered or to adjoining properties.
- F. Dredging and/or filling tends to result in unreasonable odors, smoke, dust, noise and vibrations and to result in dangers from erosion, storm damage, flooding and pollution, as well as traffic hazards and deterioration of roads and streets within the village.
- G. The provisions and prohibitions contained in this chapter are in pursuance of and for the purpose of securing and promoting the public health, comfort, safety and welfare of the village and its inhabitants.

§ 59-2. Removal of live trees; excavating, filling or earth removal activities.

Within the village there shall be no removal of live trees having a trunk girth of more than 25 inches at four feet above grade or dredging, filling, excavating, disturbing or removing of earth, loam, topsoil, sand, gravel, clay, stone or sod for removal from, placement on or for use upon the premises on which the same shall occur, except the removal of live trees, excavating and backfilling in connection with the bona fide construction or alteration of a building on such premises for which a building permit has been issued by the Building Inspector; or except in connection with the construction of improvements and changing of contours for roads and drainage in accordance with subdivision plans and contour maps formally approved by the Village Planning Board for such premises; or except for landscaping, normal grounds maintenance or agricultural gardening, farming or horticultural activities; or except for which the Board of Trustees shall have granted a special permit authorizing such cutting of trees, dredging,

filling, excavating or removing upon the conditions hereinafter specified.

§ 59-3. Application for special permit.

Before any special permit shall be granted, a written application shall be submitted to the Board of Trustees, together with maps and plans showing the following:

- A. A complete description of the proposed work, including the number, size and location of live trees to be cut down or the amount of material to be dredged, filled, excavated, removed, deposited or moved and the proposed disposition thereof;
- B. The location and dimensions of the affected premises, including the area to be dredged, filled or excavated;
- C. Existing contour lines on the premises and proposed contour lines resulting from the intended dredging, filling or excavating shown on a map drawn to a scale not less than 100 feet to the inch and with a contour interval not to exceed two feet;
- D. Existing and proposed drainage on the premises;
- E. Surrounding properties and streets; and
- F. Proposed truck access to the property for any material to be moved over existing streets within the village.

§ 59-4. Grant of special permit.

- A. The Board of Trustees may grant a special permit for a limited period of time, not exceeding one year, if it shall find that the proposed removal of live trees, dredging, filling, excavating or removing will not result in the creation of any sharp declivities, pits or depressions; will not tend to result in soil erosion, fertility problems, erosion, storm damage, flooding or pollution; will not cause depressed land values; and will not destroy the ecological value of wetlands or create any drainage or sewerage problems or other conditions which would impair the use of the property in accordance with Chapter 195, Zoning, or Chapter 162, Subdivision of Land, or which would cause any damage to private or public property within the village and that such removal of live trees, dredging, filling, excavating or removing will be in harmony with the general purpose and intent of Chapter 195, Zoning, or Chapter 162, Subdivision of Land.
- B. A permit shall be granted only upon the following conditions and in accordance with the Chapter 162, Subdivision of Land:

- (1) The premises shall be filled, dredged, excavated and graded in conformity with the proposed contour plan as approved;
- (2) Slopes shall not exceed a ratio of two vertical feet to four horizontal feet;
- (3) No fixed or movable machinery shall be erected or maintained within 300 feet of any property or street line, and no buildings shall be erected on the premises, except temporary shelters for machinery and field offices;
- (4) There will be no sharp declivities, pits or depressions, and proper drainage will be provided to avoid stagnant water;
- (5) After dredging, filling, excavating or removing the premises shall be cleared of debris;
- (6) Where applicable, the top layer of arable soil for a depth of six inches shall be set aside and retained on the premises and shall be respread over the premises upon completion of the dredging, filling, excavating or removing in accordance with approved contour lines. Trees, shrubs, brush, sod and other flora shall be replaced to the extent and within such time limitation as may be required by the Board of Trustees; and
- (7) The applicant shall deposit or file with the village an appropriate amount of cash or, if said Board permits, a performance bond in form and with surety acceptable to the Board, in such amount as the Board shall deem sufficient, to insure the faithful performance of the work to be undertaken pursuant to the conditions of approval and to insure repairs to any streets (public or private) or any public property damaged by trucks or other machinery using the same for access to and from the premises being dredged, filled or excavated.

§ 59-5. Exceptions.

In addition to and in furtherance of the exceptions noted in § 59-2 hereof, this chapter shall not be deemed to prevent:

- A. Usual landscaping, gardening and maintenance of lawns of private residences and commercial or industrial structures.
- B. Bona fide farming operations.
- C. Maintenance and operation of playgrounds and parking fields.
- D. Maintenance of operating golf courses.
- E. The cutting down of dead trees and branches.

Chapter 64, FEES AND DEPOSITS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 12-19-2006 by L.L. No. 1-2006.^{EN(13)} Amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems -- See Ch. 11.
Planning Board -- See Ch. 130.
Zoning -- See Ch. 195.

§ 64-1. Definitions.

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

ALTER -- To make an alteration.

ALTERATION -- Any addition or modification in construction or arrangement of structural supports or partitions, including an extension on any side or increase in height of the structure; moving a structure from one location or position to another; or any change in use. Reasonable and ordinary repairs to remedy deterioration shall not be considered as an alteration.

APPEAL -- Any appeal made to the Village's Zoning Board of Appeals pursuant to Chapter 195, Zoning, or matters pertaining to an appeal.

APPLICANT -- An individual, corporation or partnership or group thereof submitting an application to the Village's Zoning Board of Appeals, Planning Board, Board of Trustees, Clerk, Building Inspector, Street Commissioner, and Commissioner of Public Works.

APPLICATION -- Any application or written request made to the Village's Zoning Board of Appeals, Planning Board, Board of Trustees, Clerk, Building Inspector, Street Commissioner, and Commissioner of Public Works seeking approval or relief.

BUILDING INSPECTOR -- The Building Inspector of the Village.

CLERK -- The Clerk of the Village.

LOT -- A lot upon which a fee is based, including a recharge basin and "out" lots which are part of a drainage area for a subdivision.

OFFICIAL RECORD -- Includes:

A. Pages and writings contained in the official Minute Books of the Village's Board of Trustees,

Planning Board and Zoning Board of Appeals.

- B. Public records, papers and writings in the custody of any Village department, official or employee.

VILLAGE -- The Incorporated Village of Matinecock.

§ 64-2. Copies of official records, laws and maps.

- A. Any person who requests a copy of any public official record of the Village shall pay to the Clerk or designee \$0.25 per page for originals not exceeding 8 1/2 inches by 14 inches or the actual cost of reproduction for larger-size originals or those originals that are not reproducible on Village equipment.
- B. The following booklets and maps, when in print, are available for the noted charge:
 - (1) Village Code: \$250, which includes subscription.
 - (2) Zoning Pamphlet: \$25.
 - (3) Subdivision Pamphlet: \$20.
 - (4) Village Map: \$25.
- C. The Board of Trustees may, by resolution, increase the above charges for these publications.

§ 64-3. Building Department.

- A. Building permit fee.
 - (1) Due on the filing of an application for a building permit for all construction, the applicant shall pay to the Village a permit fee in an amount equal to 1% of the estimated cost of construction based upon actual cost or the Village's minimum construction cost standards or minimum permit fee, whichever is greater.
 - (2) Cost of construction and minimum permit fee. The minimum construction cost for estimating a building permit fee for the noted construction shall be as follows:
 - (a) Single-family dwelling: \$250 per square foot.
 - (b) Addition to a single-family dwelling: \$200 per square foot.
 - (c) Accessory building: \$150 per square foot.

- (d) Deck or masonry patio: \$20 per square foot or \$250, whichever is greater.
 - (e) Commercial construction: \$250 per square foot.
 - (3) The minimum building permit fee for the noted construction shall be as follows:
 - (a) Swimming pool: \$750.
 - (b) Tennis court: \$750.
 - (c) Storage shed (200 square feet or less): \$100.
 - (d) Oil or propane tank installation, generators, oil/gas conversions, boiler replacements: \$175. [Amended 7-21-2009 by L.L. No. 1-2009]
 - (e) Spa, hot tub or other recreational court: \$500.
 - (4) Demolition of principal or accessory dwelling: \$1,500. [Amended 7-21-2009 by L.L. No. 1-2009]
 - (a) Demolition of accessory structure: \$500; if less than 250 square feet: \$250.
 - (b) Fence or sign: \$50.
 - (c) Cost for other construction shall be determined by the Building Inspector and approved by the Board of Trustees.
 - (5) The above minimum cost of construction and minimum permit fees may, from time to time, be added to, amended, modified or eliminated by resolution of the Board of Trustees.
- B. Additional fees. In addition to the building permit fee, the following fees are due and owing on the filing of an application for a building permit:
- (1) Site plan review. [Amended 7-21-2009 by L.L. No. 1-2009]
 - (a) If requested by the Building Inspector, the Village's Engineer will review the application and plans. The Village Engineer's fees shall be the responsibility of and paid by the applicant. The applicant shall deposit the below amount with the Village for the payment of engineering fees as follows:
 - [1] Construction of a single-family dwelling: \$2,000.
 - [2] Alteration to an existing single-family dwelling, construction or alteration of an in-ground swimming pool, tennis court, deck, attached garage or other significant accessory building: \$1,000.

- (b) Resubmission of a site plan which contains a substantial modification or revision shall be deemed a new application. If the engineering fees incurred by the Village in review of the application are less than deposited, the balance shall be refunded. If the engineering fees incurred are more, the applicant shall be responsible for the balance due.
- (2) Certificate of occupancy: [Amended 7-21-2009 by L.L. No. 1-2009]
 - (a) Fee: \$350
 - (b) Duplicate certified copy: \$50.
 - (c) Certification of preexisting structure: \$500
 - (d) Certificate of occupancy deposit: \$500, to be made with the building permit application, the balance to be returned when the certificate of occupancy is issued. If the certificate of occupancy is not issued prior to the expiration of the permit, the deposit shall be forfeited to the Village. Thereafter, the applicant must apply to renew his building permit application and make an additional certificate of occupancy deposit in addition to the renewal fee.
- (3) Certificate of completion (sheds, generators, propane tanks, fences, etc.): \$200. [Added 7-21-2009 by L.L. No. 1-2009]

C. Miscellaneous.

- (1) The building permit for a single-family dwelling will expire 24 months from the date of issuance. For all other construction, the building permit will expire 12 months from the date of issuance. A building permit may be extended for an additional six-month period upon payment of a renewal fee of \$1,500 for a single-family and \$750 for an accessory structure, plus all other costs incurred by the Village for engineering review and legal review incurred by the Village in the renewal process. No further renewals of a building permit will be granted, unless authorized by the Board of Trustees. [Amended 7-21-2009 by L.L. No. 1-2009]
- (2) Building permit fees. [Amended 3-17-2015 by L.L. No. 1-2015]
 - (a) Building permit fees set forth in Subsection A shall be doubled for construction that is commenced without a validly issued building permit by the Building Department. If the terms or conditions of the building permit or provisions of the Village's Code are violated during construction after the issuance of the permit, the Building permit fees shall be increased as follows:
 - [1] First violation: \$500;

- [2] Second violation: \$1,000;
 - [3] Third violation: \$2,500;
 - [4] Fourth violation: \$7,500.
- (b) If after the issuance of the permit and during construction, or the terms or conditions of a stop-work order that is served on the contractor or property owner by the Village is violated, the Building permit fees shall be increased as follows:
- [1] First violation: \$2,500;
 - [2] Second violation: \$5,000;
 - [3] Third violation and all further violations: \$10,000.
- (c) Failure to pay the additional building permit fees within 30 days will result in suspension of the building permit.
- (3) Fees for duplication of Building Department records, including a survey, shall be the actual cost of reproduction, plus an administration charge of \$50. [Amended 7-21-2009 by L.L. No. 1-2009]

§ 64-4. Board of Zoning Appeals. [Amended 9-9-2008 by L.L. No. 3-2008]

- A. Every applicant to the Village's Zoning Board of Appeals shall pay to the Village the following:
- (1) Filing fee.
 - (a) Application for special use permit and amendments thereto: \$5,000.
 - (b) Appeal and all other matters: \$2,500, plus \$750 for each adjourned hearing.
 - (c) General appearance fee for discussion with Board of Zoning Appeals when no application or appeal is pending: \$750.
 - (2) Deposit. In addition to the above filing fee, a hearing charge deposit shall be submitted with an application for:
 - (a) All applications and appeals, except for a dimensional variance for a single-family residence or for an accessory structure to a single-family residence: \$15,000.
 - (b) General appearance fee for discussion purposes with Board of Zoning Appeals: \$750.

- B. The appropriate filing fee and hearing deposit must be paid to the Village before the application is deemed complete and a hearing can be noticed.
- C. Hearing charges.
 - (1) Each applicant to the Board of Zoning Appeals for all applications and appeals, except for a dimensional variance for a single-family residence or for an accessory structure to a single-family residence, shall be responsible for all expenses incurred by the Village for engineering, inspection, consulting, stenographic, administration, and legal expenses. Village expenses shall be deducted from the hearing deposit, and, to the extent that the charges for the above services incurred by the Village exceed the hearing deposit, the applicant shall be responsible for payment of all additional sums incurred by the Village, except for legal fees that are in excess to the below maximum amount:
 - (a) Maximum legal fees: \$100,000.
 - (2) All hearing charges shall be paid to the Village before the Zoning Board of Appeals shall file its decision.
- D. Fees and all additional costs incurred shall be paid by the applicant to the Village. [Added 7-21-2009 by L.L. No. 1-2009]

§ 64-5. Planning Board.

Each applicant to the Village's Planning Board shall pay to the Village the below filing fees, hearing deposits and charges based upon each lot shown on the plat as follows:

- A. Filing fees.
 - (1) Preliminary approval: \$1,000 per lot.
 - (2) Final approval: \$500 per lot.
 - (3) General discussion before Planning Board: \$750 per meeting.
 - (4) Adjourned public hearing: \$750 per adjourned hearing.
 - (5) Slope land permit: \$2,500. [Added 7-21-2009 by L.L. No. 1-2009]
 - (6) Excavating and filling permit pursuant to § 59-5. [Added 11-16-2010 by L.L. No. 1-2010]
 - (7) Site plan review: \$750. [Added 12-17-2013 by L.L. No. 3-2013]

B. Hearing deposit.

- (1) Preliminary approval: \$10,000 plus \$750 per building lot.
- (2) Final approval: \$10,000 plus \$750 per building lot.
- (3) All other matters: \$1,000.
- (4) Minimum hearing deposit to be maintained by applicant during subdivision or partitioning applications: \$5,000; site plan review \$2,500; additional hearing deposits to maintain minimum balance: amount to be determined by the Mayor or, in his absence, by the Deputy Mayor. [Amended 7-21-2009 by L.L. No. 1-2009; 12-17-2013 by L.L. No. 3-2013]

C. Payment of hearing costs. Each applicant to the Village's Planning Board shall be responsible for all expenses incurred by the Village for engineering, inspection, consulting, stenographic, administration, and legal expenses. Village expenses shall be deducted from the hearing deposit and, to the extent that the charges for the above services incurred by the Village exceed the hearing deposit, the applicant shall be responsible for payment of all additional sums incurred by the Village, except for legal fees that are in excess of the following maximum amounts:

(1) Maximum Village legal fees chargeable to the applicant as follows:

- (a) Application with fewer than five lots: \$50,000.
- (b) Application with five or more lots: \$100,000.
- (c) Environmental review of application pursuant to SEQRA:
 - [1] With fewer than five lots: \$25,000.
 - [2] With five or more lots: \$50,000.

(d) Site plan review: \$15,000. [Added 12-17-2013 by L.L. No. 3-2013]

D. Recreation site and improvement fund. If the Planning Board makes the appropriate findings to so require, the applicant shall pay to the Village's Site and Recreation Fund \$10,000 per lot, excluding recharge basins and one newly created lot if it has an existing principal dwelling.

E. The applicant shall be responsible for prompt payment of all filing fees and hearing costs. An application shall not be processed or the proceeding continued unless and until payment for outstanding fees and costs is received by the Village within 30 days of request.

F. Discharge of bond. No bond filed for the completion of the public improvements on a

proposed subdivision shall be discharged until all fees and charges, as herein required, have been paid.

- G. Land outside Village. Filing fees for partitioning and subdivision of land outside the Village for which Village Planning Board approval is required by law shall be an amount equal to 1/2 of the required filing fees enumerated in Subsection A(1) and (2).

§ 64-6. Licenses and permits for certain activities. [Amended 7-21-2009 by L.L. No. 1-2009]

An applicant for permits or licenses to conduct any of the following activities in the Village shall pay to the Village a fee and/or post a bond as determined by the following schedule:

- A. Heavy trucking: bond to be posted with the Village in an amount to be determined by the Building Department.
- B. Tow car permit: \$100 per calendar year; \$50 if permit expires within six months.
- C. Street opening:
 - (1) Permit fee: \$350.
 - (2) Bond: an amount determined by the Street Commissioner not to exceed \$75 per square foot.
- D. Parades, auction sales and tag sales.
 - (1) Parade or auction sale permit fee: \$1,000 per day.
 - (2) Tag sale by homeowner: \$50.
- E. Burglar and fire alarm fees.
 - (1) Business license: \$100 for a two-year period.
 - (2) Agent license: \$50 for a two-year period.
 - (3) Alarm user permit:
 - (a) New alarm installation, significant modification to existing alarm system or change of ownership: \$50, valid for a one-year period.
 - (b) Initial permit fee for all existing alarm users who do not have an alarm user permit as of the effective date of Chapter 11, Article I: \$50, valid for a one-year period.

- (c) Annual renewal fee: \$20.
- F. Commercial use of residential property when authorized by the Board of Trustees: \$1,000 per day.
- G. Tree removal permit fee: \$50 per application minimum fee for the removal of up to five trees.
 - (1) For an application that involves the removal of six or more trees, in addition to the \$50 minimum fee, there shall be a further fee based upon the total number of trees to be removed, computed as follows:
 - (a) For the sixth to the 10th tree: \$20 per tree;
 - (b) For 11 to 20 trees: \$30 per tree for every tree to be removed beyond 5;
 - (c) For 31 trees and more: \$75 per tree for every tree to be removed beyond 5.
 - (2) For an application that pertains to a property for which a prior tree removal permit was issued within the past twelve-month period, or for a property where trees were removed without a removal permit, the permit fee shall be calculated using the total number of all trees that have been and will be removed, charged at the highest applicable rate per tree. There shall be no credit for prior fees paid.
 - (3) The application fee for a tree removal permit for trees that had been removed without a permit, shall be tripled plus \$250.
 - (4) In addition to a tree removal permit fee, the Village may require new plantings to replace trees to be removed or that have been removed; the number, size, species and location of the plantings shall be as determined by the Village Board of Trustees.

§ 64-7. Board of Trustees. [Added 11-16-2010 by L.L. No. 1-2010^{EN(14)}]

Any applicant petitioning the Board of Trustees for relief for their personal benefit or that of their property shall be responsible for all expenses incurred by the Village for engineering, inspection, consulting, stenographic, administration, and legal expenses in connection with such request. The Board of Trustees may require a deposit for these expenses in an amount it deems appropriate taking into account the requested relief.

§ 64-8. Refunds; waivers; assessment of unpaid fees.

- A. Refund of fees. No filing fees, deposits or charges required by §§ 64-3, 64-4, 64-5, 64-6 and

64-7 shall be returned or refunded, except as follows: [Amended 11-16-2010 by L.L. No. 1-2010]

- (1) If the construction of a building is discontinued or abandoned, the Trustees may authorize a refund of up to 75% of the building permit fee and all of the certificate of occupancy fee to the extent that the Village's actual charges for review and inspection have not been incurred as certified to the Board of Trustees by the Building Inspector.
 - (2) If an application to the Village's Planning Board or Zoning Board of Appeals is discontinued or abandoned, the Board of Trustees may authorize a refund of up to 90% of the filing fee paid in connection with said application to the extent that the Village's actual permitted charges have not been incurred as certified to the Board of Trustees by the Chairman of such Board.
 - (3) If the actual charges assessed pursuant to §§ 64-4C and 64-5C do not exceed the deposit held by the Village, the remaining balance shall be refunded to the applicant or appellant, provided that he shall, within one year after the decision on the application or appeal is filed, make a written demand for such refund upon the Clerk. All unclaimed excess deposits shall become the property of the Village within one year from such filing date.
- B. The Board of Trustees, in its sole discretion, shall have the right to waive any fee, charge or deposit or portion thereof imposed pursuant to this chapter as it deems necessary and proper.
- C. Fees and costs assessed. Any fees and charges herein required under §§ 64-3, 64-4, 64-5, 64-6 and 64-7 which remain unpaid for more than 90 days after they are due and billed shall be assessed against the property which is the subject of the application, which assessment shall be included in the next succeeding annual bill for Village taxes for said property and shall become a lien thereon when such taxes become a lien. [Amended 11-16-2010 by L.L. No. 1-2010]

§ 64-9. Interpretation and application.

- A. Words that are singular or masculine shall be deemed to be plural or feminine whenever the sense of this chapter so requires.
- B. Any increase or decrease of a fee, charge or deposit resulting from an amendment of this chapter shall affect pending applications and appeals which have been filed with the Village as follows:
- (1) If the former fee or deposit has been paid to the Village before the effective date of any amendment hereto, no additional amounts shall be due nor refunds made relating to the

particular stage of the application or appeal for which the former fee or deposit was paid. However, all additional fees shall be computed as set forth in Subsection B(2).

- (2) Any fees or deposits paid after the effective date of any amendment shall be in accordance with the new amounts relating to the particular stage of the application or appeal for which they are paid.

Chapter 67, FIREARMS AND WEAPONS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Art. 10 of the 1974 General Ordinance. Amendments noted where applicable.]

GENERAL REFERENCES

Peace and good order -- See Ch. 121.

§ 67-1. Definitions.

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

FIREARM -- A shotgun, rifle, revolver, pistol or any other device which emits a projectile by the force of an explosion.

WEAPON -- A bow and arrow, crossbow, blow gun, slingshot, air gun, BB gun or any other device which emits a projectile with a force other than an explosion.^{EN(15)}

§ 67-2. Prohibited acts.

No person shall:

- A. Carry, point, aim, discharge or otherwise use any firearm or weapon in the open air within the corporate limits of the village;
- B. Cause a projectile or bullet emitted from any firearm or weapon to pass over property situated or lying within the corporate limits of the village; or
- C. Willfully or negligently discharge in the open air any firearm or weapon in such manner as to endanger a person, dog or other domestic animal or property or game protected by the wildlife laws of the state, notwithstanding that no injury ensues.

§ 67-3. Exceptions.

Subject to the restrictions of state law, the foregoing provisions of Subsections A and B of § 67-2 shall not apply to:

- A. A police officer acting in the discharge of his duties.
- B. The owner or lessee of a parcel of land or any of his immediate family, employees or guests who have permission from said owner or lessee to use a firearm or weapon on said parcel for recreation or the hunting of game, provided that any guest not accompanied by the owner, lessee or a member of the immediate family or an employee of the owner or lessee shall have on his person a written permit dated within one year of its use from said owner or lessee to use any firearm or weapon on said parcel of land, and provided, further, that no discharge of said firearm or weapon shall be done in a reckless or negligent manner or across a public highway or lane or across the property of another.
- C. The owner or lessee of property or any of his immediate family, employees or guests engaged in the sport of skeet or trap shooting between the hours of 9:00 a.m. and sunset and under such circumstances as not to endanger person or property.
- D. Any owner or lessee or any of his immediate family, employees or guests when reasonably necessary for the protection of life or property, or both, or in the act of self-defense.

Chapter 71, FRESHWATER WETLANDS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 7-28-1976 by L.L. No. 1-1976. Amendments noted where applicable.]

GENERAL REFERENCES

- Environmental quality review -- See Ch. 52.
- Excavating, filling and tree removal -- See Ch. 59.
- Subdivision of land -- See Ch. 162.
- Zoning -- See Ch. 195.

§ 71-1. Findings; intent.

- A. The Village of Matinecock ("village") finds that freshwater wetlands are invaluable resources for flood protection, wildlife habitat, open space, water resources and other benefits associated therewith which, if preserved and maintained in an undisturbed, natural condition, constitute important social, economic and aesthetic assets to existing and future

residents of the village.

- B. It is the intent of the Village Trustees to protect the residents of the village by preserving, protecting and conserving freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands and to regulate use and development of such wetlands consistent with the general welfare of the village pursuant to Article 24 of the New York State Environmental Conservation Law.
- C. It is also the intent of the Village Trustees to promote the public purpose and the health, safety and general welfare of present and future residents of the village by providing for the protection, proper maintenance and use of wetlands, water bodies and watercourses located within the village by preventing or minimizing erosion due to flooding and stormwater runoff, maintaining the natural groundwater supplies, protecting subsurface water resources and providing valuable watersheds, preserving and protecting the purity, utility, water retention capability, ecological functions and natural beauty of all wetlands, water bodies, watercourses and other related natural features of the terrain and by providing and protecting wildlife habitat.

§ 71-2. Definitions.

The following terms, phrases, words and their derivatives shall have the meanings given herein:

ADJACENT AREA -- All lands within 100 feet, horizontally, of the vegetative boundary of any freshwater wetland.

APPLICANT -- Includes the owner of the affected property, his agent or contract vendee who files an application for a permit pursuant to this chapter.

BOUNDARY -- The outer limit of vegetation specified in Subsections A and B and the waters specified in Subsection C of the definition of "freshwater wetlands" below.

FRESHWATER WETLANDS -- Lands and waters lying within the boundaries of the village, as shown on the Freshwater Wetlands Map prepared by or for the State of New York and filed with the village pursuant to § 24-0301 of the New York State Environmental Conservation Law or as shown on any freshwater wetland maps the village shall prepare, which contain any or all of the following:

- A. Lands and submerged lands commonly called "marshes," "swamps," "sloughs," "bogs" and "flats" supporting aquatic or semiaquatic vegetation of the following vegetative types:
 - (1) Wetland trees, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other trees, including, among others, red maple (*Acer rubrum*), willows (*Salix* spp.), black spruce (*Picea*

- mariana), swamp white oak (*Quercus bicolor*), red ash (*Fraxinus pennsylvanica*), American elm (*Ulmus americana*) and larch (*Larix laricina*).
- (2) Wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other shrubs, including, among others, alder (*Alnus* spp.), buttonbush (*Cephalanthus occidentalis*), bog rosemary (*Andromeda glaucophylla*) and leatherleaf (*Chamaedaphne calyculata*).
 - (3) Emergent vegetation, including, among others, cattails (*Typha* spp.), pickerelweed (*Pontederia cordata*), bulrushes (*Scirpus* spp.), arrow arum (*Peltandra virginica*), arrowheads (*Sagittaria* spp.), reed (*Phragmites communis*), wild rice (*Zizania aquatica*), bur-reeds (*Sparganium* spp.), purple loosestrife (*Lythrum salicaria*), swamp loosestrife (*Decodon verticillatus*) and water plantain (*Alisma plantago-aquatica*).
 - (4) Rooted, floating-leaved vegetation, including, among others, water lily (*Nymphaea odorata*), water shield (*Brasenia schreberi*) and spatterdock (*Nuphar* spp.).
 - (5) Free-floating vegetation, including, among others, duckweed (*Lemna* spp.), big duckweed (*Spirodela polyrhiza*) and watermeal (*Wolffia* spp.).
 - (6) Wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently waterlogged soils to give it a competitive advantage over other open land vegetation, including, among others, sedges (*Carex* spp.), rushes (*Juncus* spp.), cattails (*Typha* spp.), rice cut-grass (*Leersia oryzoides*), reed canary grass (*Phalaris arundinacea*), swamp loosestrife (*Decodon verticillatus*) and spikerush (*Eleocharis* spp.).
 - (7) Bog mat vegetation, including, among others, sphagnum mosses (*Sphagnum* spp.), bog rosemary (*Andromeda glaucophylla*), leatherleaf (*Chamaedaphne calyculata*), pitcher plant (*Sarracenia purpurea*) and cranberries (*Vaccinium macrocarpon* and *V. oxycoccos*).
 - (8) Submergent vegetation, including, among others, pond weeds (*Potamogeton* spp.), naiads (*Najas* spp.), bladderworts (*Utricularia* spp.), wild celery (*Vallisneria spiralis*), coontail (*Ceratophyllum demersum*), water milfoils (*Myriophyllum* spp.), muskgrass (*Chara* spp.), stonewort (*Nitella* spp.), waterweeds (*Elodea* spp.) and water smartweed (*Polygonum amphibium*).
- B. Lands and submerged lands containing remnants of any vegetation that is not aquatic or semiaquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six feet, and provided, further, that such conditions can be expected to persist indefinitely, barring human intervention.

- C. Lands and waters enclosed by aquatic or semiaquatic vegetation as set forth herein in Subsection A above and dead vegetation as set forth in Subsection B above, the regulation of which is necessary to protect and preserve the aquatic and semiaquatic vegetation.
- D. The waters overlying the areas set forth in Subsections A and B above and the lands underlying Subsection C.

FRESHWATER WETLANDS APPEALS BOARD -- The member board established by Article 24 of the New York State Environmental Conservation Law.

PARTY IN INTEREST -- Includes the applicant, any person who is permitted to intervene pursuant to Article 24 of the New York State Environmental Conservation Law, the village or an adjoining municipality within which is located the freshwater wetland or adjacent area which is the subject of an application for a permit.

PERMIT -- A freshwater wetlands permit for the conduct of a regulated activity.

PERSON -- Any corporation, firm, partnership, association, trust or estate, one or more individuals and any unit of government or agency or subdivision thereof.

PLANNING BOARD -- The Planning Board of the Incorporated Village of Matinecock designated by the village to be responsible for administering the provisions of this chapter and promulgating rules, regulations and procedures necessary to implement and administer properly the provisions herein.

POLLUTION -- The presence in the environment of human-induced conditions or contaminants in quantities or characteristics which are or may be injurious to humans, vegetation, wildlife or property.

PROJECT -- Any action resulting in direct or indirect physical impact on a freshwater wetland, including but not limited to any regulated activity.

REGULATED ACTIVITY -- Any form of draining, dredging, excavation or removal of soil, mud, sand, shells, gravel or other aggregate, either directly or indirectly; any form of dumping, filling or deposition of any soil, stones, sand, gravel, mud, rubbish or fill of any kind, either directly or indirectly; erecting any structures, constructing roads, the driving of pilings or placing of any other obstructions, whether or not changing the ebb and flow of the water; and any form of pollution, including but not limited to installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid wastes into or so as to drain into a freshwater wetland and any other activity which substantially impairs any of the several functions served by the freshwater wetlands or the benefits derived therefrom which are set forth in § 24-0105 of the New York State Environmental Conservation Law.

§ 71-3. Permit required for regulated activities; exceptions; emergencies.

- A. No person shall conduct a regulated activity in any freshwater wetland or adjacent areas in the village without first obtaining a permit issued by the Planning Board.
- B. As otherwise legally permitted within the village, the depositing or removal of the natural products of freshwater wetlands and adjacent areas, as enumerated in § 24-0701, Subdivision 3, of the New York State Environmental Conservation Law, and agricultural activities within said areas, as enumerated and defined in § 24-0701, Subdivision 4, of the New York State Environmental Conservation Law, shall not be considered regulated activities. In addition, public health activities, orders and regulations of the Department of Health shall be excluded from regulated activities. This agency shall notify the Planning Board, in writing, of the proposed activity which it will conduct.
- C. If the Planning Board shall determine that an emergency activity is immediately necessary to protect the health, safety and well-being of any person or to immediately prevent substantial damage to personal or real property, it may exempt such activity from regulation.

§ 71-4. Permit application; notice and hearing.

- A. Any person proposing, permitting or causing to be conducted a regulated activity upon any freshwater wetland or adjacent area shall file an application for a permit with the Village Clerk. The application shall include a detailed description of the proposed activity, a map showing the area of freshwater wetland directly affected, with the location of the proposed activity thereon, and a current list of record owners of lands and claimants of water rights within 100 feet of the property on which the regulated activity is located.
- B. After submission of the completed application, the applicant shall publish, at his expense, a notice of application, indicating that the applicant intends to file an application, in two newspapers having a general circulation in the area. The Planning Board may waive the publishing of the notice of application and require the publication of the appropriate notice of hearing.
- C. If no notice of objection has been filed by any party in interest in response to the notice of application or if the Planning Board finds that the proposed activity is of such a minor nature as not to affect or endanger the balance of systems within the freshwater wetland, it may dispense with a public hearing. If the Planning Board determines that a hearing is not to be held, the Board shall publish, in the village newspaper, its decision setting forth its findings and reasons therefor.
- D. If a hearing is to be held it shall be scheduled no sooner than 30 days and not later than 60

days after the receipt of the completed application by the village and the publishing of the notice of application. The applicant shall publish the notice of hearing at his expense in two newspapers having a general circulation in the area where the affected freshwater wetland is located not more than 28 days nor less than 15 days prior to the date set for the hearing.

- E. The applicant shall also send by certified mail, not less than 15 days prior to the date set for the hearing, the notice of hearing to owners of record of adjacent lands within 100 feet of the premises containing the wetlands and known claimants to water rights which will be affected.

§ 71-5. Findings of Planning Board.

No permit shall be issued by the Planning Board pursuant to this chapter unless it shall find that:

- A. The proposed regulated activity is consistent with the policy of this chapter to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands and to regulate the development of such wetlands in order to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial economic, social and agricultural development of the village;
- B. The proposed regulated activity is consistent with the village's land use regulations;
- C. The proposed regulated activity is compatible with the public health and welfare;
- D. The proposed regulated activity is reasonable and necessary; and
- E. There is no reasonable alternative for the proposed regulated activity on a site which is not a freshwater wetland or adjacent area.

§ 71-6. Conditions; bond; inspections; suspension or revocation of permit; fees; rules and regulations.

- A. Any permit issued pursuant to this chapter may be issued with conditions. Such conditions may be attached as are necessary to assure the preservation and protection of affected freshwater wetlands and to assure compliance with the policy and provisions of this chapter and the provisions of the Planning Board's rules and regulations adopted pursuant to this chapter.
- B. The Planning Board may require a performance bond in such form and sureties as it deems necessary. Said bond shall guarantee compliance with all provisions of this chapter and all other conditions and requirements imposed on the approval of the permit.

- C. Operations conducted under the permit shall be open to inspection at any time by the Building Inspector or Village Engineer. The issuance of a permit by the Planning Board does not relieve the applicant from obtaining all other necessary authorizations.
- D. The Planning Board may suspend or revoke a permit issued pursuant to this chapter where it finds that the permittee has not complied with any or all terms of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth in the application.
- E. Any fees involved shall be the same as the fees required for an appeal to the Zoning Board of Appeals. See Chapter 64, Fees and Deposits.^{EN(16)}
- F. After a public hearing the Planning Board may adopt, amend and repeal rules and regulations consistent with this chapter as it deems necessary and proper to administer this chapter.

§ 71-7. Penalties for offenses; enforcement.

- A. Any person who violates, disobeys or disregards any provision of this chapter shall be liable for a civil penalty, not to exceed \$3,000, for every such violation to be assessed. Each and every day a violation continues after written notice has been served on the violator by the Building Inspector shall be deemed a separate violation. Before assessment of the civil penalty, the alleged violator shall be afforded a hearing or opportunity to be heard before the Planning Board, upon due notice, and with the rights to specification of the charges and representation by counsel.
- B. The Planning Board shall also have the power, following a hearing, to direct a violator to cease violation of this chapter and to satisfactorily restore the affected freshwater wetland to its condition prior to the violation under the Board's supervision.
- C. Any civil penalty or order issued by the village shall be reviewable pursuant to the Civil Practice Law and Rules.
- D. In addition to the above civil fine, any person who violates an order issued pursuant to Subsection B of this section shall be guilty of a violation pursuant to the Penal Law, punishable by a fine of not less than \$500 nor more than \$1,000. For a second and each subsequent offense, the violator shall be guilty of a misdemeanor, punishable by a fine of not less than \$1,000 nor more than \$2,000 or a term of imprisonment of not less than 15 days nor more than six months, or both.^{EN(17)}
- E. The Planning Board shall have the right to seek equitable relief to restrain any violation or threatened violation of any provisions of this chapter.

§ 71-8. Review of decisions and orders.

A. Any decision or order of the Planning Board may be reviewed:

- (1) By the Freshwater Wetlands Appeals Board in accordance with Title 11 of Article 24 of the New York State Environmental Conservation Law, provided that, within 30 days after service of such order or notice of such decision, such review is commenced by the filing with the Freshwater Wetlands Appeals Board a notice of review; and
- (2) Pursuant to Article 78 of the New York State Civil Practice Law and Rules.

B. The institution of a judicial proceeding to review a determination or order of the Planning Board shall preclude the institution of a proceeding before the Freshwater Wetlands Appeals Board to review such a determination or order.

§ 71-9. Freshwater Wetlands Map.

After a public hearing, the Board of Trustees may adopt a Freshwater Wetlands Map indicating the boundaries of any freshwater wetlands in the village, as defined herein, provided that said Freshwater Wetlands Map is no less restrictive than that filed by the State Department of Environmental Conservation. The Board of Trustees may, after a public hearing, so amend, modify or update an adopted Freshwater Wetlands Map as it deems necessary and proper to carry out the intent of this chapter.

§ 71-10. When effective.

This chapter shall take effect upon either the filing with the Clerk of the village of a Freshwater Wetlands Map duly adopted by the Board of Trustees or upon the filing with the Clerk of the village of a Freshwater Wetlands Map by the State Department of Environmental Conservation pursuant to § 24-0301 of the New York State Environmental Conservation Law, whichever occurs first.

Chapter 80, ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 5-22-2007 by L.L. No. 3-2007.^{EN(18)} Amendments noted where applicable.]

GENERAL REFERENCES

Excavating, filling and tree removal -- See Ch. 59.
Stormwater management and erosion and sediment control -- See Ch. 157.
Subdivision of land -- See Ch. 162.
Zoning -- See Ch. 195.

§ 80-1. Intent; purpose.

- A. It is the intent of this legislation to prohibit illicit discharges, activities, and connections to the Village of Matinecock separate storm sewer system so as to satisfy the relevant part of the Phase II stormwater management requirements of the National Pollutant Discharge Elimination System regulations, administered by New York State through the State Pollutant Discharge Elimination System regulations (SPDES), and to provide for the health, safety, and general welfare of the citizens of the Village through the regulation of nonstormwater discharges to the MS4 (municipal separate storm sewer system) to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES general permit for MS4s.
- B. The objectives of this chapter are:
- (1) To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit No. GP-02-02, or as amended or revised;
 - (2) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process, or discharge nonstormwater wastes;
 - (3) To prohibit illicit connections, activities, and discharges to the MS4;
 - (4) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter; and
 - (5) 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.

§ 80-2. Word usage; definitions.

- A. For the purposes of this chapter, certain terms and words are herein defined. Words used in the present tense include the future, words in the singular include the plural, and words in the plural include the singular; the word "shall" is mandatory.

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

BEST MANAGEMENT PRACTICES -- Schedules of activities, prohibitions of practices, general good housekeeping 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.

BMPs -- Best management practices.

CLEAN WATER ACT -- The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY -- An activity 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.

DEC -- The New York State Department of Environmental Conservation.

DESIGN PROFESSIONAL -- A professional engineer or architect licensed by the state.

EPA -- The federal Environmental Protection Agency.

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.

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 nonstormwater 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.

ILLICIT DISCHARGE -- Any direct or indirect nonstormwater discharge to the MS4, except as exempted in this chapter.

INDUSTRIAL ACTIVITY -- An activity requiring an SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

MS4 -- Municipal separate storm sewer system.

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;
- (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 as defined at 40 CFR 122.2.

NONSTORMWATER DISCHARGE -- Any discharge to the MS4 that is not composed entirely of stormwater.

NYCRR -- New York Code, Rules, and Regulations.

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.

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 reasonably be expected to cause pollution of the waters of the state in contravention of pertinent standards promulgated by the federal government, the state, the Village, or any other municipality or department thereof, having legal jurisdiction to impose such standards.

PREMISES -- Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

SMO -- The Stormwater Management Officer.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 -- A DEC SPDES permit issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL

SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 -- A DEC SPDES permit 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.

SPDES STORMWATER DISCHARGE PERMIT -- A permit issued by DEC that authorizes the discharge of pollutants to waters of the state.

SPECIAL CONDITIONS

- (1) Discharge compliance with water quality standards: a condition that applies when the Village has been notified that the discharge of stormwater authorized under its MS4 permit may have caused or has the potential to cause or contribute to the violation of an applicable water quality standard. Under this condition, the Village must take necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
- (2) 303(d) listed waters: a condition in the Village's MS4 permit that applies when 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 strategy: a condition in the Village's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a water body 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 Village shall be required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- (4) A condition in the Village's MS4 permit that applies if a TMDL is approved in the future by EPA for any water body or watershed into which an MS4 discharges. Under such condition, the Village 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 Village must, within six 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 and conforms with SPDES, the State Pollutant Discharge Elimination System.

STATE -- The State of New York.

STORMWATER -- Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER -- The officer of the Village designated to enforce this chapter.

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 DEC 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.

TMDL -- Total maximum daily load.

TOTAL MAXIMUM DAILY LOAD -- The maximum amount of a pollutant to be allowed to be released into a water body so as not to impair uses of the water, allocated among the sources of that pollutant.

VILLAGE -- The Incorporated Village of Matinecock.

WASTEWATER -- Water that is not stormwater, is contaminated with pollutants, and is or will be discarded.

§ 80-3. Applicability.

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

§ 80-4. Responsibility for administration and enforcement.

The SMO shall administer, implement, and enforce the provisions of this chapter.

§ 80-5. Discharge and illicit connection prohibitions.

A. Prohibition of illegal discharges. No person shall discharge, cause or allow to be discharged into the MS4 any materials other than stormwater. The commencement, conduct, or continuance of any illegal discharge to the MS4 is prohibited, except as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this chapter, unless DEC or the Village has determined them to be substantial contributors of pollutants: flushing of water line or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains, crawl space or basement sump pumps, air-conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire-fighting activities, and any other water

source not containing 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 chapter.
- (3) Dye testing in compliance with applicable state, county and Village regulations 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 DEC, 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 chapter if the person connects a line conveying sewage to the Village's MS4, causes or allows such a connection to continue.

§ 80-6. Prohibition against failing individual sewage treatment systems.

No person 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 subsection.
- F. Contamination of off-site groundwater.

§ 80-7. Prohibition against activities contaminating stormwater.

The following activities are prohibited:

- A. Those types of activities that cause or contribute to:
 - (1) A violation of the Village's MS4 SPDES permit; and/or*
 - (2) The Village being subject to special conditions.
- B. Failing individual sewage treatment systems; and
- C. Improper management of pet waste; and
- D. Any other activity that causes or contributes to a violation of the Village's MS4 SPDES permit authorization.*

Note:

* Upon notification to a person that such person is engaged in activities that cause or contribute to violations of the Village's MS4 SPDES permit authorization, such person shall immediately commence and continue thereafter with all due diligence to take all reasonable actions to correct such activities such that such person no longer causes or contributes to violations of the Village's MS4 SPDES permit authorization.

§ 80-8. Requirement to prevent, control, and reduce stormwater pollutants by use of BMPs.

- A. Best management practices.
 - (1) Where the SMO has identified illicit discharges or activities contaminating stormwater, the Village may require implementation of BMPs to control those illicit discharges and

activities.

- (2) The owner or operator of a commercial or industrial establishment shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.
 - (3) Any person responsible for a property or premises which is, or may be, the source of an illicit discharge or an activity contaminating stormwater may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
 - (4) 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 Village's being subject to the special conditions, 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 10 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.
 - (e) Most tanks should be pumped out every two to three years. However, pumping may be more or less frequent depending on use. Inspection of the tank for cracks, leaks and blockages should be done by the septage hauler at the time of pumping of the tank contents.
 - (2) Repair or replace individual sewage treatment systems as follows:
 - (a) In accordance with 10 NYCRR Appendix 75-A, as the same may be amended or superseded from time to time, to the maximum extent practicable.

- (b) A design professional shall prepare design plans for any type of absorption field that involves:
 - [1] Relocating or extending an absorption area to a location not previously approved for such.
 - [2] Installation of a new subsurface treatment system at the same location.
 - [3] 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 Village at the completion of construction of the repair or replacement system.

§ 80-9. Emergency situations.

- A. Suspension of access to MS4. 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 Village's MS4 in violation of this chapter may have its 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 the SMO 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 subsection, without the prior approval of the SMO.

§ 80-10. 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 SMO prior to the allowing of discharges to the MS4.

§ 80-11. Access to facilities; monitoring of discharges.

- A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this chapter 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 chapter.
- B. Access to facilities.
- (1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this chapter as reasonably necessary to determine compliance with this chapter. 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 reasonable 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 chapter.
 - (3) The Village shall have the right to set up on any facility, subject to this chapter, such devices as are reasonably necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.
 - (4) The Village has the right to require the facilities, subject to this chapter, to install monitoring equipment as is reasonably necessary to determine compliance with this chapter.
 - (5) 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.
 - (6) Unreasonable delays in allowing the Village access to a facility subject to this chapter is a violation of this chapter. A person who is the operator of a facility subject to this chapter commits an offense if the person denies the Village reasonable access to the facility for the purpose of conducting any activity authorized or required by this chapter.
 - (7) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and the SMO is able to demonstrate probable cause to believe that there may be a violation of this chapter, 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 chapter or any order issued hereunder, then the SMO may seek issuance of a search warrant from the Village Court or, at its option, any other court of competent

jurisdiction.

§ 80-12. Notification of spills.

- A. 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 release of materials which is resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take necessary steps to ensure the discovery, containment, and cleanup of such release.
- B. 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.
- C. In the event of a release of nonhazardous materials, said person shall notify the Village in person or by telephone or facsimile no later than the next business day.
- D. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Village within three business days of the telephone notice.
- E. 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.

§ 80-13. Enforcement; penalties for offenses.

- A. Notice of violation. When the SMO, his designee, or other designee of the Board of Trustees determines that a person has violated a prohibition or failed to meet a requirement of this chapter, the SMO or such designee may order compliance by written notice of violation to all violators.
 - (1) Such notice may require of all violators, without limitation:
 - (a) The elimination of illicit connections or discharges;
 - (b) That violating discharges, practices, or operations shall cease and desist;
 - (c) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (d) The performance of monitoring, analyses, and reporting;

- (e) The implementation of source control or treatment BMPs.
 - (2) 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 Village may perform, or have performed by an independent contractor, the remediation or restoration and the cost thereof shall become a lien upon the land until paid, and if not paid, at the option of the Mayor, may be added to the current tax bill for the subject premises and collected in the same manner and with the annual Village real estate taxes.
- B. Violations. Any activity that is commenced or is conducted contrary to this chapter may be enforced by injunction or otherwise as provided by law.
- C. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed 15 days, 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 \$350 nor more than \$750 or imprisonment for a period not to exceed 15 days, 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 \$750 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both. Violations of this chapter shall not be deemed misdemeanors. Each week's continued violation shall constitute a separate additional violation.

§ 80-14. Violations deemed 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 chapter 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.

§ 80-15. Remedies not exclusive.

The remedies listed in this chapter 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.

§ 80-16. Severability.

If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or clause of this chapter.

Chapter 83, INVESTMENT POLICY

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 12-4-1993.
Amendments noted where applicable.]

§ 83-1. Scope.

This investment policy applies to all moneys and other financial resources available for investment on the village's own behalf or on behalf of any other entity or individual.

§ 83-2. Objectives.

The primary objectives of the village's investment activities are, in priority order:

- A. To conform to all applicable federal, state and other legal requirements (legal);
- B. To adequately safeguard principal (safety);
- C. To provide sufficient liquidity to meet all operating requirements (liquidity); and
- D. To obtain a reasonable rate of return (yield).

§ 83-3. Administration.

The Village Board's responsibility for administration of the investment program is delegated to the Treasurer, who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability, based on a database of records incorporating the description and amounts of investments, transaction dates and other relevant information, and to regulate the activities of subordinate employees.

§ 83-4. Participants to act responsibly.

- A. All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the ability of the village to govern effectively.^{EN(19)}
- B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the safety of the principal as well as the probable income to be derived.
- C. All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions.

§ 83-5. Diversification.

It is the policy of the village to diversity its deposits and investments by financial institution, by investment instrument and by maturity scheduling.

§ 83-6. Internal controls.

- A. It is the policy of the village for all moneys collected by any officer or employee of the village to be transferred to the Treasurer within seven days of deposit or within the time period specified in law, whichever is shorter.^{EN(20)}
- B. The Treasurer is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and recorded properly and are managed in compliance with applicable laws and regulations.

§ 83-7. Depositories.

The banks and companies authorized for the deposit of moneys are: Fleet Bank, Chemical Bank and Citibank.

§ 83-8. Collateralizing of deposits.

In accordance with the provisions of General Municipal Law § 10, all deposits of the village, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

- A. By a pledge of eligible securities with an aggregate market value, as provided by General Municipal Law § 10, equal to the aggregate amount of deposits from the categories designated in Appendix A to this policy.
- B. By an eligible irrevocable letter of credit issued by a qualified bank, other than the bank with the deposits, in favor of the village for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed-upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or a bank that is in compliance with applicable federal minimum risk-based capital requirements.
- C. By an eligible surety bond payable to the village for an amount at least equal to 100% of the aggregate amount of deposits and the agreed-upon interest, if any, executed by an insurance company authorized to do business in New York State whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

§ 83-9. Security and custodial agreements.

- A. Eligible securities used for collateralizing deposits shall be held by the third party bank or trust company subject to security and custodial agreements.
- B. The security agreement shall provide that eligible securities are being pledged to secure village deposits, together with agreed-upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the village to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the village, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the village or its custodial bank.
- C. The custodial agreement shall provide that securities held by the bank or company, as agent of and custodian for the village, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or

become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities.

- D. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the village a perfected interest in the securities.

§ 83-10. Permitted investments.

- A. As authorized by General Municipal Law § 11, the village authorizes the Treasurer to invest moneys not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:
- (1) Special time deposit accounts.
 - (2) Certificates of deposit.
 - (3) Obligations of the United States of America.
 - (4) Obligations guaranteed by agencies of the United States of America where the payment of principal and interest is guaranteed by the United States of America.
 - (5) Obligations of the State of New York.
 - (6) Obligations issued pursuant to Local Finance Law § 24.00 or 25.00 (with approval of the State Comptroller) by any municipality, school district or district corporation other than the village.
 - (7) Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general state statutes governing such entities authorize, or whose specific enabling legislation authorizes, such investments.
 - (8) Certificates of participation (COP's) issued pursuant to General Municipal Law § 109-b.
 - (9) Obligations of this local government, but only with any moneys in a reserve fund established pursuant to General Municipal Law § 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m or 6-n.
- B. All investment obligations shall be payable or redeemable at the option of the village within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the village within two years of the

date of purchase.

§ 83-11. Authorized financial institutions and dealers.

The village shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the village conducts business must be credit worthy. Banks shall provide their most recent consolidated report of condition (call report) at the request of the village. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank as primary dealers. The Treasurer is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated at least annually.

§ 83-12. Purchase of investments.

A. The Treasurer is authorized to contract for the purchase of investments:

- (1) Directly, including through a repurchase agreement, from an authorized trading partner.
- (2) By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5G of the General Municipal Law, where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46 and the specific program has been authorized by the governing board.
- (3) By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.

B. All purchased obligations, unless registered or inscribed in the name of the village, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed, in writing, to the village by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law § 10.

C. The custodial agreement shall provide that securities held by the bank or company, as agent of and custodian for the village, will be kept separate and apart from the general assets of the custodial bank or company and will not, in any circumstances, be commingled with or

become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the village a perfected interest in the securities.

§ 83-13. Repurchase agreements.

Repurchase agreements are authorized subject to the following restrictions:

- A. All repurchase agreements must be entered into subject to a master repurchase agreement.
- B. Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
- C. Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.
- D. No substitution of securities will be allowed.
- E. The custodian shall be a party other than the trading partner.

Appendix A Schedule of Eligible Securities

- ___(i) Obligations issued, or fully insured or guaranteed as to the payment of principal and interest, by the United States of America, an agency thereof or a United States government sponsored corporation.
- ___(ii) Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank and the African Development Bank.
- ___(iii) Obligations partially insured or guaranteed by any agency of the United States of America, at a proportion of the market value of the obligation that represents the amount of the insurance or guaranty.
- ___(iv) Obligations issued or fully insured or guaranteed by the State of New York, obligations issued by a municipal corporation, school district or district corporation of such state of obligations of any public benefit corporation which under a specific state statute may be accepted as security for deposit of

public moneys.

- ___(v) Obligations issued by states (other than the State of New York) of the United States rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- ___(vi) Obligations of Puerto Rico rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- ___(vii) Obligations of counties, cities and other governmental entities of a state other than the State of New York having the power to levy taxes that are backed by the full faith and credit of such governmental entity and rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- ___(viii) Obligations of domestic corporations rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization.
- ___(ix) Any mortgage-related securities, as defined in the Securities Exchange Act of 1934, as amended, which may be purchased by banks under the limitations established by bank regulatory agencies.
- ___(x) Commercial paper and bankers' acceptance issued by a bank, other than the bank, rated in the highest short-term category by at least one nationally recognized statistical rating organization and having maturities of not longer than 60 days from the date they are pledged.
- ___(xi) Zero coupon obligations of the United States government marketed as "Treasury strips."

Chapter 93, LIGHTING, EXTERIOR

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 4-18-2000 by L.L. No. 1-2000. Amendments noted where applicable.]

§ 93-1. Restrictions on installation and operation.

No person, firm or corporation, their agents, servants or employees, shall install, operate or maintain on private property in the village any exterior light, lamp or other artificial illumination which is not in compliance with § 93-2.

§ 93-2. Standards of operation.

- A. All exterior lights, lamps and other artificial illumination ("exterior lighting") shall be arranged, placed, oriented and operated with the required wattage, reflectors, refractors and screening that will ensure:
- (1) The light beam or any part thereof will not project beyond the property line of the premises of the owner or occupant.
 - (2) The light emitted will not be directed at or towards an adjoining property or residence on an adjoining property.
 - (3) The light source will be oriented, hooded and shielded to the degree necessary and equipped with the minimum wattage so that glare from the light source will not be an unreasonable nuisance to the adjoining property. For purposes of this chapter, lighting glare shall constitute an unreasonable nuisance to an adjoining property if the light projected exceeds 0.2 of a footcandle at any point on the adjoining property in the R-5A (five acre) and the R-2A (two acre) Zoning Districts. In the R-15 (15,000 square feet) and the R-10 (10,000 square feet) Zoning Districts, the projected light may not exceed 1.0 footcandle. In the Business Zoning District the projected light on adjoining, nonresidential areas may not exceed five footcandles. If the business property faces a residential property, the residential limits take precedence.
 - (4) No light shall be directed upon any surface which shall reflect the beam beyond the property line of the premises of the owner or occupant. Light overspill shall not create shadowing discernible without instruments on any residentially zoned premises.
 - (5) Exterior lighting controlled by automatic controls shall turn off after 10 minutes or shall not operate after 11:00 p.m. The mounting height of any exterior light shall not exceed 20 feet.
 - (6) No exterior light shall be placed so as to shed light directly upon any public street so as to interfere with motorists' vision or otherwise affect safe driving conditions on any street.
- B. No flashing, fluorescent or neon exterior lights shall be permitted in any residential district. Holiday lighting, comprised of string lighting and other illuminated articles, shall be permitted only during the traditional holiday period, or when not visible from the roadway or adjoining property.

§ 93-3. Illumination of residential entrance signs.

No exterior lighting used to illuminate a residential entrance sign shall be permitted when the light used for illumination is reflected on any adjoining property or roadway.

§ 93-4. Existing lights.

Any exterior lighting presently installed on the effective date of this chapter in violation of the above standards shall be brought into compliance with the provisions hereof within six months thereafter.

§ 93-5. Variances.

The Zoning Board of Appeals of the village, after a public hearing, may grant variances from the requirements of this chapter pursuant to its authority to grant variances under the Village Law.

Chapter 101, MINORS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Operation of Vehicles [Adopted 3-10-1974 by L.L. No. 1-1974 as Art. 22 of the 1974 General Ordinance]

§ 101-1. Definitions.

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

MOTOR VEHICLE -- An automobile, truck, motorcycle, motor bike, minibike, trail bike, go-cart, snowmobile, golf cart or any other combination of materials which assembled can transport a person and is propelled by any power other than muscular power, except electrically or mechanically driven invalid chairs being operated or driven by an invalid, fire and police vehicles and self-propelled tractors and caterpillar or crawler-type equipment while being operated on a contract site.

PRIVATE ROAD AND PUBLIC ROAD -- Any paved or unpaved lane, road or right-of-way

which appears on the Official Map of the village or has been duly approved by the Village Planning Board.

UNLICENSED MINOR -- Any person under the age of 18 who is not duly licensed to operate a motor vehicle in the State of New York.

UNREGISTERED MOTOR VEHICLE -- A motor vehicle which is not registered in accordance with the New York State Vehicle and Traffic Law for operation on public highways.

§ 101-2. Prohibited acts. ^{EN(21)}

No unlicensed minor shall operate a registered or unregistered motor vehicle on any public road in the village, on the property of another person without the consent of the owner or on any private road without the consent of the owner.

§ 101-3. Impoundment.

If an unregistered or registered motor vehicle is operated by an unlicensed minor in violation of § 101-2 of this article, any police officer shall, upon the written complaint of any resident of the village or upon said police officer witnessing such violation, impound the particular motor vehicle involved in such violation and store the same with the Police Department.

§ 101-4. Recovery of impounded vehicles; fines and fees. ^{EN(22)}

- A. When a motor vehicle is impounded pursuant to this article, the owner may redeem the same from the Police Department upon the payment of a fine of \$200 plus \$5 for each day or fraction thereof said vehicle is stored by the Police Department.
- B. The fine of \$200 and storage fee shall become the property of the village 30 days after the payment of the same, unless before such time the owner of said vehicle makes an application to the Village Court requesting a hearing concerning said violation. If after said hearing the Village Court decides that said vehicle was used in violation of this article, the fine and storage fee shall become village property. If the Village Court finds that said motor vehicle was not used in violation of this article, said fine and storage fee shall be returned to the owner of said motor vehicle.
- C. If an unregistered impounded motor vehicle is not redeemed within 60 days from the time it is impounded, the Police Department shall mail a notice to the owner thereof by certified mail, return receipt requested, advising him that the village, after 30 days from the date of said notice, shall sell said motor vehicle at public auction and retain that portion of the

proceeds therefrom needed for the payment of the aforementioned fine of \$200 and storage fee of \$5 per day. Any surplus moneys remaining after the payment of said fine and storage fee shall be returned to the former owner of said motor vehicle.

Chapter 109, NOISE

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 7-18-2000 by L.L. No. 4-2000.^{EN(23)} Amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems -- See Ch. 11.

Animals -- See Ch. 15.

Firearms and weapons -- See Ch. 67.

Parades and exhibitions -- See Ch. 118.

Peace and good order -- See Ch. 121.

Peddling and soliciting -- See Ch. 123.

§ 109-1. Definitions.

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

ANIMAL -- Any dog, cat, bird, chicken, rooster, cow, sheep, horse or any other livestock or animal.

COMMERCIAL LANDSCAPER -- Any commercial gardener, landscaper, tree surgeon or other individual involved in lawn or ground maintenance business.

CONSTRUCTION MACHINERY -- Any tractor, bulldozer, backhoe, earthmoving machine, cement mixer, crane or other similar construction machinery.

LANDSCAPING EQUIPMENT -- Any powered leaf blower, mower, chain saw, grinder, trimmer or other internal-combustion engine apparatus or landscaping equipment used for lawn or ground maintenance.

LOUDSPEAKER -- Any radio or television set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound.

MOTOR VEHICLE -- Any vehicle capable of being operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically driven mobility assistance devices operated or driven by a person with a disability, fire and police vehicles, ambulances and other emergency vehicles. Motor vehicle shall exclude farm-type tractors and

vehicles used exclusively for agricultural purposes, or ground maintenance, other than for hire.

NOISE-MAKING DEVICE -- Any device of any design or manufacture that is designed to create unreasonable noise or designed for the purpose of scaring, frightening or disturbing a domestic animal or wildlife.

RECREATIONAL VEHICLE -- Any self-propelled vehicle which is primarily for off-highway operation or competitions and only incidentally operated on a public highway such as, but not limited to, go-cart, all-terrain vehicle, unlicensed motorcycle, motorbike, snowmobile.

UNREASONABLE NOISE -- Any loud, unnecessary, unusual or annoying, intermittent or prolonged noise which annoys, destroys, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivity. Factors to be considered in determining whether a sound is an "unreasonable noise" may include, but are not limited to, the following:

- A. The volume, intensity and nature of noise.
- B. The volume and intensity of the background noise, if any.
- C. The time of day and duration of the noise.

VILLAGE -- The Incorporated Village of Matinecock and all territory within its boundaries.

§ 109-2. Unreasonable noise.

No person shall make or cause to be made or continued, nor shall any owner, lessee or occupant of any land in the village permit to be made or continued on his premises, any unreasonable noise within the village except as permitted in Chapter 67 of this Code relating to the regulation of firearms.

§ 109-3. Prohibited acts.

Without limiting the provision of § 109-2, the following acts are expressly declared to be unreasonable noise in violation of this chapter:

- A. Horn and signaling device. The sounding of any horn or signaling device on any boat, motor vehicle or recreational vehicle, except as a danger or warning signal.
- B. Loudspeaker for advertising or broadcasting. The playing, using, operating or permitting to be played, used or operated of any loudspeaker on the public street, public waterway or other public places for the purpose of advertising or broadcasting which is heard on private property, unless a permit therefor shall have been issued by the Board of Trustees.

- C. Unnecessary amplification. The playing, using, operating or permitting to be played, used or operated of any loudspeaker at a volume level sufficient to cause the sound produced or reproduced to be audible at a point 10 feet beyond the property boundary line of the property from which the sound is produced or reproduced.
- D. Animal.
 - (1) The keeping, or allowing to be kept, of any animal outdoors which causes unreasonable noise between the hours of 9:00 p.m. and 8:00 a.m. the following morning. [Amended 2-23-2012 by L.L. No. 1-2012]
 - (2) The keeping or allowing to be kept of any animal which creates or causes unreasonable noise that is continuous for a period exceeding 30 minutes in duration.
- E. Exhaust. The discharge of the exhaust of any internal-combustion engine, without a muffler or other device which will effectively prevent unreasonable noises emanating therefrom.
- F. Noise-making device. The using, operating, discharging, installing or causing to be used, operated, discharged or installed of any noise-making device.
- G. Construction and operation of construction machinery. The construction, demolition, alteration or repair of any building (except interior alterations or repairs to a building which is entirely enclosed) and the operation of construction machinery at any time on Saturday, Sunday and New York State legal holidays, and for all other days between the hours of 6:00 p.m. and 8:00 a.m. of the following morning, except pursuant to a permit issued by the Building Inspector or the Mayor in an emergency situation. Nothing herein shall be construed to prohibit minor alteration to a building which is entirely enclosed. The operation of a generator for emergency purposes shall not be prohibited under any provision of this chapter.
- H. Commercial landscaper. The use of any landscaping equipment by commercial landscapers during the following periods: [Amended 2-23-2012 by L.L. No. 1-2012]
 - (1) Before 8:00 a.m. and after 5:00 p.m. Monday through Friday;
 - (2) Before 8:00 a.m. and after 1:00 p.m. on Saturday;
 - (3) All day Sunday; and
 - (4) All day on New York State legal holidays.
- I. Alarm. A burglar alarm or other alarm system of any building, motor vehicle, recreational vehicle or boat which is continuous and exceeds 10 minutes in duration.
- J. Tire. The intentional use and operation of a motor vehicle or recreational vehicle in such a

manner as to cause excessive squealing or other excessive noise of the tires.

K. Recreational vehicle.

- (1) The continuous use or operation of any recreational vehicle on private or public property for a period exceeding 30 minutes.
- (2) The use or operation of any recreational vehicle on private or public property at any time on Sunday and New York State legal holidays, and for all other days between the hours of 6:00 p.m. and 8:00 a.m. the following morning, unless pursuant to a permit issued by the Board of Trustees.

§ 109-4. Enforcement.

Upon receipt of a complaint, the Police Department, Building Inspector or village representative shall conduct an investigation to determine if there is a probable violation of the provisions of this chapter. For the first occurrence, in lieu of issuing an appearance ticket, an appropriate warning may be issued to the violator to cease and desist from continuing such noise.

Chapter 113, OFFICERS AND EMPLOYEES

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics -- See Ch. 56.

Planning Board -- See Ch. 130.

ARTICLE I, Terms of Office for Mayor and Trustees [Adopted 11-19-2013 by L.L. No. 2-2013]

§ 113-1. Legislative purpose.

New York State Village Law allows Villages to change the term of office for the Mayor and Trustees from a two-year term to a four-year term. The Village Board of Trustees finds that the key elective Village positions of Mayor and Trustees would benefit from a longer term of office so as to provide for greater constancy, continuity and efficiency for the Village. These key elective positions require a greater level of experience, skill and knowledge, which a longer term

of office would provide allowing for more efficient Village operations. Further, changing to four-year terms would result in elections every two years, at a substantial cost savings to the Village.

§ 113-2. Extension of terms.

Pursuant to Village Law § 3-302(5)(a), the term of office for Mayor and Trustees of the Village of Matinecock shall be four years, except as provided in § 113-4 below.

§ 113-3. General elections.

Pursuant to Village Law § 3-302(7)(a), Village general elections shall be conducted biennially, except for the offices of Mayor and Trustees whose terms will expire in 2014.

§ 113-4. Initial terms.

Pursuant to Village Law § 3-302(7)(d), for the 2014 Village election, the initial term of office for Mayor and Trustee whose terms expires in 2014 shall be three years. Thereafter, the term of office for Mayor and Trustees shall be four years.

§ 113-5. When effective.

This law is subject to a permissive referendum and therefore shall not take effect until 30 days after its adoption; or until approved by a majority vote of the qualified electors of the Village voting on such proposition for its approval, if within 30 days after its adoption a petition is filed with the Village Clerk pursuant to Village Law § 9-902(1).

Chapter 118, PARADES AND EXHIBITIONS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Art. 13 of the 1974 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Advertising and bill posting -- See Ch. 4.

Exterior lighting -- See Ch. 93.

Noise -- See Ch. 109.

Peace and good order -- See Ch. 121.

Peddling and soliciting -- See Ch. 123.

Vehicles and traffic -- See Ch. 185.

§ 118-1. Permit required.

No person shall cause or permit to take place on public or private property in the village any parade, exhibition, concert, theatrical performance, dog show, antique show, auction, garage sale, horse show or other similar performance or display without first obtaining a permit therefor from the Board of Trustees.

§ 118-2. Application for permit.

An application for such a permit shall be written and verified and shall be filed with the Village Clerk not less than 20 days before the proposed activity and shall set forth:

- A. The name and address of the applicant.
- B. The name and address of the person responsible for the conduct of the proposed activity.
- C. A full description of the nature of the proposed activity.
- D. The number of persons expected to attend.
- E. Details with respect to sanitary facilities, if needed, and of off-street parking.
- F. The date, time and duration of the proposed activity.

§ 118-3. Permit conditions.

The Board of Trustees may issue such permits subject to such conditions as may be reasonable to protect the residents of the area from noise and inconvenience, to preserve the residential character of the village and to otherwise further the public intent and general welfare and ensure compliance with all village ordinances and regulations.

§ 118-4. Permit fee.

The fee for any such permit shall be the amount indicated in § 64-6 of Chapter 64, Fees and Deposits, which fee may be waived by the Board of Trustees when such parade or exhibition is for a charitable, noncommercial or community event.

Chapter 121, PEACE AND GOOD ORDER

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Arts. 7, 8 and 9 of the 1974 General Ordinance. Amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems -- See Ch. 11.

Animals -- See Ch. 15.

Firearms and weapons -- See Ch. 67.

Noise -- See Ch. 109.

Peddling and soliciting -- See Ch. 123.

§ 121-1. Disorderly conduct.

No person shall, within the village, and with intent to cause public inconvenience, annoyance or clamor, or recklessly creating a risk thereof:

- A. Engage in fighting or in violent, tumultuous or threatening behavior;
- B. Make unreasonable noise;
- C. In a public place as defined in § 240.00 of the Penal Law, use abusive or obscene language or make an obscene gesture;
- D. Without lawful authority, disturb any lawful assembly or meeting of persons;
- E. Obstruct vehicular, equestrian or pedestrian traffic;
- F. Congregate with other persons in a public place and refuse to comply with a lawful order of the police to disperse; or
- G. Create a hazardous or physically offensive condition by any act which serves no legitimate purpose.

§ 121-2. Trespassing.

- A. No person shall enter upon any premises, lot, piece of land or building within the boundaries of the village without authority from the owner thereof.
- B. No person who, with the authority from the owner, has entered upon any premises, lot, piece of land or building within the boundaries of the village shall remain there after being

personally notified to leave by the owner thereof or other authorized person.

§ 121-3. Criminal mischief.

No person shall, in the village, having no right to do so nor any reasonable ground to believe that he has such right, intentionally damage property of another person or of the village.

Chapter 123, PEDDLING AND SOLICITING

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Art. 11 of the 1974 General Ordinance. Amendments noted where applicable.]

GENERAL REFERENCES

Advertising and bill posting -- See Ch. 4.

Noise -- See Ch. 109.

Parades and exhibitions -- See Ch. 118.

Peace and good order -- See Ch. 121.

§ 123-1. Permit and license required.

No person shall hawk, peddle, solicit, sell or offer to sell or solicit orders for the sale of any goods, wares or merchandise or solicit subscriptions for any books, papers, magazines or periodicals or offer any gift or sample in connection with a promotional campaign for the sale of goods or merchandise or solicit contributions or solicit orders for work, labor or services in any public place or on any private property in the village without first having obtained a permit and license therefor upon written application to the Police Department and, with respect to entering private property, without also having first been expressly requested or invited, in writing, to do so by the owner or lawful occupant of such private land or building.

§ 123-2. Application; fee.

- A. Applicants for a permit and license under this chapter must file with the Village Clerk a sworn application, in writing (in duplicate), on a form to be furnished by the Village Clerk, which shall give the following information:
- (1) Name and description of the applicant.
 - (2) Permanent home address and full local address of the applicant.

- (3) A brief description of the nature of the business and the goods to be sold.
 - (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
 - (5) The length of time for which the right to do business is desired.
 - (6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, is manufactured or produced, where such goods or products are located at the time said application is filed and the proposed method of delivery.
 - (7) A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.
 - (8) The fingerprints of the applicant and the names of at least two reliable property owners of the County of Nassau, New York, who will certify as to the applicant's good character and business respectability or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to evaluate properly such character and business responsibility.
 - (9) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.
 - (10) A statement by a reputable physician of the County of Nassau, dated not more than 10 days prior to submission of the application, certifying the applicant to be free of contagious, infectious or communicable disease.
- B. At the time of filing the application, a fee in an amount required by § 64-6, and amendments thereto, of Chapter 64, Fees and Deposits, shall be paid to the Village Clerk to cover the cost of investigation of the facts stated therein.

§ 123-3. Investigation; issuance or denial of permit and license.

- A. Upon receipt of such application, the original shall be referred to the Police Department, which shall cause such investigation of the applicant's business and moral character to be made as it deems necessary for the protection of the public good.
- B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same and return said application to the Village Clerk, who shall notify the applicant that his application is disapproved and that no permit and

license will be issued.

- C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application, to the Village Clerk, who shall, upon approval by the Board of Trustees and upon payment of the prescribed license fee and the posting of the bond required herein, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The Village Clerk shall keep a permanent record of all licenses issued.

§ 123-4. Fees.

- A. The license fee which shall be charged by the Village Clerk for such license shall be in the amount required by § 64-6, and amendments thereto, of Chapter 64, Fees and Deposits.
- B. The annual fee herein provided shall be assessed on a calendar year basis, and on or after July 1 the amount of such fee for an annual license shall be 1/2 the amount stipulated above for the remainder of the year.
- C. None of the license fees provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or an applicant for a license to place an undue burden upon such commerce, he may apply to the Mayor for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce.
 - (1) Such application may be made before, at or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the Mayor may deem necessary in order to determine the extent, if any, of such undue burden on such commerce.
 - (2) The Mayor shall then conduct an investigation, comparing the applicant's business with other businesses of like nature, and shall make findings of fact from which he shall determine whether the fee fixed by this chapter is unfair, unreasonable or discriminatory as to the applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory or, if the fee has already been paid, shall

order a refund of the amount over and above the fee so fixed.

- (3) In fixing the fee to be charged, the Mayor shall have the power to base the fee upon a percentage of gross sales or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by Subsection A of this section. Should the Mayor determine the gross sales measure of the fee to be the fair basis, he may require the applicant to submit, either at the time of termination of the applicant's business in the village or at the end of each three-month period, a sworn statement of the gross sales and to pay the amount of fee therefor, provided that no additional fee during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual license fee as prescribed in Subsection A of this section.

§ 123-5. Bond.

Every applicant shall file with the Village Clerk a surety bond, running to the village, in the amount of \$1,000, with surety acceptable to and approved by the Mayor, conditioned that said applicant shall comply fully with all the provisions of the ordinances of the village and the statutes of the State of New York regulating and concerning the business of solicitor and guaranteeing to any citizen of the village that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor, and further guaranteeing to any citizen of the village doing business with said solicitor that the property purchased will be delivered according to the representations of said solicitor. Action on such bond may be brought in the name of the village to the use or benefit of the aggrieved person.

§ 123-6. Exhibition of license; hours of activity.

Solicitors and canvassers are required to exhibit their licenses at the request of any citizen or police officer. No person shall solicit, hawk or peddle between the hours of sunset and 9:00 a.m.

§ 123-7. Enforcement.

It shall be the duty of any police officer of the Police Department operating within the village to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license and to enforce the provisions of this chapter against any person found to be violating the same.

§ 123-8. Report of violations; records.

The Chief of Police shall report to the Village Clerk all convictions for violation of this chapter, and the Village Clerk shall maintain a record of each license issued and record the reports of violation therein.

§ 123-9. Revocation of permit and license.

Permits and licenses issued under the provisions of this chapter may be revoked by the Mayor of the village for any of the following causes:

- A. Fraud, misrepresentation or false statement contained in the application for a license.
- B. Fraud, misrepresentation or false statement made in the course of carrying on business as a solicitor or as a canvasser.
- C. Any violation of this chapter.
- D. Conviction of any crime or misdemeanor involving moral turpitude.
- E. Conducting the business of soliciting or of canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

§ 123-10. Appeals.

Any person aggrieved by the action of the Chief of Police or the Village Clerk in the denial of a permit or license as provided in § 123-3 of this chapter or the action of the Mayor in assessing the fee as provided in § 123-4C or revoking a license as provided in § 123-9 of this chapter shall have the right to appeal to the Board of Trustees of the village. Such appeal shall be taken by filing with the Board of Trustees, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Board of Trustees shall set a time and place for a hearing on such appeal, and at least five days' written notice of such hearing shall be given to the appellant. The decision and order of the Board of Trustees on such appeal shall be final and conclusive.

§ 123-11. Expiration of license.

All annual licenses issued under the provisions of this chapter shall expire on the 31st day of December in the year when issued. Other than annual licenses shall expire on the date specified

in the license.

Chapter 126, PESTICIDES

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Art. 16 of the 1974 General Ordinance. Amendments noted where applicable.]

§ 126-1. Findings and purpose.

While the value of pesticides in controlling undesirable insects, fungi and rodents has been well established, the widespread and sometimes indiscriminate use of pesticides, especially those pesticides which do not degrade rapidly after use, has resulted in serious problems by disrupting the ecological balance, by causing permanent injury or death to fish and wildlife and by posing potential threats to the health and welfare of the people. It is necessary, therefore, in order to protect the health, safety and welfare of the residents of the village, to find a solution to such problems. It is the purpose of this chapter to control the buildup of pesticide residue in the environment, in fish and wildlife and in man, and to foster and stimulate use of those pesticides that will break down most rapidly in the air, soil and water.

§ 126-2. Use of certain chemicals prohibited.

No person, firm or corporation shall spray, distribute, use or disseminate out of doors within the village any chemicals which are deemed by the federal and state and Nassau County governments as being dangerous to the environment.

Chapter 130, PLANNING BOARD

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 7-20-1999 by L.L. No. 2-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Board of Appeals -- See Ch. 18.
Subdivision of land -- See Ch. 162.

§ 130-1. Amendment of Village Law § 7-718.

Subdivision 16 of § 7-718 of the Village Law, which section was last amended by Chapter 137 of the Laws of 1998, is hereby superseded and amended in its application to the Village of

Matinecock to read, in part, as follows:

§ 7-718

Alternate members.

16.

- a. A Village Board of Trustees may, by local law or as a part of the local law creating the Planning Board, establish alternate Planning Board member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest or is otherwise absent. Alternate members of the Planning Board shall be appointed by the Mayor, subject to the approval of the Board of Trustees, for terms established by the Village Board of Trustees.
- b. The Chairperson of the Planning Board may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest or is otherwise absent on an application or matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made.
- c. All provisions of this section relating to Planning Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.

§ 130-2. Position of alternate member established.

Pursuant to § 7-718, Subdivision 16, of the Village Law, as amended above, the Board of Trustees of the Incorporated Village of Matinecock hereby establishes the position of alternate member to the Planning Board.

Chapter 134, PROCUREMENT POLICY

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 12-14-1991.
Amendments noted where applicable.]

§ 134-1. Determination as to whether purchase is subject to competitive bidding.

The Mayor, Village Treasurer, Village Clerk or such individual so designated by resolution of the Board of Trustees ("reviewing party") shall determine whether the purchase of any goods or services on behalf of the Incorporated Village of Matinecock is subject to competitive bidding procedures, pursuant to § 103 of the General Municipal Law or any general, special or local legislation ("determination"). The determination shall be based upon the review of written or oral proposals received by the village as set forth below or upon the prior experience of the village of similar purchases or contracts. The reviewing party shall have the right to rely on the truth and accuracy of a proposal in making the determination. The village shall retain sufficient documentation to evidence the basis for the determination.

§ 134-2. Review procedure; general standards.

In making the determination, the following procedures shall be followed and general standards applied:

- A. The reviewing party shall ascertain whether the purchase is for goods or a public works/service contract.
 - (1) If the total value of the purchase, less miscellaneous administrative expenses, is more than fifty-percent allocated for the purchase of a supply item or equipment, though it may also include a value for services to be rendered, it shall be considered a contract for the purchase of goods.
 - (2) If the total value of the purchase, less miscellaneous administrative expenses, is more than fifty-percent allocated for a public works or service contract, though it may also include a value for a supply item or equipment, it shall be considered a contract for a public works/service contract.
- B. The reviewing party shall then ascertain the value of the purchase and whether it is subject to competitive bidding under the General Municipal Law.
 - (1) If the expenditure for goods in either a single purchase or the aggregate cost of total purchases of identical products reasonably anticipated to occur in a single fiscal year is less than \$10,000, the purchase shall not be subject to General Municipal Law competitive bidding requirements.
 - (2) If the expenditure for a single public works/service contract or the total expenditure for

identical public works/service contracts reasonably anticipated to occur in a single fiscal year is less than \$20,000, the contract shall not be subject to General Municipal Law competitive bidding requirements.

- (3) For purchases that are exempt from competitive bidding under state law, the reviewing party shall not consider the purchase designation or its value.

§ 134-3. Method of procurement; documentation.

- A. For purchases which are neither exempt from nor subject to competitive bidding, the following procurement procedure shall be followed before the purchase is authorized:
 - (1) For single purchases of goods which are reasonably expected to exceed \$5,000 or a single public works/service contract which is reasonably expected to exceed \$10,000, written proposals from at least three vendors shall be solicited.
 - (2) For all other purchases, except as set forth in Subsection B below, at least three oral proposals shall be solicited.
 - (3) Documentation of the vendors' solicited written or oral proposals, together with their response, if any, shall be retained. If a vendor is solicited and fails or refuses to respond, the reviewing party need not solicit additional vendors, provided that at least two proposals are received.
- B. For the below purchases or circumstances, written or verbal proposals are not required to be solicited from more than one vendor:
 - (1) There is only a single source from which the product or service is readily available.
 - (2) There are no other goods or services available in the marketplace that do or will provide substantially equivalent or similar service or products.
 - (3) There is no reasonable possibility of local competition for the purchase.
 - (4) The renewal of professional service contracts requiring a special or technical skill.
 - (5) Local authority deems a public emergency to exist, requiring prompt action.
 - (6) A single purchase of goods is less than \$500 or a service contract is less than \$1,000.
 - (7) Solicitation of alternative proposals would not otherwise be in the best interest of the village.
- C. If goods are purchased or a contract is awarded to a vendor who has not submitted the lowest proposal, the reasons for the award of the contract shall be documented and retained by the

village.

§ 134-4. Effective date; annual review.

These regulations shall go into effect January 1, 1992, and be reviewed annually by the Board of Trustees.

Chapter 142, RECORDS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

ARTICLE I, Public Access to Records

§ 142-1. Purpose and scope.

- A. The people's right to know the process of government decisionmaking and the documents and statistics leading to determinations can be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. This article provides information concerning the procedures by which records may be obtained from an agency defined by Subdivision 3 of § 86 of the Public Officers Law. No agency regulations shall be more restrictive than this article.
- C. Agency personnel shall furnish to the public the information and records required by the Freedom of Information Law,^{EN(24)} as well as records otherwise available by law.
- D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 142-2. Designation of records access officers.

- A. The Board of Trustees ("Board") of the village shall be responsible for ensuring compliance with the regulations herein and designates the Village Clerk as the principal records access officer who shall have the duty of coordinating the village response to public requests for access to records. The designation of the Village Clerk shall not be construed to prohibit the Attorneys for the village ("Attorneys"), who have in the past been authorized to make records

or information available to the public, from continuing to do so.

B. The Village Clerk is responsible for assuring that village personnel:

- (1) Maintain an up-to-date subject matter list.
- (2) Assist the requester in identifying requested records, if necessary.
- (3) Upon locating the records, take one of the following actions:
 - (a) Make records available for inspection; or
 - (b) Deny access to the records in whole or in part and explain, in writing, the reasons therefor.
- (4) Upon request for copies of records:
 - (a) Make a copy available upon payment or offer to pay established fees, if any; or
 - (b) Permit the requester to copy those records.
- (5) Upon request, certify that a record is a true copy.
- (6) Upon failure to locate records, certify that:
 - (a) The village is not the custodian for such records; or
 - (b) The records of which the village is a custodian cannot be found after diligent search.

§ 142-3. Location.

The Board hereby designates the office of the Village Clerk and the Attorneys as the location where public records shall be available for public inspection and copying.

§ 142-4. Hours for public inspection.

The Village Clerk and Attorneys shall accept requests for public access to records and produce records during all hours during which the Clerk's office or Attorneys' office is regularly open for business.

§ 142-5. Requests for records.

A. The Village Clerk and Attorneys may require that a request be made in writing or may make

records available upon oral request.

- B. The Village Clerk and Attorneys shall respond to any request reasonably describing the record or records sought within five business days of receipt of the request.
- C. A request shall reasonably describe the record or records sought. Whenever possible a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- D. If the Village Clerk and Attorneys do not provide or deny access to the records sought within five business days of receipt of a request, the Village Clerk and Attorneys shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within 10 business days after the date of acknowledgment of receipt of a request, the request may be construed as a denial of access that may be appealed.

§ 142-6. Subject matter list.

- A. The Village Clerk and Attorneys shall maintain a reasonably detailed current list by subject matter of all records in his/her or their possession, whether or not records are available pursuant to Subdivision 2 of § 87 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 not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

§ 142-7. Denial of access to records; appeals.

- A. The Board 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.
- B. 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.
- C. If the Board fails to respond to a request within five business days of receipt of a request as required in § 142-5 of this article, such failure shall be deemed a denial of access by the agency.

- D. Any person denied access to records may appeal within 30 days of a denial.
- E. The time for deciding an appeal by the Board or the person 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. The Board 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
162 Washington Avenue
Albany, New York 12231

- G. The Board or the person or body designated to hear appeals shall inform the appellant and the Committee on Open Government of its determination, in writing, within seven 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 Subsection F of this section.
- H. A final denial of access to a requested record, as provided for in Subsection G of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law and Rules.

§ 142-8. Fees. ^{EN(25)}

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 this article.

- B. The Village Clerk or Attorneys may provide copies of records without charging a fee.
- C. The Village Clerk or Attorneys may charge a fee for copies of records, provided that:
 - (1) The fee for copying records shall not exceed \$0.25 per page for photocopies not exceeding nine inches by 14 inches.
 - (2) The fee for copies of records not covered by Subsection C(1) shall not exceed the actual reproduction cost, which is the average unit cost for copying a record, excluding fixed costs of the village such as operator salaries.

ARTICLE II, Retention and Disposition

§ 142-9. Adoption of Schedule MU-1.

Records Retention and Disposition Schedule MU-1, issued pursuant to Article 57-A of the Arts and Cultural Affairs Law and containing legal minimum retention periods for municipal government records is hereby adopted for use by all municipal officers in disposing of municipal government records listed therein.

§ 142-10. Minimum retention period; criteria for disposal.

In accordance with Article 57-A:

- A. Only those records will be disposed of that are described in Records Retention and Disposition Schedule MU-1 after they have met the minimum retention period prescribed therein.
- B. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established time periods.

Chapter 150, SMOKING POLICY

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

§ 150-1. Prohibited acts.

- A. Smoking is prohibited throughout the village facilities or facilities used by the village except in designated areas identified by "Smoking Permitted" signs.
- B. Smoking is prohibited in any indoor enclosed work area occupied by more than one person, unless all employees in such area agree to allow smoking. The rights of a nonsmoker to a smoke-free work area shall prevail.
- C. Smoking is also prohibited in conference or meeting rooms and municipal vehicles used by more than one person unless all occupants agree to allow smoking.

§ 150-2. Smoking room.

An enclosed smoking room may be designated upon request if space is available.

§ 150-3. Conflicts; complaints.

Conflicts should be brought to the attention of the appropriate supervisory personnel. Employees may also file a formal complaint with the Nassau County Board of Health.

§ 150-4. Posting and distribution of copies.

Copies of these rules will be posted and distributed to all employees and to all prospective employees upon request.

§ 150-5. Enforcement agent.

The Village Code Enforcement Officer shall be designated an agent to assist in the enforcement of this policy by notifying employees who are in violation.

§ 150-6. Amendments.

This policy may be amended from time to time by resolution of the village. All amendments shall be in conformance with New York State law, and employees will be notified accordingly.

Chapter 154, SOLID WASTE

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L.]

No. 1-1974 as Arts. 6 and 25 of the 1974 General Ordinance. Amendments noted where applicable.]

GENERAL REFERENCES

Advertising and bill posting -- See Ch. 4.

Brush, grass and weeds -- See Ch. 29.

ARTICLE I, Dumping

§ 154-1. Definitions.

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

GARBAGE -- Includes but is not limited to waste from the preparation, cooking and consumption of food; metal, glass, plastic and paper containers for food and household products; and paper, cartons, rags, dead animals, putrescible substances, sewage and similar disposable items.

RUBBISH -- Dry combustible or noncombustible material, which shall include but is not limited to ashes, magazines, books, newspapers, clothing, wooden crates and pieces of metal, junk, discarded furniture, rugs and carpets.

TRASH -- Includes but is not limited to lumber, building materials, concrete, rocks, fill, topsoil, inoperable or wrecked automobiles, automobile parts, plumbing fixtures, household appliances, leaves, branches, grass, tree stumps and limbs.

§ 154-2. Deposit of garbage, rubbish or trash.

No person shall throw, place, litter, deposit or dump or suffer or permit any servant, agent, employee or person in his charge to throw, place, litter, deposit or dump any garbage, rubbish or trash of any kind on the surface of any street, public grounds or private property in the village for the purpose of abandonment or otherwise.

§ 154-3. Property maintenance.

The owner of any private property in the village shall at all times maintain said premises free of garbage, rubbish and trash, except that this section shall not prohibit the temporary storage of garbage and rubbish in authorized private receptacles for collection or trash in connection with

bona fide land clearing and building activity or the making and retaining of a compost heap and mulching area for normal gardening purposes in accordance with customary gardening practices, provided that said compost heap or mulching area is located at least 40 feet from any boundary line of the property upon which it is located.

§ 154-4. Notice to remove; action by village; recovery of costs.

- A. Notice to remove. The Police Department, Street Commissioner or Building Inspector of the village is hereby authorized and empowered to notify, in writing, the owner of any private property in the village to properly dispose of any garbage, rubbish or trash located on such owner's property. Such notice shall be served personally upon said owner or be sent by certified mail, return receipt requested, addressed to said owner at his last known address.
- B. Action upon noncompliance. Upon the failure, neglect or refusal of any such owner so notified to properly dispose of such garbage, rubbish or trash within 20 days after receipt of written notice provided for in Subsection A above, or within 25 days after the date of such notice in the event that the same is returned to the village by the Post Office Department because of its inability to make delivery thereof, provided that the same was properly addressed to the last known address of such owner, the Police Department, Street Commissioner or Building Inspector of the village is hereby authorized and empowered to pay for the disposing of such garbage, rubbish and trash or to order its disposal by the village.
- C. Charge included in tax bill. When the village has effected the removal of such garbage, rubbish and trash from such private property or has paid for its removal, the actual cost of such removal, plus accrued interest at the rate of 6% per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be assessed against such property, which assessment shall be included in the next succeeding annual bill for village taxes for such property and shall become a lien thereon when such taxes become a lien.

ARTICLE II, Garbage and Rubbish Collection

§ 154-5. Definitions.

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

DWELLING UNIT -- A building or portion thereof providing complete housekeeping facilities

for one family and used in accordance with Chapter 195, Zoning.

GARBAGE -- Waste from the preparation, cooking and consumption of food; metal, glass, plastic and paper containers for food and household products; and paper, cartons, rags and similar disposable household items.

NONDWELLING FACILITY -- An entire lot in single ownership used in accordance with Chapter 195, Zoning, for business, country club or institutional purposes.

RUBBISH -- Dry combustible or noncombustible material, which shall include only the following items: ashes, magazines and newspapers when tied securely into bundles, clothing, small wooden crates and small pieces of metal.

§ 154-6. Containers; separation of garbage and rubbish.

- A. Garbage and rubbish containers. All garbage and rubbish shall be placed in suitable watertight containers equipped with handles and a conveniently removable lid, which containers shall be kept tightly covered and maintained in a sanitary condition by periodic cleansing.
- B. Container capacity. Garbage and rubbish containers shall have a capacity not exceeding 24 gallons and shall not weigh more than 75 pounds when filled, except that special containers having a capacity of not over one cubic yard, the contents of which can be automatically loaded into the collection vehicle, may be used when approved by the village. Bundles of paper, cardboard boxes and similar materials adequately tied and not exceeding 75 pounds shall be treated as one container.
- C. Separation of garbage and rubbish. Garbage and rubbish shall be placed and maintained in separate containers. Broken glass or metal with jagged or sharp edges or other harmful material shall be properly packaged to prevent injury to the collector.

§ 154-7. Collection days; limit on number of containers.

- A. Day of collection. Garbage and rubbish shall be collected from each dwelling unit and each nondwelling facility in the village not less than two days weekly on regularly scheduled days to the extent practicable during the hours designated by the Board of Trustees of the village. Such collection shall be subject to variations to the extent deemed necessary by the village if and when extraordinary conditions warrant. There shall be no collections of any type on Sundays and on the following holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day,

Thanksgiving Day and Christmas Day.

- B. Number of containers. The number of containers of garbage and rubbish that shall be placed for collection at each nondwelling facility in a business district under Chapter 195, Zoning, on each collection day shall be limited to:
 - (1) Six containers; or
 - (2) One automatic container as referred to in § 154-6B hereof.

§ 154-8. Areas designated for containers.

- A. Dwelling units. It shall be the duty of all occupants of dwelling units to place or cause to be placed any and all containers of garbage and rubbish at the rear or side of said dwelling unit at a place which is safe and readily accessible to collection vehicles or at such other location as may be approved by the village on the basis of convenient accessibility.
- B. Nondwelling facilities. It shall be the duty of the owner of a lot containing a nondwelling facility to place or cause to be placed any and all containers at a location on said lot which is not visible from any street and which is readily accessible to collection vehicles or at such other location as may be approved by the village on the basis of convenient accessibility.

§ 154-9. Prohibited materials.

None of the following items shall be placed for collection or collected by the village:

- A. Building rubbish or waste materials from building, construction or earthmoving operations.
- B. Furniture and household appliances.
- C. Solid or liquid waste resulting from industrial processes and manufacturing operations, such as, but not limited to, food processing waste, boiler house cinders, lumber scraps, shavings and sawdust, waste oil or grease or automobile parts.
- D. Volatile or explosive materials, such as gasoline, benzine, kerosene, turpentine, cartridges, shells, ammunition or gunpowder.

§ 154-10. Method of collection.

Garbage and rubbish shall be collected by the village in accordance with this article and shall not be collected from any dwelling unit or nondwelling facility where such collection involves a

violation of this article.

ARTICLE III, Recycling [Added 12-2-1989 by L.L. No. 2-1989]

§ 154-11. Findings and purpose.

- A. The Board of Trustees of the Incorporated Village of Matinecock hereby determines that there is a significant amount of recyclable material present in the solid waste generated in the village that could be removed by its residents. The recovery and reuse of such recyclable material will reduce the amount of solid waste conventionally disposed of by providing an environmentally acceptable disposal alternative. Recycling will reduce the demand for increasingly unavailable landfill areas and protect the health, safety and welfare of its residents by promoting prudent disposal programs essential for the protection of the environment.
- B. The Board of Trustees has determined that the mandatory separation of designated recyclables from the solid waste stream generated within the village will foster maximum environmental and economic benefits with the minimum inconvenience to its residents and property owners. The Board of Trustees has further determined that an integral element of this recycling program shall be the reservation of the authority to adopt appropriate rules and regulations, including the right to designate or delete the type of material which shall be recycled, the manner, means and method of separation, the method of storage, collection and disposal of recyclables and the prohibition of certain designated materials.
- C. This article shall be construed to regulate the separation and disposal of recyclable materials in accordance with and pursuant to the New York State Solid Waste Management Plan as currently enacted and as hereafter amended and shall be liberally construed to effectuate the purposes set forth herein.

§ 154-12. Definitions.

The following words and terms shall have the following meanings:

NONRECYCLABLE MATERIALS -- All other solid waste generated by the village other than prohibited materials.

PERSON -- Any individual, firm, corporation, association or partnership.

PROHIBITED MATERIALS -- Materials that contain hazardous or toxic substances or that are

not suitable for residential disposal and which will not be collected or permitted to be placed in recyclable containers as set forth in the rules and regulations.

RECYCLABLE MATERIALS -- Discarded solid waste material which may be reclaimed and is in the form of paper, glass, metals and plastics.

RECYCLABLES -- Specific types of recyclable materials as shall be designated by the Board of Trustees pursuant to rules and regulations adopted hereunder.

RULES AND REGULATIONS -- Rules and regulations which are duly adopted by the Board of Trustees at a public meeting.

§ 154-13. Mandatory separation and collection of recyclables.

The owner, lessee or occupant of every dwelling within the village shall separate and dispose of recyclables as follows:

- A. Prior to collection, all recyclables shall be processed and cleaned, with all contents removed, in accordance with the rules and regulations.
- B. Recyclables shall be placed in an approved color-coded container which has been designated for the particular recyclable group. Recyclables shall not be stored or mixed in the same container with other forms of solid waste.
- C. Newsprint shall be bundled and securely tied with a string or placed in a brown paper bag.
- D. Recyclables shall be collected on a periodic basis and properly disposed of at a suitable processing center.

§ 154-14. Recyclable containers.

Containers for the purpose of collecting and storing recyclables will be initially provided by the village to every dwelling. Such containers will remain the property of the village and must be kept clean and in good condition. Recycling containers are not to be used for any purpose other than as described herein and in accordance with the rules and regulations. In the event that such containers are lost, damaged or stolen, additional equivalent containers must be provided by the property owner at his own expense.

§ 154-15. Collection schedule and procedures.

The Board of Trustees, by resolution, shall establish a collection schedule and applicable

procedures for the collection of recyclables.

§ 154-16. Unlawful activities.

A. It shall be unlawful and a violation of this article for any person to:

- (1) Place or cause to be placed or permit any material, other than a designated recyclable, to be placed in an approved recyclable container;
- (2) Permit or allow or knowingly fail to separate and prepare recyclables for collection in accordance with the provision of this article. After providing five days' written notice sent certified mail, return receipt requested, to the occupant of a dwelling, a private carter or the municipality may refuse to collect said solid waste from any dwelling where a violation of this article exists;
- (3) Collect or cause to be collected recyclables which are in violation of this article; or
- (4) Permit or allow or cause to occur a violation of any rules and regulations promulgated hereunder and duly adopted by resolution of the Board of Trustees.

B. Presumption. Any property owner upon whose land solid waste is left for collection or storage in such a manner as to be in violation of this article shall be deemed and presumed to be the person who shall have placed or deposited such solid waste on the property.

§ 154-17. Removal of waste. EN(26)

The Board of Trustees is authorized, upon written notice mailed to the property owner at the owner's last known address, as shown in the village records, to direct the removal of solid waste in violation of this article. The cost of said removal, together with interest, shall become a special assessment on the property where the material is removed, collectible with the next tax bill due. This remedy is in addition to all other remedies available to the village to remedy the violation.

§ 154-18. Enforcement.

It shall be the duty of the Village Building Inspector, Code Enforcement Officer, Police Department and any other individual designated by the Board of Trustees and they shall have the power, right and authority to enforce the provisions of this article and issue appearance tickets for violations.

§ 154-19. Rules and regulations.

The Board of Trustees is empowered and authorized to promulgate and establish, by resolution, any rules and regulations which are necessary and proper to implement and administer the provisions of this article.

Chapter 157, STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 5-22-2007 by L.L. No. 2-2007. Amendments noted where applicable.]

GENERAL REFERENCES

Excavating, filling and tree removal -- See Ch. 59.
Illicit discharges and connections to MS4 -- See Ch. 80.
Subdivision of land -- See Ch. 162.
Zoning -- See Ch. 195.

ARTICLE I, General Provisions

§ 157-1. Intent.

It is the intent of this legislation to adopt a stormwater management and erosion and sediment control chapter that will satisfy the relevant part of the Phase II stormwater regulations adopted by the New York State Department of Environmental Conservation (DEC).

§ 157-2. Purpose.

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Village and to address the findings of fact in this chapter. This chapter 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 MS4s, Permit No. GP-02-02, or as amended or revised;
- B. Require land development activities to conform to the substantive requirements of the

SPDES General Permit for Construction Activities No. 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 streambank 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 ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 157-3. Findings.

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 tends 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.

§ 157-4. Word usage; definitions.

- A. For the purposes of this chapter, certain terms and words are hereby defined. Words used in the present tense include the future, words in the singular include the plural, and words in the plural include the singular; the word "shall" is mandatory. Notwithstanding some references, for definitional purposes, to the Village Code, the omission of such references in other instances shall not be taken as an intent not to use such definitions for specific terms that are not defined in this section and are defined in said Code when it is deemed by the Building Inspector or any other official, board, or committee of the Village to be appropriate to do so.

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

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.

APPLICANT -- A property owner or agent of a property owner who has filed an application for a land development activity.

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.

CHANNEL -- A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING -- Any activity that removes the vegetative surface cover.

DEC -- The New York State Department of Environmental Conservation.

DEDICATION -- The deliberate appropriation of property by its owner for general public use.

DESIGN MANUAL -- The State Stormwater Management Design Manual, most recent version, including applicable updates, which serves as the official guide for stormwater management

principles, methods and practices.

DEVELOPER -- A person who undertakes land development activities.

EPA -- The United States Environmental Protection Agency.

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."

GRADING -- Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER -- Those surfaces, improvements, and structures that cannot effectively infiltrate rainfall, snow melt, and water (e.g., building rooftops, pavement, sidewalks, driveways, athletic courts, etc.).

INDUSTRIAL STORMWATER PERMIT -- A SPDES 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.

INFILTRATION -- The process of percolating stormwater into the subsoil.

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."

LAND DEVELOPMENT ACTIVITY -- Construction activity, including, but not limited to, clearing, grading, excavating, soil disturbance, and 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.

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.

MAINTENANCE AGREEMENT -- A document legally recorded in the office of the Nassau County Clerk that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

MS4s -- Municipal separate stormwater sewer systems.

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.

PHASING -- Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

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.

PROJECT -- Land development activity.

RECHARGE -- The replenishment of underground water reserves.

SEDIMENT CONTROL -- Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS -- Cold-water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, and/or other habitats for threatened, endangered, or special concern species.

SILVICULTURE -- Commercial care and cultivation of trees; forestry.

SMO -- The Stormwater Management Officer.

SMPs -- Stormwater management practices.

SPDES -- The State Pollutant Discharge Elimination System.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 -- A DEC SPDES permit issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 -- A DEC SPDES permit 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.

STABILIZATION -- The use of practices that prevent exposed soil from eroding.

STATE -- The State of New York.

STOP-WORK ORDER -- An order issued which requires that all, or a specified portion thereof, construction activity on a site be stopped.

STORMWATER -- Rainwater, surface runoff, snowmelt, and drainage.

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.

STORMWATER MANAGEMENT -- The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources, and the environment.

STORMWATER MANAGEMENT FACILITY -- One or a series of stormwater management practices installed, stabilized, and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER -- The officer of the Village designated to accept and review stormwater pollution prevention plans, forward the plans to the applicable Village board or committee and inspect stormwater management practices.

STORMWATER MANAGEMENT PRACTICES -- Measures, either structural, nonstructural, or a combination of the two, 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.

STORMWATER POLLUTION PREVENTION PLAN -- A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF -- Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE -- 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 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 surface waters of the state. The exclusion applies only to man-made 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.

STRUCTURE -- As defined in this Code, Chapter 195, Zoning.

SWPPP -- A stormwater pollution prevention plan.

VILLAGE -- The Incorporated Village of Matinecock.

WATERCOURSE -- A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY -- A channel that directs surface runoff to a watercourse or to the public storm

drain.

§ 157-5. Statutory authority.

The Board of Trustees has the authority to enact and amend rules, regulations or local laws for the purpose of promoting the health, safety or general welfare of the Village and for the protection and enhancement of its physical environment. The Board of Trustees may include in any such rules, regulations or local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer, and enforce such chapter.

§ 157-6. Applicability.

- A. This chapter shall be applicable to all land development activities in the Village.
- B. All other activities that are subject to review and approval by any board of the Village shall be reviewed by such board consistent with the standards contained in this chapter. These activities shall be required to submit a SWPPP to the SMO, who shall approve the SWPPP if it complies with the requirements of this chapter.

§ 157-7. Procedure for review of stormwater pollution prevention plans.

The SMO shall accept stormwater pollution prevention plans and notify the applicable Village board of such plans. The SMO may either:

- A. Review the plans. The Board of Trustees may engage the services of a registered professional engineer to review the plans, specifications, and related documents at a cost to be borne by the applicant.
- B. Accept the certification of a licensed professional that the plans conform to the requirements of this chapter.

§ 157-8. Exemptions.

The following are exempt from the provisions of this chapter:

- A. Agricultural activity.
- B. Repairs to any stormwater management practice or facility deemed necessary by the SMO.
- C. Any part of a subdivision, if the subdivision has been finally approved by the Village

Planning Board on or before the effective date of this chapter, except where the Planning Board has reserved site plan review or other contiguous jurisdiction.

ARTICLE II, Stormwater Pollution Prevention Plans (SWPPP)

§ 157-9. Plans required; contents and procedures.

- A. SWPPP requirement. No application for approval of a land development activity shall be reviewed until the appropriate board has received a SWPPP prepared in accordance with the specifications in this chapter.
- B. Contents of SWPPP.
 - (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 discharge(s). The site map should be at a scale no smaller than one inch equals 100 feet;
 - (c) A description of the soil(s) present at the site;
 - (d) A construction phasing plan 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 Erosion Control Manual, not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
 - (e) A 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) A 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) An 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) A 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) A 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 meeting Condition A, B, or C below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth below as applicable:
- (a) Condition A: stormwater runoff from land development activities discharging a pollutant of concern to either impaired water identified on the DEC's 303(d) list of impaired waters, or such superseding list as may be prepared by DEC, or a total maximum daily load designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
 - (b) Condition B: stormwater runoff from land development activities disturbing five or

more acres.

- (c) Condition C: stormwater runoff from land development activity disturbing at least one acre but fewer than five 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 Conditions A, B and C:

- (a) All information in Subsection B of this section.
- (b) A description of each postconstruction stormwater management practice.
- (c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction 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 postdevelopment stormwater runoff conditions with predevelopment conditions.
- (f) Dimensions, material specifications, and installation details for each postconstruction stormwater management practice.
- (g) A maintenance schedule to ensure continuous and effective operation of each postconstruction 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) An inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 157-11 of this chapter C.
- (j) For Condition A, the SWPPP shall be prepared by a certified professional or professional engineer and must be signed by the professional who prepared the plan, who must certify that the design of all stormwater management practices meets the requirements of this chapter.

C. Plan certification. 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 meets the

requirements in this chapter.

- D. 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.
- E. Contractor certification.

- (1) Each contractor and subcontractor identified in the SWPPP 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.
- F. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 157-10. Performance and design criteria.

All land development activities shall be subject to the following performance and design criteria:

- A. Technical standards. For the purpose of this chapter, 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 those technical documents shall be presumed to meet the standards imposed by this chapter:
 - (1) The Design Manual.

- (2) The Erosion Control Manual.
- B. Equivalence to technical standards. Where stormwater management practices are not in accordance with the technical standards, the applicant or developer must demonstrate equivalence to the technical standards above (Subsection A) and the SWPPP shall be prepared by a licensed professional.
- C. Water quality standards. No land development activity shall cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state.

§ 157-11. 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 chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
 - (2) For land development activities that meet Condition A, B or C of § 157-9B(2), the applicant or developer shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site log book.
 - (3) For grading, the applicant, developer or representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment and control practices.
- 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 to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the Clerk of the County of Nassau after approval by counsel for the Village.
- C. Maintenance after construction. The owner or operator of permanent stormwater

management practices installed in accordance with this chapter shall operate and maintain the stormwater management practices to achieve the goals of this chapter. Proper operation and maintenance also includes, as a minimum, the following:

- (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.
 - (2) Written procedures for operation and maintenance and training 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 § 157-10C.
- D. Maintenance agreements. The Village shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners or benefitted land owners and recorded in the office of the Clerk of the County of Nassau as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of this chapter. The Village or another municipal entity, 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 chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

ARTICLE III, Administration and Enforcement

§ 157-12. Construction inspection.

A. Erosion and sediment control inspection.

- (1) The SMO may require such inspections as he deems necessary to determine compliance with this chapter 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 chapter and the SWPPP as approved. To obtain inspections, the applicant shall notify the SMO at least 48 hours before any of the following, and/or as otherwise required by the SMO:
 - (a) Start of construction.
 - (b) Installation of sediment and erosion control measures.

- (c) Completion of site clearing.
 - (d) Completion of rough grading.
 - (e) Completion of final grading.
 - (f) Close of the construction season.
 - (g) Completion of final landscaping.
 - (h) Successful establishment of landscaping in public areas.
- (2) 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 all violations are corrected and all work previously completed has received approval by the SMO.
- B. Stormwater management practice inspections. The SMO is responsible for conducting inspections of SMPs. All applicants are required to submit "as built" plans for any SMPs 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; inspections 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 SMPs. This inspection shall be done by a professional engineer or a certified professional in erosion control.
- D. Submission of reports. The SMO may require monitoring and reporting from entities subject to this chapter as necessary to determine compliance with this chapter.
- E. Right-of-entry for inspection. To the maximum extent permitted by law, when any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Village the right to enter the property at reasonable times and in a reasonable

manner for the purpose of inspection as specified in Subsection B.

§ 157-13. Performance guarantees; recordkeeping.

- 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 in its approval of the SWPP, the Village may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit, in its discretion and in a form approved by the Village Attorney, from a financial or surety institution approved by the Board of Trustees which guarantees satisfactory completion of the project and names the Village as the beneficiary. The security shall be in an amount to be determined by Village 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, 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) has 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. Per-annum interest on cash escrow deposits, if any, 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 with a cash escrow, a maintenance bond, or an irrevocable letter of credit in a form approved by the Village Attorney from a financial institution or surety approved by the Board of Trustees 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 may draw upon the escrow, bond, or account, from time to time, to cover the costs of proper operation and maintenance, including engineering and inspection costs. To the extent that such escrow, bond, or letter of credit, because of such draw, is no longer sufficient to ensure the proper operation and maintenance of the facilities, the Village may require an additional escrow, bond, or letter of credit.
- C. Recordkeeping. The Village may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

§ 157-14. Fees for services.

The Village may require any person undertaking land development activities regulated by this chapter to pay reasonable fees, costs and expenses at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Village or performed by a third party for the Village, including engineering and legal, in accordance with such resolutions as may be adopted from time to time by the Board of Trustees.

§ 157-15. Enforcement; penalties for offenses.

- A. Notice of violation. When the SMO, his designee, or other designee of the Board of Trustees determines that a land development activity is not being carried out in accordance with the requirements of this chapter, he may issue a written notice of violation to the landowner and/or developer. 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 chapter 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 15 days of service of the notice of violation.
- B. Stop-work orders. The Building Inspector, his designee, or other designee of the Board of Trustees may issue a stop-work order for violations of this chapter. 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 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 chapter.
- C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter 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 chapter shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed 15 days, 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 \$350 nor more than \$750 or imprisonment for a period not to exceed 15 days, 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 \$750 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both. Violations of this chapter shall not be deemed misdemeanors. 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 chapter, the SMO may prohibit the occupancy of said building or land.
- F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition or to such other condition as shall best protect the property and the adjacent properties from the problems of erosion and sediment deposits off the land that may be required by virtue of the actions of the violator, all in the discretion of the SMO. In the event that restoration is not undertaken within a reasonable time after notice, the SMO may either:
 - (1) Direct that the remediation and/or restoration work be performed with Village personnel and/or third-party contractors, and the cost thereof shall constitute a lien, charge, and levy upon the real property upon which the violation exists until it is paid or otherwise satisfied or discharged and shall be collected by the Village Treasurer. Such charge shall include, among other things, administrative, legal, and actual expenses incurred by the Village, and shall be collected in the same manner provided by law for the collection of delinquent taxes; or
 - (2) Seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property, at the cost and expense, including those of the litigation and the fees of witnesses and attorneys, of the violator.

§ 157-16. Violations deemed 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 chapter 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.

§ 157-17. Remedies not exclusive.

The remedies listed in this chapter 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.

§ 157-18. Severability.

If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or clause of this chapter.

Chapter 159, STREETS AND SIDEWALKS

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Art. 5 of the 1974 General Ordinance. Amendments noted where applicable.]

§ 159-1. Definitions.

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

STREET -- Includes any street, highway, road, avenue, lane or drive which appears on the Official Map of the village.

VILLAGE STREET -- Includes any street, highway, road, avenue, lane or drive which is owned and maintained by the village.

§ 159-2. Fires in streets or public places.

No person shall build, kindle or make, or assist in building, kindling or making, any bonfire or other fire in any street or other public place in the village.

§ 159-3. Deposit of materials. EN(27)

No person, firm or corporation, unless with the consent and under the supervision of the Street Commissioner of the village, shall cause or permit any accumulation of sand, gravel, cinder, topsoil, mud, swimming pool water, sewage, earth or material to be placed, deposited, tracked or

flowed upon any street in the village.

§ 159-4. Occupying or opening streets; moving buildings.

- A. No person shall leave or deposit any material of any kind for building or other purposes in any village street or other public place in the village or dig or cause to be dug any excavation, trench or other opening in any village street, sidewalk or other public place in said village for any purpose; or dig or remove or cause to be removed therefrom any stone, earth, sand or gravel; or take up or destroy any pavement, crosswalk, drain, sewer or any part thereof; or erect or lay or cause to be erected or laid any telegraph, telephone, electric light or other pole or any drain, conduit or other pipe under, in, upon or over any village street or other public place in the village; or move or cause to be moved or assist in moving any buildings into, along or across any such village street or other public place without having first obtained written permission for that purpose from the Village Clerk, conditioned upon the doing of such work under the supervision of the Street Commissioner; upon keeping clear at all times a sufficient and safe passageway for all pedestrians and vehicular traffic; upon proper guarding of the same, both by night and day, so as to prevent accidents or danger; upon complete restoration of said street, sidewalk or public place to its original condition; and upon indemnifying the village from all damage or loss.
- B. Such permit for the opening of a village street shall provide that the party making the opening shall backfill and puddle or cause to be backfilled and puddled the opening and shall place thereon such temporary pavement as shall be approved by the Street Commissioner, which pavement shall be cared for by the applicant until such time as the Street Commissioner shall decide that proper settlement to allow the laying of a permanent pavement has taken place, such time, however, not to exceed six months. The party making the opening shall notify the Street Commissioner when said opening has been backfilled or temporarily paved.
- C. The village reserves the right to repair and resurface all openings in a village street at any time for the purposes of health and safety and to recover the costs for the same from the deposit hereinafter required.
- D. Each applicant for a permit to open a village street, before the issuance of a permit, shall submit a written application indicating the square foot area of the street opening and shall pay a fee and deposit to the Village Clerk in the amounts required by § 64-6, and amendments thereto, of Chapter 64, Fees and Deposits.

Chapter 162, SUBDIVISION OF LAND

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock as indicated in Part histories. Amendments noted where applicable.]

GENERAL REFERENCES

Environmental quality review -- See Ch. 52.
Excavating, filling and tree removal -- See Ch. 59.
Fees and deposits -- See Ch. 64.
Freshwater wetlands -- See Ch. 71.
Planning Board -- See Ch. 130.
Streets and sidewalks -- See Ch. 159.
Zoning -- See Ch. 195.

Part 1, Applicability [Adopted 3-10-1974 by L.L. No. 1-1974 as Art. 21 of the 1974 General Ordinance]

ARTICLE I, Approval Required; Exceptions

§ 162-1. Planning Board approval required.

No person, firm, corporation, partnership or association, as owner, lessee or contract vendee, shall divide any parcel of land in the Village into two or more parcels, lots, plots or sites of land by sale, gift, devise, exchange, offer or unconditional contract unless such division of land has been finally approved by the Village's Planning Board after a public hearing in accordance with Part 2, Rules and Regulations, of this chapter, as the same may from time to time exist, and in accordance with the law of the State of New York.

§ 162-2. Exceptions.

The foregoing provisions of § 162-1 of this Part 1 shall not apply to, and there is no prohibition against, transfer of land between owners of contiguous property within the Village, provided that:

- A. Such transfer is a transfer by sale, gift, devise, exchange, offer or contract by which the land so transferred becomes part of the identical ownership of land contiguous thereto;
- B. No new lot is created by such transfer; and
- C. Such transfer does not create any lot sizes, setbacks or uses which do not conform to the

requirements of Chapter 195, Zoning, as it then exists, in all respects.

Part 2, Rules and Regulations [Adopted 9-16-1960]

ARTICLE II, General Provisions

§ 162-3. Authority.

By authority of Article 7 of the Village Law, as amended, and the resolution adopted by the Village Board on September 16, 1960, pursuant thereto, the Planning Board and Board of Trustees have adopted these regulations for the subdivision of land within the Village and, pursuant to Section 1610 of the County Government Law of Nassau County, as amended, of land within 300 feet of the boundaries of the Village of Matinecock.

§ 162-4. Purpose.

For the purpose of providing for the future growth and development of the Village and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population, the Board of Trustees has authorized and empowered the Planning Board to approve plats and the development of plats entirely or partially undeveloped and which have been filed in the office of the Clerk of Nassau County prior to the appointment of the Planning Board and the grant to such Board of the power to approve plats.

§ 162-5. Jurisdiction.

No person, firm or corporation proposing to make or having made a subdivision, as defined herein, within the territorial limits of the Village of Matinecock shall make any contract for the sale or shall offer to sell such subdivision or any part thereof or shall proceed with any development, as defined herein, until he or it has obtained from the Planning Board of the Village of Matinecock approval of the proposed subdivision and/or development pursuant to the procedure outlined in these regulations.

§ 162-6. Plats straddling municipal boundaries.

Whenever access to the subdivision can be had only across land in another municipality, the

Planning Board may request assurance from the Village Attorney that an access road has been legally established and shall ascertain that such access road is adequately improved or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines shall be laid out so as not to cross Village boundary lines.

§ 162-7. Resubdivision.

For a resubdivision, the same procedure, rules and regulations shall apply as for a subdivision.

§ 162-8. Word usage and definitions.

- A. Words in the singular include the plural, and words in the plural include the singular. The word "person" includes a corporation, association and a partnership as well as an individual. The word "building" includes "structure" and shall be construed as if followed by the words "or part thereof." The word "street" includes "road," "highway," "lane," "thoroughfare" and "way." The word "shall" is mandatory and not directive. The word "may" is permissive.
- B. Unless otherwise expressly stated, the following terms shall, for the purpose of these regulations, have the meanings indicated:

BOARD -- The Planning Board of the Village of Matinecock, Nassau County, New York.

COMPREHENSIVE PLAN -- The Comprehensive Plan for the development of the Village prepared by the Planning Board, pursuant to § 7-722 of the Village Law, which shows, among other things, desirable streets, parks, public reservations, sites for public buildings and such other features as will provide for the improvement of the Village and its future growth, protection and development, and including any part of such plan separately adopted and any modification or parts thereof.^{EN(28)}

CONSTRUCTION PLAN -- The maps and engineering drawings, described in § 162-36 of these regulations, accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of these regulations.

CONSTRUCTION STANDARDS -- The standards and specifications adopted by the Village Board for the construction of new streets and related improvements.

DEVELOPMENT

- (1) The act of building structures and/or installing site or street improvements and any grading in connection therewith; and

(2) Such structures, improvements and grading.

DRAINAGEWAY -- The lands required for the installation of storm sewers, drainage ditches or drainage systems, including land required along a stream or watercourse for protecting the channel and providing for the flow of water therein, to safeguard the public against flood and/or to conserve the water supply.

EASEMENT -- The authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

ENGINEER -- The Engineer of the Village of Matinecock.

LOT -- A parcel of land intended for immediate or future transfer of ownership, improvement or building development.

OFFICIAL MAP -- The map established by the Village Board, pursuant to § 7-724 of the Village Law, showing the streets, highways and parks theretofore laid out, adopted and established by law and any amendments thereto adopted by the Village Board pursuant to § 7-724 of the Village Law or additions thereto resulting from the approval of subdivision plats by the Planning Board and the subsequent filing of such plats pursuant to § 7-732 of the Village Law.

PARTITIONING -- A subdivision which does not involve the layout of any new street nor the change in lines, drainage or grade of any existing street nor the installation of any street improvement.

PLAN, SKETCH -- A sketch plan, described in § 162-34 of these regulations, of a preliminary layout to enable the subdivider to discuss informally with the Planning Board and Village officials the form of the proposed subdivision as related to the objectives and requirements of these regulations.

PLAT, SUBDIVISION -- The final map or drawing, described in § 162-37 of these regulations, on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, will be submitted by the subdivider to the Clerk of Nassau County for recording in accordance with law.

PRELIMINARY LAYOUT -- The preliminary drawing or drawings, described in § 162-35 of these regulations, indicating the proposed manner and/or layout of the subdivision to be submitted to the Planning Board for its consideration.

STREET -- A strip of public or private land devoted to movement, over which the abutting owners have the right of access, air and light.

STREET, DEAD-END -- A street with only one outlet.

STREET, LOCAL -- A minor street which serves or will serve primarily for access to abutting properties.

STREET, MAJOR -- A principal thoroughfare of considerable continuity which is or will be primarily a traffic artery for intercommunication between communities or large areas.

STREET PAVEMENT -- The wearing or exposed surface of the roadway used by vehicular traffic.

STREET, SECONDARY -- A street supplementary to the major highway system and primarily a means of intercommunication between this system and smaller areas or among smaller areas.

STREET WIDTH -- The street right-of-way or distance between property lines measured at right angles to the center line of the street.

SUBDIVIDER -- Any person, firm, corporation, partnership or association who or which lays out or proposes to lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein.

SUBDIVISION -- The division of any parcel of land into two or more lots, plots or sites or other division of land for immediate or future sale or for building development in such a way as to create one or more new streets or extensions of existing streets or changes in existing street or lot lines. The division and transfer of property between adjacent property owners which does not create a new lot or reduce the size of any existing lot area, dimensions or building setbacks below the minimum requirements for the zoning district in which it is located shall not be considered a subdivision within the meaning of these regulations.

ZONING -- Chapter 195, Zoning, of the Code of the Village of Matinecock, together with any and all amendments thereto.

ARTICLE III, Review and Approval of Plats

§ 162-9. Approval required.

Whenever any subdivision of land is proposed within the territorial jurisdiction of the Board and before any permit for the development of such land or for the erection of a structure thereon will be granted, the subdividing owner or his authorized agent shall apply for and secure approval of the proposed subdivision in accordance with these regulations. Three principal steps are involved, namely:

- A. Preapplication procedure.
- B. Procedure for conditional approval of preliminary layout.
- C. Procedure for approval of subdivision plat.

§ 162-10. Preapplication procedure.

- A. Previous to the filing of an application for conditional approval of the preliminary layout, the subdivider shall meet with the authorized representative of the Board to discuss his sketch plan, which shall comply with the requirements of § 162-34, and the requirements for improvements and public facilities and services. This step does not require formal application, fee or filing of the plat with the Board.
- B. The purpose of the preapplication procedure is to afford the subdivider an opportunity to consult early and informally with the Board's representative before preparation of the preliminary layout and before formal application for its approval, in order to save time and unnecessary expense.
- C. Before preparing a sketch plan or attending the initial conference, the subdivider should familiarize himself with the regulations, standards and requirements contained herein. It is recommended that the subdivider discuss with the Village's authorized representative the requirements as to general layout of streets, lots and reservations and similar matters and, with the Engineer of the Village, street improvements, drainage, sewerage, water and like matters, as well as the availability of existing services. In the case of land within 300 feet of Village boundaries, the subdivider should also consult with such other planning boards as have jurisdiction under Section 1610 of the County Government Law of Nassau County.
- D. The subdivider should also consult with parties potentially interested with him or with the ultimate users of the development with a view to reaching, at this initial stage, firm conclusions regarding the market demand, the suitability of the location of the proposed subdivision, the most advantageous subdivision plan and the arrangement of streets, lots and other features of the proposed development.

§ 162-11. Preliminary layout procedure.

- A. Application and fee. If the subdivider shall request the consideration of the Board of a preliminary layout, 10 copies of the preliminary layout, which shall in all respects comply with these regulations, shall be presented to the Village Clerk at least 10 days prior to the meeting of the Board at which it is requested to be considered. The preliminary layout shall be accompanied by a fee, payable to the Village of Matinecock, in the amount appearing in

the fee schedule established by the Village Board. Upon receipt of the preliminary layout and payment of the fee, the Village Clerk shall forthwith deliver the preliminary layout to the Board.

- B. Study of preliminary layout. It is recommended that the subdivider or his representative attend the Board meeting when the preliminary layout is considered. The Board will study the practicability of the preliminary layout, taking into consideration the requirements of Article III. [Amended 7-18-2000 by L.L. No. 3-2000]
- C. Staking of proposed streets and field trip. To facilitate study of the preliminary layout in the field, the Board may require the subdivider to stake certain roads at intervals of 50 feet along their center lines. Each stake shall be marked for ready identification on the preliminary layout and shall show approximate height of proposed cut and fill at that point. The Board will schedule a field trip to the site of the proposed subdivision, which the subdivider should attend.
- D. Action on preliminary layout. The Planning Board shall follow the procedures of Village Law § 7-728, Subdivision 5, to approve, approve with conditions or disapprove the preliminary layout. [Amended 7-18-2000 by L.L. No. 3-2000]
- E. Notation of action. The action of the Board shall be noted on two copies of the preliminary layout, referenced and attached to any changes or conditions required. One copy shall be returned to the subdivider and the other copy retained by the Board.
- F. Effect of authorization. Authorization shall be deemed a tentative approval of the design submitted on the preliminary layout as a guide to the subdivider in the preparation of the subdivision plat.

§ 162-12. Subdivision plat procedure.

- A. Subdivision plat requirements. The subdivision plat shall conform substantially to the preliminary layout as tentatively approved by the Board and to the requirements of § 162-37. If desired by the subdivider, the subdivision plat may constitute only that portion of the approved preliminary layout which he proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these regulations and provided, further, that such portion abuts at least one street duly placed upon the Official Map, which street shall be improved to the satisfaction of the Board.
- B. Number of copies and time for submitting application. Ten copies of the subdivision plat, together with 10 copies of the construction plans and all other items required by these regulations, shall be prepared as specified in § 162-37 and shall be submitted to the Board within six months after the date of authorization of preparation of the subdivision plat.

Otherwise such authorization shall expire, unless an extension of time is applied for and granted, in writing, by the Board.

- C. Application and submission date. Application for approval of the subdivision plat shall be submitted by the owner or by his duly authorized agent, in writing, to the Board at least 10 days prior to the meeting at which it is to be considered. The subdivision plat shall be deemed to be officially submitted on the date of the meeting of the Board at which the subdivider shall have submitted the required application, together with the subdivision plat, construction plans and all other items required by these regulations, including formal offers of cession in form as required by § 162-31B.
- D. Endorsement of State Department of Health and public districts. Proposed water supply and sewerage service facilities in the subdivision shall be approved by the New York State Department of Health, pursuant to § 1116 of the Public Health Law, and by any water, water supply, drainage, improvement or sewer district having jurisdiction. Application for approval of plans for water supply and sewerage facilities may be filed with the Nassau County Department of Health. Endorsement of approval shall be obtained by the subdivider and submitted to the Board with the application for approval of the subdivision plat.
- E. Endorsement of Commissioner of Public Works. Pursuant to § 334-a of the Real Property Law, the Board will not consider approval of a subdivision plat unless the Commissioner of Public Works of Nassau County has endorsed on the plat a statement that he has approved the plans for grades of the streets shown on such map and the drainage thereof. In the event that separate and distinct plans for grading and drainage are required by said Commissioner, a copy of such plans shall be submitted to the Board with the application for approval of the subdivision plat.
- F. Approval by other planning authorities. Pursuant to Section 1610 of the County Government Law of Nassau County, the planning authority of each incorporated village adjacent to the Village of Matinecock and the Nassau County Planning Commission, where adjacent territory is unincorporated, have the power and authority to approve plats within the Village and within 300 feet of the boundary thereof. When a proposed subdivision lies wholly or partially within 300 feet of the Village boundaries, the subdivider shall obtain the approval of the planning authority of the adjacent incorporated village and/or of the unincorporated territory, as the case may be, before the Board approves the subdivision plat.^{EN(29)}
- G. Action on subdivision plat. The Planning Board shall follow the procedures of Village Law § 7-728, Subdivision 6, to approve, approve with conditions or disapprove the subdivision plat. [Amended 7-18-2000 by L.L. No. 3-2000]
- H. Revision of subdivision plat. The subdivider will be given a copy of the Board's resolution, and, in the event that modifications are required, he shall revise the subdivision plat and

construction plans to conform thereto.

- I. An approved stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 157, Stormwater Management and Erosion and Sediment Control, shall be required for preliminary and final subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards of Chapter 157, Stormwater Management and Erosion and Sediment Control. The approved subdivision plat shall be consistent with the provisions of Chapter 157, Stormwater Management and Erosion and Sediment Control. [Added 5-22-2007 by L.L. No. 4-2007]

§ 162-13. Performance bond; signing and filing of subdivision plat.

- A. Performance bond. See § 162-25.
- B. Signing of subdivision plat. After completion of the final subdivision plat for recording and of construction plans in accordance with the Board's resolution, the original tracing and two prints of each shall be submitted to the Board for final review within the time specified in said resolution. Approval of the subdivision plat shall be endorsed thereon as follows:
 - (1) When a bond is filed. Approval of the plat shall be endorsed thereon after the bond has been approved and filed and all of the conditions of the Board's resolution pertaining to the plat have been satisfied.
 - (2) When no bond is filed. Approval of the plat shall be endorsed thereon after all conditions of the Board's resolution have been satisfied and all required improvements completed to the satisfaction of the Board.
- C. Number of copies to be signed. Approval of the Board will be noted on the plat, and the Chairman and Secretary of the Board or, in the absence of the Chairman, the Vice Chairman will sign the tracing cloth original of the subdivision plat, which will be returned to the subdivider, and one print of the plat, which will be retained by the Board.
- D. Filing plat with County Clerk. In accordance with the Village Law, the approved subdivision plat shall be filed by the subdivider with the Nassau County Clerk, Division of Land Records, within 62 days of the date of signing. The approval of any plat not so filed shall expire 62 days from the date of signing by the Board. [Amended 7-18-2000 by L.L. No. 3-2000]
- E. Submission of copies of filed maps. The subdivider shall submit two copies of the subdivision plat, containing the endorsement of the Nassau County Clerk, to the Secretary of the Board within 30 days of the date of filing.
- F. Plat void if revised after signature. No changes, erasures, modifications or revisions shall be

made in any subdivision plat after approval has been granted by the Board and endorsed, in writing, on the plat. In the event that any subdivision plat, when recorded, contains any such changes, the plat shall be considered null and void, and the Board shall institute proceedings to have said plat stricken from the records of the County Clerk. Any erasures made on a plat prior to its signing shall be initialed by the Chairman or Vice Chairman of the Board at the time of signing.

§ 162-14. Partitioning.

- A. Application for approval. The procedure for approval of a partitioning and/or the development thereof, as defined herein, shall be the same as that for a subdivision. In cases where the Board finds, after study of the sketch plan, that the proposed lots would each front on a street duly placed on the Official Map, which street is improved to the satisfaction of the Board, and would meet the lot size requirements of Chapter 195, Zoning, and the objectives of these regulations and that such lots would not be directly related to a drainageway, as defined in § 162-8, the Board may waive the requirements for submission and approval of a preliminary layout and authorize the subdividing owner to prepare a subdivision plat for approval of the Board and for recording upon fulfillment of the requirements of the applicable sections of these regulations and the conditions stipulated in such waiver and authorization, if any. [Amended 7-18-2000 by L.L. No. 3-2000]
- B. Waiver of filing. See § 162-39.

§ 162-15. Development of previously filed plats.

The procedure for approval of the development, as defined in § 162-8, of a plat entirely or partially undeveloped and which has been filed in the office of the Clerk of Nassau County prior to the appointment of the Board and the grant to such Board of authority to approve plats shall be the same as that for a subdivision, pursuant to § 7-728 of the Village Law.

ARTICLE IV, Design Standards

§ 162-16. General requirements.

- A. Considerations. In considering applications for subdivision of land and/or development, the Board shall be guided by the standards set forth herein. Said standards shall be deemed to be

minimum requirements for the convenience, health, safety and welfare of the Village.

- B. Character of land. Land to be subdivided and/or developed shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Land subject to such hazards shall not be subdivided nor developed for residential purposes nor for such other uses as may increase danger to health, life or property or aggravate a flood hazard, but such land may be set aside for such uses as shall not involve such danger nor produce unsatisfactory living conditions.
- C. Conformance to Comprehensive Plan and Official Map. Subdivisions and/or developments shall conform to the Official Map and shall be properly related to the proposals shown on the Comprehensive Plan. The plat shall include all streets, shown on the said plan and map, which are within the site and such other streets as the Board may require.
- D. Frontage on improved street. The area proposed to be subdivided and/or developed shall have frontage on and direct access to a street duly placed on the Official Map and, if such street is private, it shall be improved to the satisfaction of the Board or there shall be a bond held by the Village covering such improvement.
- E. Preservation of natural cover. Land to be subdivided and/or developed shall be laid out and improved in reasonable conformity to existing topography, in order to minimize grading, cut and fill and to retain, insofar as possible, the natural contours, limit stormwater runoff and conserve the natural cover and soil. No topsoil, sand or gravel shall be removed from any lots shown on any subdivision plat except for the purpose of improving such lots and for the laying out of streets shown thereon. Topsoil so removed shall be restored to a depth of six inches and properly seeded and fertilized on the areas of such lots not occupied by buildings or structures. No excess topsoil so removed shall be disposed of outside of the boundaries of the Village except upon the approval of the Board of Trustees of the Village.
- F. Preservation of existing natural features. Existing natural features that enhance the attractiveness of the site and which would add value to residential or other development or to the Village as a whole, such as trees, watercourses, ponds and similar irreplaceable assets, shall be preserved insofar as possible by harmonious design of the subdivision. The Board may make reasonable modifications in standards for layout of streets to accomplish such purposes as well as the objectives noted in Subsection E.

§ 162-17. Streets.

- A. General. The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive Plan and Official Map and shall be considered in their relation to existing and planned streets, to existing topography and natural features, to public convenience and safety and in their appropriate relation to the proposed uses of the land to be

served by such streets.

- B. Relation to topography. Street layouts and grades shall be related appropriately to the existing topography, and streets shall be arranged to obtain as many as possible of the building sites at or above the grades of the streets. Steep grades shall be avoided, as well as combinations of steep grades and curves.
- C. Arrangement. Where proposed streets are not shown on the Comprehensive Plan or Official Map, such streets shall be of sufficient width, suitably located and adequately constructed to accommodate the prospective traffic and to facilitate drainage and to afford access for fire-fighting, snow removal and road maintenance equipment. Such streets shall be coordinated so as to compose a convenient system and to cause no undue hardship to adjoining properties.
- D. Arrangements. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection or efficient provision of utilities and also where such continuation is in accordance with the Comprehensive Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary circular turnaround shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued.
- E. Intersections.
 - (1) Street jogs with center-line offsets of less than 125 feet shall not be permitted except with the approval of the Board.
 - (2) Intersections of streets shall be at angles as close to 90° as possible. Toward this end, an oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Where three or more streets intersect, a turning circle or other special treatment may be required by the Board. Wherever two streets intersect at an angle smaller than 75°, the right-of-way returns and the relation of the gutter grades shall be given special treatment, as determined by the Board, and islands to channelize traffic may be required.
 - (3) Intersections of major streets by other streets shall be at least 800 feet apart, if possible. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A distance at least equal to the minimum required lot depth plus 25 feet shall be maintained between center lines of offset intersecting streets. Grades shall be limited to no more than 2% within 50 feet of an intersection.

- F. Treatment along major arterial streets. Where a subdivision abuts or contains an existing or proposed major arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- G. Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required by the zoning, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations.
- H. Dead-end streets.
- (1) Where a street does not extend to the boundary of the subdivision and its continuation is not required by the Board for access to adjoining property, its terminus shall normally not be nearer to such boundary than 100 feet or the minimum lot depth prescribed by Chapter 195, Zoning, whichever is greater. However, the Board shall require the reservation of a twenty-foot-wide easement to accommodate drainage facilities, pedestrian traffic or utilities.
 - (2) For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited in length to 900 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 80 feet and a street property line diameter of at least 100 feet. In zoning districts, however, which permit lots of less than one acre, the minimum outside roadway diameter shall be increased to 100 feet and the diameter at the property line shall be increased to 120 feet. Where it is impossible to subdivide a property except by a dead-end road which is longer than 900 feet, the Board may permit a greater length, provided that a divided roadway with center mall is constructed in a seventy-foot right-of-way (or greater width, if required) in such a manner that either side of the roadway could be used, in emergencies, for two-way traffic.
- I. Design standards for streets. Streets shall meet the design standards set forth below. In cases where street classification is not shown on the Comprehensive Plan or Official Map, the Board shall determine the type of each street. Standards do not cover major streets which would be built by the state or county.
- (1) Widths. Generally, for streets not shown on the Comprehensive Plan, the width shall be not less than the following:
 - (a) Local street: 50 feet.

- (b) Secondary street: 60 feet.
- (c) Major street: 80 feet.
- (d) Marginal access street: 40 feet.
- (2) Grades.
 - (a) Grades of all streets shall be the reasonable minimum and, unless warranted by extenuating circumstances, shall be as follows:
 - [1] Local and marginal streets: not less than 1.0% or more than 8%.
 - [2] Secondary and major streets: not less than 1.0% or more than 5%.
 - (b) Gradients shall be used to facilitate surface drainage to proper natural or artificial outlets.
 - (c) Changes in grade. All changes in street grades shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance, as approved by the Board.
- (3) Tangents. A tangent at least 100 feet in length shall be introduced between reverse curves on all streets, except where a greater length is required by the Board.
- (4) Curves. When the alignment of the street changes more than 10°, the tangents shall be connected by a curve with a radius of not less than 200 feet, unless a greater radius is required by the Board to ensure a proper sight distance.
- J. Reserve strips. Reserve strips controlling access to streets shall be prohibited except where their control is placed in the Village under conditions approved by the Board.
- K. Property lines at intersections. Property lines at intersections shall be established in such a manner as to place within the street right-of-way the triangular area which is formed by the street lines extended and a straight line adjoining points on said street lines 30 feet distant from their point of intersection.
- L. Street names. All streets shall be named, and such names shall be approved by the Board. Names shall be sufficiently different in sound and in spelling from other street names in the Village or adjoining municipalities so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name. In general, street names shall conform to the following classifications:
 - (1) Road: major or secondary street.

(2) Drive or lane: local residential street, except as follows:

(a) Court or place: permanent dead-end street.

(b) Circle: street that returns to its starting point or a street both ends of which intersect another street at different locations.

§ 162-18. Easements.

- A. Utilities. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 20 feet wide.
- B. Drainageway. Where a subdivision is traversed by a watercourse, channel or drainageway, as defined herein, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose. The Board may require parallel streets or parkways in connection with such drainageway.

§ 162-19. Blocks.

- A. Length, width and shape. The length, width and shape of a block shall be determined with due regard to:
 - (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
 - (2) Zoning requirements as to lot sizes and dimensions.
 - (3) Needs for convenient access, circulation, control and safety of street traffic.
 - (4) Limitations and opportunities of topography and the objectives of these regulations.
- B. Dimensions. Block dimensions shall be at least twice the minimum lot depth and generally not more than 1,200 feet.
- C. Crosswalk. In long blocks the Board may require the establishment of easements or public ways through the block to accommodate utilities, drainage facilities or pedestrian access to community facilities.

§ 162-20. Lots.

- A. General. The lot size, width, depth, shape and orientation and the minimum building setback

lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

- B. Dimensions and corner lots. Lot area and dimensions shall conform to the requirements of Chapter 195, Zoning, and Health Department regulations. Corner lots for residential use shall have extra width to permit compliance with the front yard setback from both streets. Where lots are more than double the minimum area required by Chapter 195, Zoning, the Board may require that such lots shall be of such dimensions and arrangement as will allow further subdivision and the opening of future streets where necessary to serve potential lots, all in compliance with Chapter 195, Zoning, and these regulations. Generally the depth of a lot shall not exceed $2\frac{1}{2}$ times the width.
- C. Arrangement and access.
 - (1) The lot arrangement shall be such that there will be no foreseeable difficulty, for reasons of topography or other conditions, in obtaining building permits to build on all lots in compliance with applicable regulations and in providing, by means of a street approved by the Board and upon which each lot fronts, safe driveway access to buildings on such lots from an improved street duly placed on the Official Map.
 - (2) Access across a watercourse. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure of design approved by the Engineer.
- D. Lot lines and setbacks. Side lot lines shall be substantially at right angles to straight streets and radial to curved street lines. Lot lines shall coincide with municipal boundary lines rather than cross them. Where extra width has been dedicated for widening an existing street, lots shall begin at such extra width line, and lot dimensions and setbacks shall be measured from such line. The Board may, whenever it deems such lines desirable or necessary, require the showing on the plat of specific setback lines which may vary from lot to lot, provided that the front setback shall be not less than the zoning requirement nor more than 20% greater than the zoning setback.
- E. Double frontage. Double-frontage lots, other than corner lots, shall be avoided except where deemed essential by the Board in order to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. An easement or reserve strip at least 20 feet in width and across which there shall be no right of access shall be provided along the line of lots abutting such traffic artery or other disadvantageous use, and such easement shall be planted and maintained as may be approved by the Board.

ARTICLE V, Improvements

§ 162-21. Installation or performance bond required.

Pursuant to § 7-730 of the Village Law, before the approval by the Board of a plat or the development of a plat entirely or partially undeveloped, the Board, in its discretion, shall require the subdivider to complete the installation, or alternatively to furnish a performance bond to insure the completion, of all necessary improvements stipulated in said law and required by the Board. All required improvements shall be made by the subdivider at his expense, without reimbursement by the Village. The subdivider shall give to the Village a written agreement, in form satisfactory to the Village Attorney, permitting entrance by the appropriate Village officials and employees to the land included within the subdivision for the purposes of inspection and for the purposes of installing the required improvements in the event of the failure or default of the subdivider to make or complete such improvements as required by the Board resolution.

§ 162-22. Construction plans.

- A. Approval required before construction. The subdivider shall have prepared at his expense construction plans, described in § 162-36, for all required improvements. No improvements, development or construction work of any kind shall be commenced until after said plans have been approved by the Board in accordance with these regulations and by the appropriate county or state or local agencies having jurisdiction pursuant to law and such approvals have been endorsed on said plans or drawings.
- B. Modifications. If at any time before or during the construction of the required improvements the Engineer finds or it is demonstrated to his satisfaction that unforeseen conditions make it necessary to modify the location or design of such required improvements or to provide additional improvements, the Engineer may require or authorize such modifications upon written request of the subdivider, provided that such modifications are within the spirit and intent of the Board's approval and do not extend to the waiver or substantial alteration of the function of any improvement required by the Board. The Engineer shall issue any authorization under this subsection in writing and shall transmit a copy of such authorization to the Board for its records.

§ 162-23. Standards and specifications.

All required improvements shall be installed in accordance with approved construction plans and

shall conform to the Village construction standards and specifications and shall be approved by the Engineer as to design and specifications. A booklet containing the Village construction standards and specifications is available at the office of the Village Clerk.

§ 162-24. Requirement improvements.

- A. Monuments. Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shall be required by the Engineer. The monuments shall be of such material, size and length as may be approved by the Engineer. Monuments shall be set three inches above ground surface.
- B. Grading. All streets shall be graded, within right-of-way lines, in accordance with approved construction plans. The grading of lots shall be done only in accordance with approved construction plans. In all grading work the subdivider shall be required to proceed in such manner as will minimize any disturbance to and preserve undamaged, insofar as possible, existing trees, natural cover and soil.
- C. Street paving. All streets shall be paved in accordance with the Village construction standards and specifications heretofore referred to in § 162-23.
 - (1) Underground utilities. If placed in the street right-of-way, underground utilities required by the Board shall be placed between the paved roadway and street line, where possible, to simplify location and repair. Underground service connections to the property line of each lot shall be installed at the subdivider's expense, where the Board considers such appropriate, before the street is paved.
 - (2) Public utilities. Where utilities required by the Board are to be installed by a public utility company, the Board may accept assurance from said company, in writing, that such installation will be furnished by the company within a specified period of time and in accordance with the approved construction plans. The Board may require that all public utilities in easement areas be provided along rear lot lines.
- D. Drainage improvements.
 - (1) Spring and surface water. The subdivider may be required by the Board to carry away any spring or surface water that may exist either previous to, or as a result of, the subdivision or development. Such drainage facilities shall be located in street rights-of-way where feasible or in perpetual unobstructed easements.
 - (2) Drainage and upstream development. A drainageway, culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision or development. The

Engineer shall determine the design and necessary size of the facility based on runoff anticipated from a ten-year storm under conditions of maximum potential watershed development permitted under existing zoning therein.

- (3) Drainage downstream. The Engineer shall also determine the effect of each proposed subdivision or development on existing downstream drainage facilities outside the subdivision or development. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a ten-year storm, the Engineer shall notify the Board and the Village Trustees of such potential. In such case, the Board may disapprove such subdivision or development until provision, satisfactory to the Engineer and the Village Trustees, has been made for the improvement of said potential condition.
 - (4) Nassau County requirements. The subdivider will be required to install such facilities for the drainage of streets as may be required by the Commissioner of Public Works of Nassau County. Any storage basins required by the Nassau County Department of Public Works and any other drainage facilities required to be installed shall be constructed and completed by the subdivider. All such drainage structures shall be maintained by the subdivider in good operating condition until such time as the land is released.
- E. Culverts and bridges. All required culverts and bridges, if any, shall be constructed in accordance with approved construction plans and shall conform to the standards and specifications of the Village or the county or state agency having jurisdiction.
 - F. Curbs, gutters and sidewalks. Where deemed necessary and required by the Board, the subdivider shall install curbs, gutters and sidewalks or walkways in accordance with Village standards and specifications.
 - G. Street trees. The Board may require the planting of new street trees in a subdivision which lacks or is deemed deficient in trees. Such trees shall be of a size and type approved by the Board and shall be planted in a manner and location prescribed by the Board.
 - H. Street signs. Street signs of a type approved by the Board shall be provided by the subdivider and placed at all intersections in locations, within street lines, approved by the Engineer.
 - I. Streetlights and fire alarm devices. Where required by the Board, streetlighting fixtures, of a design approved by the Board or other municipal agency having jurisdiction, shall be placed in a manner and location approved by the Board. The Board may require the installation of fire alarm signal devices.
 - J. Water supply and sanitary sewers. Where required by the Board, the subdivider shall install water mains and fire hydrants and/or sanitary sewers of a type and in a manner prescribed by

the regulations of the agency having jurisdiction. In cases where sanitary sewerage is not available to a subdivision or development, the subdivider shall install individual sewage disposal systems in accordance with regulations of the New York State Department of Health.

- K. Waiver of required improvements. The Board may waive, pursuant to § 7-730 of the Village Law, for such period as it may determine, the provision of any or all such improvements as in its judgment of the special circumstances of a particular plat are not requisite in the interests of the public health, safety and general welfare. In the case of any waiver granted, the Board shall enter upon its records the reason or reasons why the particular improvement is not necessary, and it shall attach appropriate conditions or require such guaranties as may be deemed necessary to protect the public interest and achieve the objectives of these regulations.
- L. Estimated cost of improvements. The subdivider shall submit his engineer's estimate of the full cost of all required improvements to be installed by the subdivider, and the Board may request the Engineer to check the cost estimates for accuracy.

§ 162-25. Performance guaranties.

With respect to required improvements, the subdivider shall follow the procedure set forth in either Subsection A or B below, as shall be prescribed by the Board.

- A. Completion of improvements. The subdivider shall complete all required improvements to the satisfaction of the Board before the Board signs the plat and before any building permits will be issued. The subdivider shall file with the Village a bond in an amount determined by the Board to be adequate to assure the preservation of existing topographic and natural assets, pursuant to § 162-24B, as well as the satisfactory condition of the subdivision improvements for a period of one year following their completion. Such bond shall be satisfactory to the Village Attorney as to form, sufficiency and manner of execution and to the Village Board as to surety. Such bond shall be released only by the Board of Trustees when all requirements have been satisfactorily met.
- B. Performance bond.
 - (1) If the subdivider is required to post a performance bond to insure the completion of required improvements, he shall file with the Village Clerk a performance bond to cover the cost of required improvements in an amount set by the Board. Such bond shall comply with the requirements of § 7-730 of the Village Law and shall be satisfactory to the Village Attorney as to form, sufficiency and manner of execution and to the Board as to the surety.

- (2) A period of one year, or such other period as the Board may deem appropriate, not to exceed three years, within which required improvements must be completed shall be set forth in the bond.
 - (3) The bond surety may be in cash or partly in cash and partly guaranteed by a surety company acceptable to the Board, but in the latter case not less than 25% shall be in cash. The cash surety shall become immediately available to the Village on the date when improvements are required to be completed for application toward the completion of such required improvements as have not been completed on said date. The bond shall provide that an amount in cash, deemed adequate by the Board, shall be retained for a period of one year from the date of completion of the required improvements.
 - (4) All required improvements shall be completed to the satisfaction of the Engineer and the Board within the time stipulated in the Board's resolution. The bond shall be released only by the Board of Trustees when all required improvements have been completed to its satisfaction.
- C. Subdivider's responsibility. If the Engineer or other authorized inspector finds, upon inspection, that any of the required improvements have not been constructed in accordance with approved construction plans and the Village standards and specifications, the subdivider shall be responsible for the completion of such improvements to the satisfaction of the Board. Wherever the cost of improvements is covered by a performance bond, the subdivider and the bonding company shall be severally and jointly liable for completing said improvements to the satisfaction of the Board.
- D. Failure to complete improvements. For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the Board in its resolution approving the plat, the approval shall be deemed to have expired. In cases where a performance bond has been posted and required improvements have not been completed within the term of such bond, the Village Trustees may thereupon declare said performance bond to be in default.

§ 162-26. Inspections.

- A. General requirements. The Board shall provide for the inspection of required improvements during construction to ensure their satisfactory completion. The subdivider shall pay to the Village an inspection fee in accordance with a fee schedule fixed by the Board and at such time as may be stated in its resolution. The subdivision plat shall not be signed by the Board until such fee has been paid.
- B. Timing of inspection. In order to facilitate inspection of required improvements during construction, the subdivider shall notify the Engineer at least three days before he proceeds

with each of the following stages of construction:

- (1) Grading of streets and/or lots.
 - (2) Before backfilling of underground utilities and/or drainage facilities.
 - (3) Before paving or surface treatment.
 - (4) After completion of all improvements.
- C. Copy of contract specifications. Prior to the start of construction of any required improvements, the subdivider shall furnish to the Engineer a copy of the specifications included in any contract entered into by the subdivider for such construction.
- D. Supervision of construction. The construction of all required improvements shall be supervised by a registered professional engineer employed by the subdivider. After completion of construction said engineer shall certify to the Board that all required improvements have been constructed as required and approved by the Board or as such requirements have been modified under § 162-22B.
- E. Reports. The Engineer shall make reports to the Board after each inspection. If the Engineer or his authorized inspector finds, upon inspection, that any of the required improvements have not been constructed in accordance with the approved construction plans and/or the Village standards and specifications, he shall inform the subdivider and the Board in writing.
- F. Responsibility for completion. The subdivider is solely responsible for completion of required improvements in accordance with the approved plans. See § 162-25C. In the event that the Engineer or his authorized representative is unable to carry out inspection of required improvements during construction, the subdivider and the bonding company, if any, shall not in any way be relieved of their responsibilities for satisfactory completion of required improvements.
- G. Certificates of completion. The Board shall not give final approval of required improvements, nor recommend to the Board of Trustees the release of a bond, until the Engineer has submitted a report stating that all required improvements have been satisfactorily completed and until the subdivider's engineer or surveyor has furnished to the Engineer a certified set of record drawings, in the same detail required for construction plans described in § 162-36, showing all improvements as constructed and a statement certifying that all improvements conform to such record drawings and the standards and specifications of the agency having jurisdiction.

ARTICLE VI, Reservations and Dedications

§ 162-27. General requirements.

Pursuant to § 7-730 of the Village Law, before the approval of a plat or plan of development by the Board, such plat or plan shall show, in proper cases and when required by the Board, a park or parks suitably located for playground or other recreation purposes. Reservation and/or dedication of land for street purposes, drainageways and easements also may be required by the Board and by county or state agencies having jurisdiction. Any land offered for dedication or reserved by the owner for a particular purpose and all easements shall be shown and appropriately marked on the plat or plan of development.

§ 162-28. Recreation areas and public uses.

- A. Features shown on Comprehensive Plan. Where a proposed park, playground, school or other public use is shown on the Comprehensive Plan in a location which is entirely or partially within a subdivision or development, the Board shall require the dedication or reservation of such area within the subdivision.
- B. Recreation area not shown on Comprehensive Plan. In cases where the Comprehensive Plan does not show a recreation area within a proposed subdivision and the Board deems that recreation space would be desirable and appropriate, the Board may require the dedication or reservation of designated sites for park, playground or other recreation purposes. Such sites shall be of suitable size, dimension, topography, location and general character for the particular purposes envisioned by the Board. In no case shall the Board require that more than 10% of the gross area of the subdivision be dedicated or reserved for recreation purposes. In calculating such percentage, the Board may give due credit for open areas reserved, by covenants in all deeds, for the common use of all property owners in the proposed subdivision.
 - (1) Minimum size of recreation area. Land in subdivisions dedicated or reserved for recreation purposes generally shall have an area of at least five acres. When a proposed subdivision is too small to require such an area, the Board may require that the recreation area be located on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than three acres be dedicated or reserved for recreation purposes if the Board deems it unlikely that additional lands can be secured to increase such area.

- (2) Recreation sites. Land offered for dedication or reservation for recreation purposes shall be of a character, shape and location suitable for such purposes. In the case of a playfield or playground, the land shall be relatively level and dry, and no dimension of the site shall be less than 200 feet. Generally, a recreation site shall have a frontage of at least 200 feet on one or more streets.
- C. Waiver on land for recreation. In cases where the Board finds that, due to the size, topography or location of the subdivision or for other reasons, a requirement that land be dedicated or reserved for recreation would be unreasonable or undesirable, the Board may waive such requirement, subject to the condition that the subdivider shall, in lieu of such dedication or reservation, pay to the Village in cash an amount as provided in Chapter 64, Fees and Deposits. Such moneys shall be deposited in a special Village recreation site and improvement fund. [Amended 11-20-1969 by L.L. No. 1-1969]
- D. Public use not shown on Comprehensive Plan. The Board may require that land in a subdivision be temporarily reserved for a public school or other essential community facility, although not shown on the Comprehensive Plan, when the Board deems it desirable and appropriate. In such cases, if the agency having jurisdiction does not acquire such land within two years after the date of the signing of the plat by the Board, the subdivider, upon written notice to the Board, shall, 30 days after such notice, be relieved of the responsibility of further reservation of said land for said public purpose.

§ 162-29. Streets.

- A. All streets shown upon the plat may be offered for dedication or reserved for such purposes. When a street is not offered for dedication, the reservation shall ensure to abutting owners a perpetual unobstructed right of access, air and light.
- B. Widening or realignment of existing streets. Where a subdivision borders an existing narrow street or when the Comprehensive Plan indicates the realignment and/or widening of a street that would require use of some of the land in a subdivision or development, the Board may require the subdivider to offer to dedicate or reserve areas for such widening and/or realignment.

§ 162-30. Storage basins, easements and natural features; other open land uses.

- A. Storage basins and easements. Where land is required by the county or Village for storage basins and easements, such land shall be offered for dedication to Nassau County or the Village, as the case may be.
- B. Easements. Easements for drainageways, utilities, pedestrian and/or emergency access and

for planting strips shall be provided by the subdivider in the location and at the width required by the Board. Generally, easements for drainage and utilities shall be unobstructed and perpetual, and easements for planting strips shall be perpetual.

- C. Preservation of natural features. The subdivider shall reserve and may offer for dedication for open recreational purposes existing natural features when the Board finds that such features, such as large trees, wooded areas, watercourses, ponds, historic sites, vistas or other irreplaceable assets, enhance the attractiveness of the site and will add value to residential or other development or to the Village as a whole. Whatever of such natural features, in the opinion of the Board, should be offered for dedication to public uses shall be offered for dedication to the Village or other appropriate authority, except when, after approval of the Board pursuant to § 162-31A, such features are deeded to a property owners' association membership running with all of the land in the subdivision and preserving such features.
- D. Other open land use. None of the sections of this Article VI shall be construed as preventing a subdivider or developer from reserving other land for open recreational purposes in addition to the requirements of this article.

§ 162-31. Ownership to be clearly established; offers of cession; acceptance by Village.

- A. Responsibility for reservations. In any case where title to streets or other reservations is not offered for dedication to the Village, the ownership shall be clearly established in a manner satisfactory to the Board in order to ensure the continued maintenance and responsibility for such reservation.
- B. Offers of cession. Pursuant to § 7-732 of the Village Law, with respect to streets and parks, the subdividing owner may add, as a part of the plat, a notation, if he so desires, to the effect that no offer of dedication of such streets or parks or any of them is made to the public. Formal offer of cession to the Village of all streets and parks not so marked with such notation on the plat shall be filed by the owner with the Board prior to approval of the plat by the Board.
- C. Acceptance by the Village. Acceptance of any offer of streets, parks, recreation or other land shall rest with the Village Board of Trustees. In the event that the subdivider elects not to file the subdivision plat in the office of the County Clerk within the sixty-two-day period required by law, then such formal offer of cession shall be deemed to be void. The approval by the Board of a plat shall not be deemed to constitute or imply acceptance by the Village of any street, park or other open space shown on said plat. The Board may require said plat to be endorsed with appropriate notes to this effect. [Amended 7-18-2000 by L.L. No. 3-2000]

§ 162-32. Restrictions imposed by subdivider.

If the subdivider intends to place restrictions on any of the land contained in a subdivision, such restrictions shall be clearly indicated on the plat. The subdivider shall submit to the Board, for its approval, a copy of any additional restrictions as may be imposed upon the property as a condition to sale, together with a statement of any restrictions previously imposed which may affect title to the land proposed to be subdivided.

ARTICLE VII, Specifications for Maps and Plans

§ 162-33. General requirements.

The maps and drawings required with an application to the Board for approval of a subdivision plat or plan of development shall be prepared by the subdivider in accordance with these regulations and shall be submitted to the Board together with written application on forms supplied by the Board.

§ 162-34. Sketch plan.

The sketch plan may be drawn in pencil and shall be at a convenient scale, not less than one inch equals 200 feet, and shall show:

- A. Boundary survey of the property and municipal boundaries, if any, within 300 feet of the property.
- B. Contour lines at intervals of no more than 10 feet (may be obtained from field survey or county topographic maps at contour interval of two feet).
- C. Sketch of:
 - (1) Proposed layout of lots and streets.
 - (2) Existing streets and natural features.
 - (3) Existing permanent buildings and structures.
 - (4) Such other features as the subdivider may deem pertinent or the Board may require.
- D. If the sketch plan covers only a part of the subdividing owner's entire holding, a sketch map

of the entire tract (may be shown on the Village Tax Map or on a print of a county topographic map), at a scale of not less than one inch equals 400 feet, showing the platted area with its proposed streets and the probable future street, lot and drainage systems in the entire tract.

§ 162-35. Preliminary layout and topographic map.

- A. Preliminary layout. The preliminary layout may be prepared in pencil, shall be drawn to a convenient scale, not less than one inch equals 100 feet, and shall show or be accompanied by the following information:
- (1) Name or identifying title of subdivision, graphic scale, North point and date.
 - (2) Name and address of the record owner of the property and of his authorized agent, if any, and the name of the land planner responsible for the layout and of the engineer responsible for the property survey.
 - (3) The property lines of the land to be subdivided and existing permanent buildings thereon, the names of all subdivisions immediately adjacent, if any, and the names of all record owners of all adjacent lands.
 - (4) Zoning districts, including exact boundary lines if more than one district, and location of any special district and/or municipal boundaries within 300 feet of the property.
 - (5) Topographic map as described in Subsection B and a tentative grading plan.
 - (6) The locations and widths of all proposed streets and of all existing streets (noting whether public or private) in and within 200 feet of the proposed subdivision.
 - (7) Proposed lot lines with approximate lot dimensions and areas.
 - (8) Location and size of all proposed and of any existing water mains, drainage systems, including culverts, drains and sewers, other underground utilities and sanitary sewers, if any. Direction of flow shall be shown for drains and sewers.
 - (9) Existing and proposed easements, if any, with designation of the purposes therefor.
 - (10) Any land intended to be dedicated for public use or reserved in the deeds for the use of property owners in the subdivision, as well as any land which the owner may propose to reserve, with designation of the purposes therefor.
 - (11) Preliminary cross sections and center-line profiles for each proposed street and preliminary designs for all improvements, including any bridges or culverts that may be

required.

- (12) Plans for water supply and sewage disposal.
 - (13) Preliminary plan for surface drainage of the subdivision.
 - (14) Results of test hole borings and percolation or other tests, when required by the Board.
 - (15) Where the preliminary layout covers only a part of the owner's entire holding, a sketch of the prospective future street system of the submitted part shall be furnished, and the street system of the submitted part will be considered by the Board in the light of adjustments and connections with future streets in the unsubmitted part.
- B. Topographic map. The subdivider shall prepare and submit to the Board, with his application for conditional approval of the preliminary layout, a map showing the topography for the area covered by the proposed subdivision and such surrounding area as the Engineer may designate as necessary to determine drainage requirements.
- (1) Contour interval. On the topographic map the contour interval shall be not more than five feet for land with a natural slope of 10% or greater and not greater than two feet for less steeply sloping land.
 - (2) Watercourses and drainage. The topographic map shall show existing watercourses, drainageways, streams and ponds.
 - (3) Natural features. The natural features, if any, mentioned in §§ 162-16F and 162-30C, including single trees with a diameter of eight inches or more, shall be shown on the topographic map.
 - (4) Streets. The location of existing and proposed streets shall be shown on the topographic map, and the boundary line of property proposed to be subdivided.
 - (5) Preparation of map.
 - (a) The topographic map shall be prepared by a professional engineer or land surveyor duly licensed by the State of New York. The name, address and signature of such engineer or surveyor shall appear upon said map, as well as identifying title of the subdivision, date, North point and graphic scale.
 - (b) In appropriate cases and when approved by the Engineer as being sufficient for the particular situation, the Board may accept a reproduction, enlarged to the required scale, of the county topographic map in lieu of the above requirements. A map so prepared shall be properly identified, as required above, and shall bear an appropriate description of the method of reproduction. The Board may designate such of the above information as it will require the subdivider to show upon the

reproduced map.

§ 162-36. Construction plans.

- A. General. Construction plans shall be prepared for all required improvements and submitted to the Board with application for approval of the subdivision plat. All engineering drawings and designs shall be prepared by a licensed professional engineer, whose name, address and signature shall appear upon such plans and drawings. When feasible, the scale of construction plans shall be the same as that of the plat, and plan sheets shall not exceed 36 inches by 48 inches.
- B. Information shown. The construction plans shall show:
- (1) Typical cross sections and profiles of all proposed streets, showing existing and proposed grades as approved by the Engineer. The cross sections shall show pavements and, where required, gutters, curbs and sidewalks.
 - (2) Profiles along the center lines of streets showing existing and proposed elevations. Where a proposed street intersects an existing street, the elevation along the center line of the existing street within 100 feet of the intersection shall be shown. All elevations shall be referred to Nassau County datum.
 - (3) A grading plan showing present and proposed contours at intervals as per § 162-35B(1), referenced to Nassau County datum, together with natural features required to be preserved, if any. The Board may require, where steep slopes exist, that present elevations along all proposed streets shall be shown every 100 feet at five points on a line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, each property line and points 25 feet inside each property line.
 - (4) Plans and profiles showing the location and a typical section of street pavements, including manholes and catch basins; the location of street trees, streetlighting standards and street signs; the location, size and invert elevations of existing and proposed sanitary sewers, stormwater drains and fire hydrants; the exact location and size of all water mains, gas lines or other underground utilities or structures; and detailed description of all other required improvements.
 - (5) Location, size, elevation and other appropriate description of any existing facilities and utilities at the point of connection to proposed facilities and utilities within the subdivision.
 - (6) All specifications and references required by the Village's construction standards and specifications.

§ 162-37. Subdivision plat.

- A. General. The subdivision plat shall be drawn in ink on tracing cloth, on a sheet or sheets which shall not exceed 36 inches by 48 inches, at a convenient scale which shall be not less than one inch equals 100 feet, and oriented with the North point at the top of the map. When more than one sheet is required, an index sheet of the same size shall be prepared at a convenient scale to show the entire subdivision, with lot and block numbers clearly legible.
- B. Information to be shown on the plat. The subdivision plat shall show the following:
- (1) Subdivision name, graphic scale, North point and date.
 - (2) The location and dimensions of all boundary lines of the property proposed to be subdivided, the name and address of the record owner or owners of the land to be subdivided and the name and address of the subdivider, if other than the owner.
 - (3) The location and name of streets surrounding or adjacent to the proposed subdivision, the lines of adjacent properties and the names of the owners of record or the names of existing adjoining developments.
 - (4) The location, name and width of all existing and proposed streets.
 - (5) The lines, dimensions and areas of all proposed or existing lots and proposed block, lot and section numbers as assigned by the Assessors' office.
 - (6) The location, width and purpose of all proposed or existing easements.
 - (7) The lines, dimensions and areas of all property intended to be dedicated for public use or reserved in the deeds of property owners in the subdivision, as well as any land which the owner may propose to reserve, with designation of the purposes thereof.
 - (8) The location and identification of existing watercourses, bodies of water and natural features (described in §§ 162-16F and 162-30C) and, subject to the discretion of the Board, contours at such interval as it may require.
 - (9) Sufficient data acceptable to the Engineer to determine readily the location, bearing and length of each boundary line, street line and lot line and to reproduce such lines upon the ground. The lengths of all straight lines, the deflection angles, radii, lengths of curves and central angles of all curves, tangent distances and tangent bearings for each street and each lot shall be given. All dimensions shall be shown in feet and hundredths of a foot.
 - (10) Permanent reference monuments.

- (11) Name, address and signature of the licensed professional engineer or surveyor making the plat.

C. Notations on the plat. The following notations shall be shown on the subdivision plat:

- (1) Endorsement of approval by the New York State Department of Health.
- (2) Endorsement of approval by the Commissioner of Public Works of Nassau County.
- (3) Endorsement of approval by other planning agencies, if any, having jurisdiction.
- (4) Treasurer of Nassau County as to payment of taxes.
- (5) Town Receiver of Taxes as to payment of taxes.
- (6) Engineer in the Department of Assessment certifying location on Nassau County Land Map.
- (7) Treasurer of Village as to payment of taxes.

D. Accompanying material. When submitted to the Board with application for approval, the subdivision plat shall be accompanied by the following:

- (1) Certificate of title showing the ownership of the land to be vested in the subdivider or other applicant for plat approval.
- (2) A certificate of the licensed engineer or surveyor making such plat survey to the effect that the plat is correct and that the error of closure does not exceed such amount as is required by the Engineer.
- (3) A statement duly acknowledged before an officer authorized to take acknowledgment of deeds and signed by the owner or owners of the property to the effect that the subdivision shown on the plat is made with his or their free consent and in accordance with his or their desires.
- (4) All offers of dedication and covenants governing the maintenance of undedicated open space, which shall bear the certificate of approval of the Village Attorney as to their legal sufficiency.
- (5) A copy of such private deed restrictions, including building setback lines, as may be imposed upon the property as a condition to sale, together with a statement of any restrictions previously imposed which may affect the title to the land being subdivided. Such restrictions shall be satisfactory to the Board and shall provide, in the case of any lot intended for residential use, against further division thereof by the grantee without approval by the Board.

- (6) Such other items or certificates of approval by proper public authorities as may have been required by the Board.
- (7) Stamped envelopes addressed to each of the owners of property abutting or across the street from the subdivision and containing a form letter and a copy of the notice of public hearing (to be published in the official Village newspaper) on forms provided by the Board.

ARTICLE VIII, Administration and Enforcement

§ 162-38. Minimum requirements.

These regulations shall be deemed the minimum requirements for the future growth and development of the Village which will provide adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population.

§ 162-39. Variances or waivers.

- A. Special circumstances; hardship. Where the Board finds that, because of special circumstances of a particular plat, extraordinary hardships, not of the owner's or subdivider's making, may result from strict compliance with these regulations, it may vary or waive any of the regulations so that substantial justice may be done and the public interest secured, provided that such variation or waiver shall comply with Chapter 195, Zoning, and will not have the effect of nullifying the intent and purpose of the Comprehensive Plan, Official Map or these regulations.
- B. Conditions. In granting any variance or waiver, the Board shall set forth such findings in its resolution of approval and such conditions as will substantially secure the objectives of the standards or requirements so varied or modified.

§ 162-40. Penalties for offenses.

Any person, firm or corporation found guilty of the violation of these regulations shall be subject to the penalties set forth in Chapter 1, General Provisions, Article II.

§ 162-41. Effective date.

These subdivision regulations shall become effective on July 6, 1960, and shall remain in force until modified, amended or rescinded by the Board.

Chapter 167, TAXATION

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Utility Tax [Adopted 11-3-1971 by L.L. No. 1-1971]

§ 167-1. Declaration of policy.

- A. It is hereby declared to be the policy of the Incorporated Village of Matinecock (herein referred to as the "village") to impose a tax on gross income or gross operating income of utilities arising from transactions originating and consummated within the territorial limits of the village, as authorized by § 5-530 of the Village Law of the State of New York.^{EN(30)}
- B. In connection with and in furtherance of this policy, this village shall levy and collect a tax such as was and is imposed by, and not inconsistent with, § 186-a of the Tax Law of the State of New York, as the same was in effect on January 1, 1959, except that the rate thereof shall not exceed 1% of the gross income or of the gross operating income of the utilities affected by this article.

§ 167-2. Purpose.

It is the purpose of this article that the affected utility companies providing essential services to residents of the village on a noncompetitive basis shall share in the burden of defraying governmental costs with the residents of the village from whom said companies acquire income and profits.

§ 167-3. Definitions.

The definitions set forth in § 186-a of said Tax Law, as modified therein, and in § 5-530 of said Village Law, insofar as the same are applicable hereto, shall apply, as appropriate, to this article, and in addition the following terms shall have the meanings indicated:

TREASURER -- The Treasurer of the village.

VILLAGE -- The Incorporated Village of Matinecock.

§ 167-4. Applicability of state law.

Except as hereinafter provided, all the provisions of § 186-a of said Tax Law of the State of New York, so far as the same are made applicable, with such limitations as are set forth in § 5-530 of said Village Law, and such modifications as may be necessary in order to adapt such taxes to local conditions, shall apply to the taxes authorized by and shall be a part of this article.

§ 167-5. Imposition of tax.

Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, from on and after June 1, 1971, or as soon thereafter as this article shall become effective, there is hereby imposed:

- A. A tax equal to 1% of the gross income of every utility doing business in the village 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 \$500, except motor carriers or brokers and except persons providing cable television service.^{EN(31)}
- B. A tax equal to 1% of the gross operating income of every other utility doing business in the village which has an annual gross operating income in excess of \$500, except persons providing cable television service.

§ 167-6. Scope.

This article and the tax imposed thereby shall:

- A. Apply only within the territorial limits of the village;
- B. Not apply and the tax shall not be imposed on any transaction originating or consummated outside of the territorial limits of the village, notwithstanding that some act is necessarily performed with respect to such transaction within such limits;
- C. Be in addition to any and all other taxes; and
- D. Apply to all subject income received on and after June 1, 1971, or on or after this article shall become effective, whichever is later.

§ 167-7. Disposition of revenues.

All revenues resulting from the imposition of the tax imposed by this article shall be paid to the Treasurer of the village, who is the chief fiscal officer of the village, and shall be credited to and deposited in the general fund of the village.

§ 167-8. Authority of Treasurer; rules and regulations.

The Treasurer shall be the chief enforcement officer of this article and shall make and be responsible for all collections hereunder. The Treasurer 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 Treasurer. All such rules, regulations and directives shall be deemed a part of this article.

§ 167-9. Tax returns and payment.

- A. Time of filing. Every utility subject to a tax hereunder shall file, on or before December 25 and June 25, a return for the six calendar months preceding each return date, including any period for which the tax imposed hereby or any amendment hereof is effective.
- B. Returns. Returns shall be filed with the Treasurer in such form as is used by the filing utility for other municipalities in Nassau County, New York, or as the Treasurer shall otherwise require and shall show, as a minimum, the gross taxable income or operating income, as the case may be, for the period covered by the return and such other information or data as the Treasurer may from time to time require. Every return shall be certified as true by a duly authorized and qualified officer of the utility filing the return, with a statement that the certification is made as if under oath and subject to penalties for perjury.
- C. Time of payment. At the time of filing a return as required by this article, each utility so required to file a return shall pay to the 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.

§ 167-10. Penalties and interest.

Any utility subject to the tax hereunder failing to file a return or a corrected return or to pay any tax or any portion thereof within the time required by this article shall be subject to a penalty of 5% of the amount of tax due, plus 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 Treasurer, if satisfied that the delay was excusable, may remit all or any portion of such penalty.

§ 167-11. Tax to be part of operating cost.

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.

§ 167-12. Failure to file or incorrect returns. EN(32)

In case any return filed pursuant to this article shall be insufficient or unsatisfactory to the Treasurer, or if no return is made or if no tax is paid, the Treasurer shall proceed and shall have the remedies as set forth in Article 9 of the Tax Law.

§ 167-13. Notices. EN(33)

Any notice authorized or required under this article may be given in the manner and with the effect set forth in Article 9 of the Tax Law.

§ 167-14. Refunds.

- A. If, within one 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 Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the 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 Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Treasurer as hereinbefore provided unless the Treasurer, after a hearing as hereinabove 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.

- B. 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 Treasurer may receive additional evidence with respect thereto.
- C. After making his determination, the Treasurer shall give notice thereof to the person interested, who shall be entitled to commence a proceeding to review such determination, in accordance with the provisions of the following section hereof.

§ 167-15. Review of proceedings for refunds.

Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof shall have been duly made to the 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 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 Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding is dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

§ 167-16. Limitation on additional tax.

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 years from the date of filing of a return, provided that where no return has been filed as required hereby, the tax may be assessed at any time.

§ 167-17. Powers of Treasurer.

In addition to any other powers herein given the Treasurer, and in order to further ensure 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 hereunder.
- 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.

§ 167-18. Enforcement. EN(34)

Whenever any person shall fail to pay any tax or penalty imposed by this article, the Village Attorney shall, upon the request of the 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 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 Article 9 of the Tax Law is made a lien.

ARTICLE II, Collection of Property Taxes [Adopted 8-15-1994 by L.L. No. 1-1994]

§ 167-19. Enforcement.

Pursuant to Section 6 of Chapter 602 of the Laws of 1993, as amended by a chapter of the laws of 1994, as proposed in legislative bill number S. 8560-A, EN(35) the Village of Matinecock hereby acts by local law, not subject to referendum, to provide that the collection of property taxes shall continue to be enforced pursuant to Title 3 of Article 14 of the Real Property Tax Law as is in effect on December 31, 1994.

§ 167-20. Filing with state. EN(36)

Upon adoption, and no later than October 1, 1994, a copy of this article shall be filed with the New York State Board of Real Property Services.

§ 167-21. When effective.

This article shall take effect on the same day as a chapter of the laws of 1994 takes effect as proposed in legislative bill number S. 8560-A, except that if S. 8560-A shall become a law prior to adoption of this article, this article shall take effect immediately.

Chapter 176, TOWING

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Art. 4 of the 1974 General Ordinance. Amendments noted where applicable.]

GENERAL REFERENCES
Vehicles and traffic -- See Ch. 185.

§ 176-1. Permit required.

Except as provided in § 176-10 hereof, no person or persons, firm or corporation shall operate a towing car for hire within the limits of the village unless a permit therefor shall first be obtained from the Board of Trustees, signed by the Mayor and countersigned by the Clerk, as hereinafter provided.

§ 176-2. Application for permit.

No such permit shall be issued unless an application therefor shall have been filed with the Village Clerk upon a form prescribed therefor by the Board of Trustees, which shall include, in the case of towing car owners:

- A. The name and business address of the applicant and, if he is a natural person, his age and residence address;
- B. The registration number of each towing car to be operated; and
- C. A schedule of prices as prescribed in § 176-4 hereof.

§ 176-3. Expiration of permit; fee.

Every permit issued pursuant to this chapter shall expire on the 31st day of December following the issuance thereof. The permit fee payable for each such permit or renewal thereof, which permit may cover one or more towing cars operated by the same owner, shall be in the amount as required by § 64-6, and amendments thereto, of Chapter 64, Fees and Deposits.

§ 176-4. Schedule of rates.

The applicant for such permit shall file with the Board of Trustees a schedule of the maximum prices to be charged for towing and storage of disabled motor vehicles. Such charges shall be based on the distance that each disabled motor vehicle is to be towed and shall not be based on availability of towing car facilities. No towing car owner or operator or other person employed by the owner shall base any charge upon estimation.

§ 176-5. Consent to tow.

It shall be unlawful for any person to tow away any motor vehicle which has been involved in an accident without the prior consent of the owner or the police officer at the scene of the accident, and no car shall be removed from the scene of an accident where the police officer requires or requests that it be impounded for an examination.

§ 176-6. Unlawful solicitation.

It shall be unlawful for any person to drive along any street or highway in the village for the purpose of soliciting towing work or to stop a tow car at the scene of any vehicle accident or near a disabled vehicle without first having been specifically requested to do so by the owner of the vehicle or a police officer.

§ 176-7. Display of name, address and permit number.

On each side of every towing car for which a permit has been granted there shall be legibly inscribed, in letters not less than three inches high, the name and address of the owner of such towing car or of the person having the permit therefor and the permit number assigned to such towing car by the Village Clerk.

§ 176-8. Rules and regulations.

The Mayor, with the approval of the Board of Trustees, is hereby empowered to promulgate and prescribe rules and regulations for the proper administration and enforcement of this chapter.

§ 176-9. Suspension of permit.

The Mayor shall have power to suspend any permit issued pursuant to this article for the violation of any rules thereof or of any rules and regulations promulgated by him or for the failure of the owner or operator of any towing car to render services to the owner or driver of a disabled vehicle who is able and willing to pay the fee prescribed in the schedule of prices fixed as hereinbefore provided for or if the owner or operator of any towing car shall collect or attempt to collect a fee in excess of the maximum fee for such services prescribed in the schedule of prices as hereinbefore provided.

§ 176-10. Exception.

The provisions of this chapter shall not apply to cases where, without solicitation, the owner of a damaged car shall have specifically requested that the same be towed by an unlicensed tow car.

Chapter 185, VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 3-10-1974 by L.L. No. 1-1974 as Arts. 2 and 3 of the 1974 General Ordinance. Amendments noted where applicable.]

GENERAL REFERENCES

Operation of vehicles by minors -- See Ch. 101, Art. I.

Parades and exhibitions -- See Ch. 118.

Towing -- See Ch. 176.

ARTICLE I, Regulations

§ 185-1. Definitions.

The words and phrases used in this article shall, for the purpose of this article, have the meanings respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.

§ 185-2. Through highways and stop intersections.

A. The following highways are hereby designated through highways, and all vehicles approaching said through highways as below specified shall come to a full stop in accordance with the stop signs posted at these locations:

- (1) Chicken Valley Road is hereby designated a through highway, and stop signs shall be erected on the following entrances thereto:
 - (a) Thorne Lane from the north.
 - (b) Valley Road from the west.

- (c) Planting Fields Road from the east.
 - (d) Wolver Hollow Road from the south.
 - (e) Locust Lane from the south.
 - (f) Crabapple Lane from the west.
- (2) Piping Rock Road is hereby designated a through highway, and stop signs shall be erected on the following entrances thereto:
- (a) Frost Pond Road from the west.
 - (b) Pink Woods Lane from the west.
 - (c) Linden Farms Road from the east.
 - (d) Underhill Road from the west.
 - (e) 250 Yard Drive from the east.
- (3) Birch Hill Road is hereby designated a through highway, and stop signs shall be erected on the following entrances thereto:
- (a) Town Cocks Lane from the north.
 - (b) Underhill Road from the west.
- (4) Locust Valley - Oyster Bay Road is hereby designated a through highway, and stop signs shall be erected on the following entrances thereto: [Amended 5-20-2003 by L.L. No. 3-2003]
- (a) Laurel Lane from the west.
- B. The following intersections are hereby designated stop intersections, and stop signs shall be posted as the following roadways controlling traffic as indicated:
- (1) Town Cocks Lane and Linden Farms Road, controlling westbound traffic on Linden Farms Road.
 - (2) Laurel Lane and The Glen, controlling southbound traffic on The Glen.
 - (3) Duck Pond Road and Wellington Road controlling northbound traffic on Wellington Road.
 - (4) Locust Valley-Oyster Bay Road and Chester Street, controlling southbound traffic on Locust Valley - Oyster Bay Road and controlling eastbound traffic on Chester Street.

[Added 5-20-2003 by L.L. No. 3-2003]

- (5) Locust Valley-Oyster Bay Road and Cocks Lane, controlling northbound traffic on Locust Valley - Oyster Bay Road. [Added 5-20-2003 by L.L. No. 3-2003]
- (6) Duck Pond Road and Locust Valley-Oyster Bay Road, controlling north and southbound traffic on Locust Valley-Oyster Bay Road and controlling eastbound traffic on Duck Pond Road. [Added 5-20-2003 by L.L. No. 3-2003]

§ 185-3. Traffic control signals.

Traffic control signals shall be installed, maintained and operated as follows:

- A. A two-phase, fixed-time traffic control signal at the intersection of Piping Rock Road and Duck Pond Road.
- B. A two-phase, fixed-time traffic control signal at the intersection of Piping Rock Road and Chicken Valley Road.

§ 185-4. Speed limits.

Thirty-five miles per hour is hereby established as the maximum speed at which vehicles may proceed within the corporate limits of this Village.

§ 185-5. Parking, standing and stopping. [Amended 10-25-1978 by L.L. No. 2-1978; 12-14-1978 by L.L. No. 4-1978; 1-22-1979 by L.L. No. 1-1979]

- A. Application of section. The provisions of this section shall apply except when it is necessary to stop a vehicle because of an accidental or temporary disability or to avoid conflict with other traffic or in compliance with the directions of a police officer or official control device or when a temporary written permit has been issued by the Mayor, Deputy Mayor or Police Department and filed with the Village police for the parking of vehicles incidental to a meeting or gathering at a particular location in the Village.
- B. The parking, standing and stopping of vehicles is hereby prohibited on all public and private highways and streets within this Village which appear on the Official Map of the Village, except on that portion of Locust Valley - Oyster Bay Road as set forth in Subsections C, D and E.
- C. The parking, standing and stopping of vehicles is hereby permitted for a period of not longer than 1/2 hour on that portion of the west side of Locust Valley - Oyster Bay Road which lies

between a point 65 feet south of the center line of Chester Street and a point 75 feet south of the center line of Chester Street.

- D. The parking, standing and stopping of vehicles is hereby permitted for a period of not longer than two hours on that portion of the east side of Locust Valley - Oyster Bay Road which lies between a point 75 feet north of the center line of Dogwood Lane and a point 300 feet north of the center line of Dogwood Lane.
- E. The parking, standing and stopping of vehicles is hereby permitted on that portion of the west side of Locust Valley - Oyster Bay Road which lies between a point 75 feet south of the center line of Chester Street and a point 500 feet south of the center line of Chester Street.

§ 185-6. Removal and storage of vehicles.

- A. When any vehicle is parked or abandoned on any highway within this Village, said vehicle may be removed by the Police Department.
- B. After removal of any vehicle as provided in this section, the Police Department may store such vehicle in a suitable place at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon the payment to the Police Department of the amount of all expenses actually and necessarily incurred in effecting such removal and storage.
- C. The Police Department shall, without delay, report the removal and the disposition of any vehicles removed as provided in this section to the Village Police Commissioner, and it shall be the duty of the Police Department to ascertain, to the extent possible, the owner of the vehicle or the person having charge of the same and notify him of the removal and disposition of such vehicle and the amount which will be required to redeem the same.

§ 185-7. Pavement markings.

Pavement markings in accordance with the standards and specifications established by the State Traffic Commission shall be applied on all highways and streets within the corporate limits of the Village.

§ 185-8. Heavy trucking.

- A. It shall be unlawful for any person to operate or move or cause or knowingly permit to be operated or moved on or over any of the following streets, highways or avenues owned or maintained by the Village (hereinafter referred to as "Village street") any motor vehicle,

truck, tractor, trailer or any other machinery whose weight alone or in combination with the weight of its load shall exceed five tons without first obtaining a permit for each vehicle from the Village Street Commissioner upon written application therefor stating the name of the owner, the character of the vehicle, its weight, its proposed load, the name of the Village street over which the passage is proposed and the day or days and any time of such proposed passage: Chester Street, Eyre Lane, Linden Farms Road, Planting Fields Road and Underhill Road.

- B. Said permit shall not be issued unless and until there has been deposited with the Village the following:
- (1) A cash deposit made to the Village Street Commissioner for deposit with the Village Treasurer in amounts required by § 64-6, and amendments thereto, of Chapter 64, Fees and Deposits, such amount to be measured and/or multiplied by:
 - (a) The linear feet of that portion of the Village street to be traveled upon by each vehicle;
 - (b) The number of vehicles; and
 - (c) The number of days each vehicle will operate on any Village street.
 - (2) A form of agreement, duly executed and acknowledged before a notary public, in a form satisfactory to the Village's Street Commissioner, which by its terms shall provide that:
 - (a) The permittee shall, within 10 days after the receipt of any written notice of any damage caused by any of his vehicles to said Village street, cause the same to be repaired to the reasonable satisfaction of the Village's Street Commissioner; and
 - (b) In the event that the permittee shall fail to repair any damage caused by his vehicle to any Village street as provided in Subsection B(2)(a) above, the Village shall have the absolute right to use all or a portion of said cash deposit to repair said Village street and restore the same to its original condition.
- C. The cash deposit or the remaining portion thereof shall be returned to the permittee by the Village Treasurer after the Village Street Commissioner has certified, in writing, that each Village street used by the permittee's vehicle is in, or has been restored to, its original condition before such use.
- D. The regulations established in this section shall not be construed to prevent the casual delivery or pickup of merchandise or other property along Village streets from which such vehicles are otherwise excluded.

§ 185-9. Penalties for offenses. EN(37)

Any person guilty of violating any provision of this article is guilty of a traffic infraction and subject to the penalties provided in § 1800 of the Vehicle and Traffic Law.

ARTICLE II, Traffic Violations Bureau

§ 185-10. Establishment.

The Village Justice is hereby authorized to establish a Traffic Violations Bureau for the Village subject to the limitations hereinafter set forth.

§ 185-11. Authority.

- A. The Traffic Violations Bureau, when so established, shall be authorized to dispose of violations of traffic laws, ordinances, rules and regulations relating to parking only, as follows: by permitting a person charged with a parking violation to answer within a period of 20 days at the Traffic Violations Bureau, either in person or by written power of attorney in the form hereinafter set forth, by paying the fine designated by the Village Justice for such violation and, in writing, waiving a hearing in court, pleading guilty to the charge and authorizing the person in charge of the Traffic Violations Bureau to make such a plea and pay such a fine in court.
- B. Acceptance of the prescribed fine and power of attorney by the Traffic Violations Bureau shall be deemed complete satisfaction for the violation, and the violator shall be given a receipt which so states.

§ 185-12. Summons.

- A. Any summons charging a parking violation may be served upon the violator in person or may be affixed to the motor vehicle involved in the violation.
- B. If, in any parking violation case where the summons was affixed to the motor vehicle and not served personally, no one answers as hereinabove provided within the time designated in the summons, the Traffic Violations Bureau shall send a letter by certified mail, return receipt requested, to the registered owner of such vehicle, as disclosed by the records of the

Department of Motor Vehicles, enclosing a copy of the summons and warning the registered owner that he will be held responsible for the appearance of the offender and directing the registered owner to answer the summons in the manner hereinabove provided within a designated time, which shall be not less than six days from the date of mailing of said letter.

- C. If any person served personally with a summons under this article, or if any registered owner of the motor vehicle involved who is served and notified as provided in Subsection B of this section, does not answer as hereinabove provided within the designated time, the Traffic Violations Bureau shall cause a complaint to be entered against him forthwith and shall apply for a warrant to be issued for his arrest and appearance before the court.

§ 185-13. Additional duties.

The Traffic Violations Bureau shall perform such other or additional duties as shall be prescribed by law, by the Village Justice or the Board of Trustees of the Village.

§ 185-14. Form of power of attorney.

The power of attorney referred to in this article shall be in the following form:

Power of Attorney

The undersigned hereby acknowledges service of the summons herein, waives his right to be represented by an attorney and waives a hearing in court, pleads guilty to the offense charged in said summons and authorizes the Clerk of the Traffic Violations Bureau of the Incorporated Village of Matinecock to appear in court for me, to make such plea of guilty on my behalf and to pay the prescribed fine using the money enclosed.

Signed _____

Print your name _____

Address _____

§ 185-15. Right to counsel or to appear in court.

Nothing contained in this article shall be deemed to authorize the Traffic Violations Bureau to deprive a person of his right to counsel or to prevent him from exercising his right to appear in court to answer to, explain or defend any charge of a violation of any traffic law, ordinance, rule

or regulation.

Chapter 195, ZONING

[HISTORY: Adopted by the Board of Trustees of the Village of Matinecock 10-8-1928; amended in its entirety 7-24-1962. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

- Board of Appeals -- See Ch. 18.
- Environmental quality review -- See Ch. 52.
- Excavating, filling and tree removal -- See Ch. 59.
- Fees and deposits -- See Ch. 64.
- Freshwater wetlands -- See Ch. 71.
- Exterior lighting -- See Ch. 93.
- Planning Board -- See Ch. 130.
- Stormwater management -- See Ch. 157.
- Subdivision of land -- See Ch. 162.

ARTICLE I, General Provisions

§ 195-1 Purpose.

There is hereby established a comprehensive zoning plan for the Village of Matinecock, Nassau County, New York (hereinafter referred to as the "Village"), which plan is set forth in the text, maps and schedules which constitute this chapter. Said plan is adopted for the protection and promotion of the public health, safety, morals and general welfare of the community as follows:

- A. To guide the future growth and development of the Village in accordance with a comprehensive plan of land use and population density that represents the most beneficial and convenient relationships among the residential, nonresidential and public areas within the Village, considering the suitability of each area for such uses, as indicated by existing conditions, trends in population and mode of living, and having regard for the use of land and building development, considering such conditions and trends both within the Village and with respect to the relation of the Village to areas outside thereof.
- B. To provide adequate light, air and privacy, to secure safety from fire, panic, flood and other danger and to prevent overcrowding of the land and undue congestion of population.
- C. To protect the character and the social and economic stability of all parts of the Village and

to encourage the orderly and beneficial development of all parts of the Village.

- D. To protect and conserve the value of land throughout the Village and the value of buildings appropriate to the various districts established by this chapter.
- E. To bring about the gradual conformity of the uses of land and buildings throughout the Village through the comprehensive zoning plan set forth in this chapter and to minimize the conflicts among the uses of land and buildings.
- F. To promote the most beneficial relation between the uses of land and buildings and the circulation of the traffic throughout the Village, having particular regard to the avoidance of congestion in the streets and the provision of safe and convenient vehicular and pedestrian traffic movements appropriate in the various uses of land and buildings throughout the Village.
- G. To provide a guide for public policy and action in the efficient provision of public facilities and services and for private enterprise in building developments relating to uses of land and buildings throughout the Village.
- H. To limit development to an amount equal to the availability and capacity of public facilities and services.
- I. To prevent the pollution of streams and ponds, to safeguard the water table and to encourage the wise use and sound management of the natural resources throughout the Village in order to preserve the integrity, mobility and beauty of the community and the value of the land.

§ 195-2 Short title.

This chapter shall be known as and may be cited as the "Village of Matinecock Zoning Ordinance."

§ 195-3 Word usage and definitions.

A. General construction of language.

- (1) All words used in the present tense include the future tense, all words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise.
- (2) Unless otherwise specified, all distances shall be measured horizontally.
- (3) The word "Village" means the Village of Matinecock. The term "Village Board" means the Mayor and Board of Trustees of said Village; the term "Board of Appeals" means

the Zoning Board of Appeals of said Village; the term "Planning Board" means the Village Planning Board of said Village; and the term "Village Plan" means the plan adopted by the Village Planning Board pursuant to § 7-722 of the Village Law.

(4) The word "shall" is mandatory and not directory.

B. Terms, phrases and words used in this chapter and not otherwise defined herein shall have the meaning given in the New York State Uniform Fire Prevention and Building Code.
[Amended 2-1-1997 by L.L. No. 1-1997]

C. For purposes of this chapter, certain words and terms used herein are defined as follows:

ACCESSORY DWELLING -- An accessory building which is designed and equipped to be used for overnight habitable purposes for a single dwelling unit and is located on a lot which contains a principal dwelling. [Added 7-15-2003 by L.L. No. 4-2003]

ALTER -- To change or rearrange the structural parts or the exit facilities of a structure or to move a building from one location or position to another.

AREA, BUILDING -- The total area of a lot covered by all buildings thereon, both principal and accessory, measured by the exterior dimensions of such buildings, but not including uncovered porches, steps and terraces.

AREA, FLOOR -- The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior face of exterior walls or from the center line of walls separating two buildings, and excluding breezeway and garage areas and basement and attic floor areas used only for accessory uses.

BASEMENT -- That portion of a building wholly or partly underground which extends no more than four feet above the adjoining finished grade.

BUILDING -- Any structure having a roof supported by columns or by walls and intended for the shelter, housing or use of persons or the enclosure of animals or chattels. The term "building" shall also include the words "principal building," "accessory building" and "structure." The word "building" shall be construed as though followed by the words "or part thereof." [Amended 6-23-1982 by L.L. No. 2-1982; 7-15-2003 by L.L. No. 4-2003]

BUILDING, ACCESSORY -- A building or structure which is subordinate and accessory to the principal use or building on the same lot and which is used for purposes customarily incidental to those of the principal building, such as and including a private garage; private swimming pool and appurtenant bathhouse; swimming pool filtration equipment; generator, heating and air conditioning equipment and other similar mechanical equipment; private toolhouse; private children's playhouse; private tennis house, tennis court and other recreational courts; deck; patio; terrace; courtyard used for parking of motor vehicles; private riding ring; private stable;

noncommercial greenhouse. Accessory dwellings are not permitted unless allowed pursuant to § 195-12B(8). Mailboxes, piers, gate posts, light poles, fences, statuaries and other similar structures which do not generate noise or activity shall not be deemed accessory buildings. [Amended 7-18-2000 by L.L. No. 3-2000; 7-15-2003 by L.L. No. 4-2003]

BUILDING LENGTH -- The least horizontal distance between the furthestmost walls of a building.

BUILDING, PRINCIPAL -- A building in which is conducted the main or principal use of the lot on which said building is situated.

CAMP -- Any area of land or water, including any building or structure or group of buildings or structures, used for temporary or seasonal living, camping and/or sports and recreation purposes or activities, but excluding municipally owned areas and buildings or structures used by a municipality for such recreation purposes.

CAMP, DAY -- Any camp as defined in this chapter offering day care, instruction, recreation, play or sports for adults or children and not qualifying as a private school as herein set forth.

COVERAGE -- That percentage of the lot area covered by the combined area of all buildings or structures on the lot.

DRIVEWAY -- An area surface either improved with gravel, crushed stone or other paving material or compacted, to be used or intended to be used to provide for vehicular access to a lot. [Added 7-15-2003 by L.L. No. 4-2003]

DWELLING -- A detached building designed or used exclusively as living quarters. The term shall not be deemed to include an automobile court, motel, boardinghouse or rooming house, mobile house trailer, tourist home or tent. [Amended 7-15-2003 by L.L. No. 4-2003]

DWELLING, ONE-FAMILY -- A dwelling containing one dwelling unit only.

DWELLING UNIT -- A building or portion thereof providing complete housekeeping facilities for one family.

FAMILY -- One or more persons occupying a dwelling unit and living as a single housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond.

FARM, FARM USE AND CUSTOMARY FARM OCCUPATION

- (1) **FARM or FARM USE** -- The use of a parcel of land, either as a principal or accessory use, for the purpose of producing agricultural, horticultural, floricultural, vegetable and fruit products of the soil, livestock and meats, poultry, eggs, dairy products, nuts, honey, wool and hides, but shall not include the breeding, raising or maintaining of fur-bearing animals, riding academies, livery stables or animal kennels. A garden, accessory to a

residential use, shall not be deemed a farm or farm use.

- (2) CUSTOMARY FARM OCCUPATION -- The conducting of usual farm activities and shall include the processing of the products of only the farm on which such processing is conducted.

FILED MAP -- Any map, survey or plat filed in the County Clerk's office of Nassau County.

FRONTAGE -- The extent of a building or a lot along a street.

GARAGE, PRIVATE -- An accessory building or part of a main building used only for the permitted storage of motor vehicles.

GRADE, FINISHED -- The finished grade of any point along the wall of a building shall be the elevation of the completed surfaces of lawns, walks and roads adjoining the wall at that point.

HEIGHT OF BUILDING -- The vertical distance from the average established grade in front of the lot or from the average natural grade at the building line, if higher, to the level of the highest point of the roof. When a lot fronts on two or more streets of different levels, the lower street, or the average elevation of the lot with regard to the abutting streets, may be taken as the base for measuring the height of the building. Chimneys extending not more than three feet above the highest point of the roof shall not be included in building height. For an accessory building having a roof with a pitch equal to or greater than six over 12 feet, the building height shall be the vertical distance measured to the midpoint between the highest and lowest points of the roof. An accessory building, regardless of roof type, shall not exceed one story. [Amended 7-15-2003 by L.L. No. 4-2003]

HOME OCCUPATION -- An accessory use of a character customarily conducted entirely within a dwelling by the residents thereof, using only customary home appliances, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character thereof, does not have any exterior evidence of such secondary use other than a small nameplate not over two square feet in area and does not involve the keeping of a stock-in-trade. The conducting of a clinic, hospital, barbershop, beauty parlor, photographer salon, tea room, tourist home, real estate office, animal hospital, dancing instruction, music instruction, band instrument instruction in groups, convalescent home, funeral home, stores of any kind or any similar use shall not be deemed to be a home occupation.

IMPROVED SURFACES -- All buildings, as defined herein, as well as all areas on the ground or elevated above the ground which are comprised of materials such as asphalt, concrete, masonry, wood, gravel or partially opened paving stones, and including elements such as swimming pools, courtyards, volleyball courts, tennis courts and other recreational courts, decks, patios, terraces and driveways. [Added 7-15-2003 by L.L. No. 4-2003]

LOT -- A parcel of land, not divided by streets, devoted or to be devoted to a particular use or

occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this chapter, and having its principal frontage on a street or on such other means of access as may be deemed in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for a building or buildings on such land.

LOT AREA -- The land area within the legal boundaries of a lot measured from the street line (if applicable) to the outer boundary lines of a lot, excluding any portion of the lot which:
[Amended 7-15-2003 by L.L. No. 4-2003; 9-9-2008 by L.L. No. 2-2008]

- (1) Has less than 1/2 of the minimum lot width;
- (2) Lies within a driveway, right-of-way or access easement benefitting lands of another;
- (3) Is under water, to the extent that the portion under water exceeds 10% of the minimum lot area for the zoning district in which the lot lies; and
- (4) Contains lands with extremely steep slopes, and for lands with very steep slopes, 50% of the area of the lot that contains very steep slopes shall be excluded from lot area, except for those lots within the R-5A Zoning District. For lots within the Five-Acre Zoning District, land with very steep slopes shall not be excluded from lot area if at least 43,560 square feet of contiguous area that lies within the allowable buildable area contains land with topographical gradient less than 15%. All slopeland exclusions to lot area herein are applicable only to lots that are approved by the Planning Board after June 1, 2008.

LOT, CORNER -- A lot of which at least two adjacent sides each abut for a distance of 50 feet or more on streets or public places. Any other lot is an interior lot. The owner, when first applying for a building permit, shall designate which of the two streets is to be the principal frontage for the purpose of establishing the front, rear and side yard requirements of the lot.

LOT DEPTH -- The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT LINES -- The property lines bounding a lot as defined herein.

- (1) **LOT LINE, FRONT** -- In the case of a lot abutting upon only one street, the line separating the lot from the street. In the case of any other lot, the owner shall, for the purpose of this chapter, have the privilege of electing any street lot line as the front lot line.
- (2) **LOT LINE, REAR** -- The lot line which is generally opposite the front lot line. If the rear lot line is less than 10 feet in length or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line not less than 10 feet long,

lying wholly within the lot and farthest from the front lot line.

- (3) LOT LINE, SIDE -- The property line or lines extending from the front lot line to the rear lot line.

LOT, THROUGH -- A lot having frontage on two parallel or approximately parallel streets and extending from street to street. The front yard regulations shall apply on each street.

LOT WIDTH -- The horizontal distance between the side lot lines, measured at right angles to the lot depth. [Amended 7-15-2003 by L.L. No. 4-2003]

NONCONFORMING USE -- A use of a building or of land that does not conform to the regulations as to use in the district in which it is situated, which use was lawful at the time this chapter or amendments thereto became effective.

OFFICIAL MAP -- A map adopted by the Village Board showing streets, highways and parks already laid out, adopted and established by law. Drainage systems may also be shown on this map.

PARK -- The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers. [Added 2-1-1997 by L.L. No. 1-1997]

PARKING AREA -- An off-street area containing one or more parking spaces, with passageways and driveways appurtenant thereto. In general, there shall be an average of about 350 square feet of parking area per parking space.

PARKING SPACE -- An off-street space available for the parking of one motor vehicle on a transient basis and having a width of nine feet and an area of not less than 190 square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to a street.

SCHOOL, PRIVATE [Amended 7-15-2003 by L.L. No. 4-2003]

- (1) Includes the following: parochial or church-conducted primary and secondary schools and (private) nursery, kindergarten, primary and secondary schools either chartered by the Regents of the University of the State of New York or approved by and under the supervision of the New York State Department of Education or chartered by a special act of the legislature; which parochial and private primary schools shall furnish academic instruction as required by § 3204 of the Education Law, and all of which enumerated schools shall have curricula similar to those of public schools approved by said Regents or said Department and shall give regular instruction to pupils at least five days a week (holidays in any week excepted) for not less than nine consecutive months in each year, but which schools shall be conducted only during the period between

September 1 and July 1 of each year (a period coextensive with the period during which public schools are required to be in session), and all of which secondary schools shall give examinations which are no less stringent than regents examinations; provided, however, such schools may also conduct summer educational programs devoted to subjects or activities which are part of, or similar to, the regular school curriculum.

- (2) The foregoing enumeration shall in no case include schools, though chartered, giving special or limited instruction, that is: trade schools, business schools or vocational schools, such as, but not limited to, music schools, drama schools, art schools, automobile driving schools, real estate and insurance schools, radio and television schools, beauty culture and massage schools, charm schools, fashion schools, interior decorating schools, swimming schools, dancing schools, barber schools and other similar types of schools.

SIGN -- Any device for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public. For the purposes of this chapter, signs shall be divided into five categories, namely advertising, announcement, business, official road and real estate, all of such being more specifically defined in this section. For the purposes of this chapter, signs shall be considered to be structures and shall be subject to all regulations applicable to structures.

SIGN, ADVERTISING -- Any sign advertising the sale of goods, the performance of services or the name or location of a proprietor not located on the lot upon which the sign is displayed. Billboards and similar signs shall be included in the term "advertising sign."

SIGN, ANNOUNCEMENT -- Any sign used to announce the use of the lot upon which displayed for a professional office, home occupation or religious, charitable or other institutional use.

SIGN, BUSINESS -- Any sign used to advertise the use of the lot on which displayed for the sale of goods, the performance of services or the name or location of the proprietor, but not including a real estate sign. Such sign may be located on or attached to a wall of a building, but not projecting above the highest point of the roof of such building, or may be freestanding.

SIGN, OFFICIAL ROAD -- Any sign erected by a Village, town, county or state agency and used to inform, control or direct traffic on a street.

SIGN, REAL ESTATE -- Any sign used to advertise the sale, lease, rental, availability or location of real estate or housing development, including the seasonal use type of development. Such signs shall be further classified and defined into three groups, as follows:

- (1) **SALE OR LEASE SIGN** -- A real estate sign used to advertise the sale or lease of only the particular building or lot on which such sign is displayed.

- (2) REAL ESTATE DEVELOPMENT SIGN -- A real estate sign used to advertise the sale or lease of building lots or buildings, part of a subdivision, or other real estate development and located within the boundaries of such subdivision or development.
- (3) SEASONAL USE SIGN -- A real estate sign used to advertise the availability of seasonal housing or seasonal facilities or to direct the public thereto.

SIGN SIZE -- The area which results by multiplying the outside dimensions of a sign, not including the vertical, horizontal or diagonal supports which may affix the sign to the ground or to a structure or building. Where the sign consists of individual letters or symbols attached to or painted on a building, the area shall be considered to be that of the smallest rectangle which encompasses all of the letters or symbols.

SLOPELANDS -- Slope lands shall consist of steep slope, very steep slope, and extremely steep slope measured from original natural grade in two foot intervals, covering an area of 750 square feet or greater and with a minimum horizontal width of at least 25 feet as follows: [Added 9-9-2008 by L.L. No. 2-2008]

- (1) STEEP SLOPE -- All areas of land with a topographical gradient equal to or greater than 15% but less than 25%.
- (2) VERY STEEP SLOPE -- All areas of land with a topographical gradient equal to or greater than 25%, but less than 35%.
- (3) EXTREMELY STEEP SLOPE -- All areas of land with a topographical gradient equal to or greater than 35%.

STAND, ROADSIDE -- Any building or structure, with or without walls or roof, used to display and store produce and other farm products intended to be sold at retail to the traveling public.

STORY -- That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. A basement shall be counted as a story if the ceiling is more than four feet above the level from which the height of the building is measured or if it is used for business purposes or for dwelling purposes by other than a janitor or watchman.

STORY, HALF -- A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of such story.

STREET -- A way which is an existing state, county or Village highway or a way shown upon a subdivision plat approved by the Village Planning Board as provided by law or on a plat duly filed and recorded in the office of the County Clerk.

STRUCTURE -- Anything constructed or erected, the use of which requires location on the

ground or attachment to something having location on the ground.

SWIMMING POOL -- Any artificial body of water or receptacle for water having a depth at any point greater than 18 inches and used or intended to be used for swimming or bathing and permanently constructed, installed or maintained in or above the ground out of doors.

TERRACE -- An uncovered, flat platform of earth with or without a surface material or retaining walls.

USABLE OPEN SPACE -- A portion of the ground area of a lot which is available and accessible to all occupants of a dwelling unit or dwelling units on said lot for outdoor recreation use, which area is not devoted to driveways or parking spaces, is at least 25 feet in minimum dimension and has no more than 10% of its area with a grade of more than 5%.

USE -- The specific purpose for which land, water or a building or structure is designed, arranged or intended or for which it is or may be occupied or maintained.

VEHICLE -- Every device in, upon or by which any person or property is or may be transported or drawn upon a roadway, except devices designated to be moved by human power. [Added 2-1-1997 by L.L. No. 1-1997]

VEHICLE, COMMERCIAL -- Vehicles used primarily in business and industry, including vans, trucks, tractors, trailers, tractor-trailer combinations and tractor-semitrailer combinations, buses and taxicabs. [Added 2-1-1997 by L.L. No. 1-1997]

YARD -- An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as may be specifically authorized in this chapter. In measuring a yard, as hereinafter provided, the line of a building shall be deemed to mean a line parallel to the nearest lot line, drawn from a point of a building or the point of a group of buildings nearest to such lot line, and the measurement shall be taken at right angles from the line of the building as defined herein to the nearest lot line.

YARD, FRONT -- A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building.

YARD, REAR -- A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

YARD, SIDE -- A yard between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard or, in the absence of either such yard, to the front and rear lot line, as the case may be.

ARTICLE II, Establishment of Districts

§ 195-4 Classification.

The Village is hereby divided into the following classes of districts:

- A. R-5A One-Family Rural Residence District (five acres).
- B. R-2A One-Family Residence District (two acres).
- C. R-15 One-Family Residence District (15,000 square feet).
- D. R-10 One-Family Residence District (10,000 square feet).
- E. Business District.

§ 195-5 Zoning Map.

Said districts are bounded and defined as shown on a series of maps procured from the Nassau County Land and Tax Map Department, adopted collectively as the Zoning District Map of the Village of Matinecock, adopted on July 24, 1962, and certified by the Village Clerk, an extract of which map appears at the end of this chapter for information only, and which map, with all explanatory matter thereon, is hereby made a part of this chapter.

§ 195-6 Interpretation of district boundaries.

Where uncertainty exists as to the location of any boundaries shown on the Zoning Map, the following rules shall apply:

- A. District boundary lines are intended to follow streets, rights-of-way, watercourses or lot lines or to be parallel or perpendicular thereto, unless such district boundary lines are fixed by dimensions or are otherwise shown on the Zoning District Map above referred to.
- B. Where district boundaries are indicated as following approximately streets, rights-of-way or watercourses, the center lines thereof shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they approximately follow the edge of lakes, ponds, reservoirs or other bodies of water, the mean high water lines thereof shall be construed to be the district boundaries.

- D. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.
- E. If the district classification of any land is in question, it shall be deemed to be in the most restrictive adjoining district.

§ 195-7 Order of restrictiveness.

Where districts are referred to as "more restrictive" or "less restrictive," the designation shall refer to the order in which the districts are named above, the first name being the most restrictive.

§ 195-8 Lots in two or more districts.

Where a lot in one ownership of record is divided by one or more district boundary lines, regulations for the less restricted portion or portions of such lot shall not extend into the more restricted portion or portions.

ARTICLE III, Use and Area Regulations

§ 195-9 Applicability; interpretation.

- A. No building shall be erected, moved, altered, rebuilt or enlarged nor shall any land, water or building be used, designed or arranged to be used for any purpose except in conformity with this chapter.
- B. In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public health, safety, morals, comfort, convenience and general welfare.
- C. This chapter shall not be deemed to affect in any manner whatsoever any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land or upon the erection, construction, establishment, moving, alteration or enlargement of buildings than is imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations or by easements or covenants or agreements, the provisions of this chapter shall prevail.

§ 195-10 General regulations.

The provisions of this chapter shall be subject to such exceptions, additions or modifications as herein provided by the following general supplementary regulations.

A. Buildings, uses and lots.

- (1) Lot for every building. Every building hereafter erected shall be located on a lot as herein defined, and, except as herein provided, there shall be not more than one main building and its accessory buildings on one lot, except for nonresidential buildings in districts where such uses are permitted.
- (2) Yard and open space for every building. No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building. No yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.
- (3) Subdivision of a lot. Where a lot is formed hereafter from the part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this chapter with respect to the existing building and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection, alteration or use of a building on the new lot thus created unless it complies with all the provisions of this chapter.
- (4) Irregularly shaped lots. Where a question exists as to the proper application of any of the requirements of this chapter to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the Board of Appeals shall determine how the requirements of this chapter shall be applied.
- (5) Lots under water or subject to flooding. No more than 10% of the minimum area requirements of a lot may be fulfilled by land which is under water or subject to periodic flooding. Land which is under water that is open to use by persons other than the owner of the lot shall be excluded entirely from the computation of the minimum area of that lot. For the purposes of this subsection, land in the bed of a stream not exceeding five feet in width at mean water level and land in any pond not exceeding 150 square feet in area shall not be considered as under water.
- (6) Required street frontage. No building permit shall be issued for any structure unless the lot upon which that structure is to be built has the required frontage of at least 50 feet on a street or highway as defined in § 7-736 of the Village Law, which street or highway shall have been suitably improved or a bond posted therefor to the satisfaction of the

Village Board or Planning Board as provided in the Village Law.

- (7) New building on lots less than the minimum area. A permit may be issued for the erection, alteration or use of a building on a lot or parcel for which a valid conveyance has been recorded prior to the adoption of this chapter, notwithstanding that the area of such lot or parcel is less than that required for the district in which such parcel or lot lies, provided that all yard setbacks and other requirements which are in effect at the time of the obtaining of the building permit are complied with, insofar as such is feasible, and provided that the owner of such a lot or parcel does not own other lots or parcels contiguous thereto. If this is the case, such other lots or parcels, or so much thereof as might be necessary, shall be combined with the original lot or parcel to make a single conforming lot or parcel, whereupon a permit may be issued, but only for such combined lots or parcels even though their total is less in area than required by this chapter for the district in which they lie. In the case of contiguous lots or parcels acquired by a municipal corporation through foreclosure or other proceedings prior or subsequent to the adoption of this chapter, these lots or parcels shall be sold in such manner that they may comply with the requirements of this subsection.
- B. Yards, yard improvements, building projections and setbacks. [Amended 4-18-2000 by L.L. No. 2-2000; 7-15-2003 by L.L. No. 4-2003]
- (1) Porches. No porch may project into any required yard. Any two-story or any enclosed porch, or one having a roof and capable of being enclosed, shall be considered a part of the building in determining the yard requirements or amount of lot coverage.
 - (2) Projecting horizontal architectural features. Architectural features, such as windowsills, belt courses, chimneys, cornices, eaves or bay windows, shall not project more than three feet into any required yard. The sum of any bay window projections on any wall shall not exceed 1/4 the length of said wall.
 - (3) Fire escapes. Open fire escapes may extend into any required yard not more than six feet.
 - (4) Fences and walls.
 - (a) No fence shall be erected or constructed on any premises without a permit. For the purpose of this subsection, a fence shall include, but not be limited to, a wall, pier or other structure constructed in the nature of a fence. A fence, excluding gates, shall not exceed 6 1/2 feet in height measured from the existing natural grade. A fence shall be of the material and design compatible with the surrounding adjoining properties installed with the finished side facing out towards the property boundary lines. Whenever possible, fence posts shall be constructed on the interior side of the

fence, unless the fence has two finished sides.

- (b) The Building Inspector may require that an applicant for a fence permit submit a current property survey, an affidavit of the owner that the fence will be installed on his property and evidence that the applicant has notified all adjacent landowners by certified mail, return receipt requested, of the permit application.
 - (c) The fee for a fence permit shall be \$50.
- (5) Corner lots. On a corner lot there shall be provided a side yard on the side street equal in depth to the required front yard on said lot.
 - (6) Visibility at intersections. On a corner lot no fence, wall, hedge or other structure or planting more than three feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are 30 feet distant from the point of intersection measured along said street lines. The height of three feet shall be measured above the road surface at the nearest edge of the road traveled way. This subsection shall not apply to existing trees, provided that no branches are closer than six feet to the ground.
 - (7) Projecting features above the roof level. The height limitations of this chapter shall not apply to church spires, belfries, cupolas and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, bulkheads or similar features and necessary mechanical appurtenances usually carried above the roof level. These features, however, shall be erected only to a height necessary to accomplish the purpose they are intended to serve. The total area covered by such features shall not exceed 15% of the area of the roof on which they are located, and in the case of communication-receiving antennas they shall not exceed 30 feet in height above the roof level.
- C. Minimum dwelling unit size. No dwelling unit created subsequent to the adoption of this chapter shall have a habitable floor area of less than that required in § 195-14. Such habitable floor area shall include all floor area used for human occupancy within the exterior walls of the buildings but shall not include open porches or breezeways, basements, uninhabitable or unfinished attic space or space with a headroom of less than seven feet six inches. No church, club, private college, university or school shall have a usable floor area less than that set forth in Item 12 of § 195-14 hereof.
 - D. Storage and parking of vehicles and boats. [Added 2-1-1997 by L.L. No. 1-1997]
 - (1) The following vehicles shall not be parked between the hours of 6:00 p.m. and 6:00 a.m. or stored on any private property within the Village:

- (a) Commercial vehicles.
 - (b) Construction, excavation or grading equipment.
 - (c) Unregistered vehicles.
 - (d) Mobile homes, motor homes, recreational vehicles or any similar vehicle designed to be used for human habitation or trailers or semitrailers.
- (2) Subsection D(1) shall not prohibit the delivery or pickup of merchandise nor prohibit the parking of commercial vehicles or construction, excavation or grading equipment on private property, the use of which is required to perform bona fide repair of or duly authorized construction at the premises or a recognized municipal purpose. Subsection D(1) shall not apply to a vehicle if it is parked or stored in a fully enclosed building.
- (3) No houseboat, boat, ship, cruiser, rowboat, skiff or other marine vessel or vessel as defined in the Navigation Law shall be stored on any private property within the Village for more than 30 days during any calendar year unless the same shall be stored within a fully enclosed private garage or at a location where said vessel is concealed at all times from neighboring property.
- (4) In the R-10 (10,000 square feet) and R-15 (15,000 square feet) Zoning Districts of the Village, the following are permitted, notwithstanding the restrictions of Subsection D(1) and (3):
- (a) No more than two, or a combination of, pickup trucks or vans, provided that each vehicle does not exceed 18 feet in length.
 - (b) No more than one unregistered vehicle for a period not to exceed 30 days.
 - (c) No more than one recreational vehicle, provided that the vehicle does not exceed 24 feet in length and 10 feet in height.
 - (d) No more than one vessel, provided that the vessel does not exceed 24 feet in length and 10 feet in height.

§ 195-11 Interpretation of schedules.

The following schedules of regulations list and define the uses of land and buildings, the height of buildings, the yards and other open space to be provided in connection with buildings, the area of lots and other matters. It is the intention that the uses set forth for each district shall not be permitted uses in following districts unless allowed specifically or by reference as permitted uses in said following districts. Only those uses listed for each district as being permitted shall be

permitted. A use not listed specifically or by reference as being permitted in a district shall be deemed a nonpermitted use in that district.

§ 195-12 Schedule of uses for all rural and residence districts.

A. Permitted principal uses are as follows:

- (1) Detached single-family dwellings.
- (2) Churches for public worship and other strictly religious uses and in accordance with the discipline, rules and usages of the religious corporation which will own, support and maintain such church and the ecclesiastical governing body, if any, to which such corporation is subject, the membership of which church shall be at least partially composed of Village inhabitants, said use to be subject to the applicable standards and requirements set forth in §§ 195-15 and 195-16, inclusive, and § 195-19 hereof. Such use shall include accessory uses on the same lot and customarily incidental and subordinate to such use as a church.
- (3) Pumping, storage, sale and distribution of water, including water towers, when approved by and made subject to conditions imposed by the Board of Trustees after written application thereto and the issuance of a permit.
- (4) Incorporated nonprofit clubs for outdoor recreation, expressly excepting any club a chief activity of which is a service customarily carried on as a gainful business, subject to the applicable standards and requirements set forth in §§ 195-15 and 195-16, inclusive, and § 195-18.
- (5) Indoor tennis court nonprofit clubs with respect to a tennis court building in existence at the time of the enactment of this chapter with at least two acres surrounding the same.
- (6) Public primary and secondary schools and other schools conducted by trustees of school districts under Article 89 of the Education Law, with customary accessory uses.
- (7) State universities, colleges and schools and community colleges, with customary accessory uses.
- (8) Private colleges and universities chartered by the Regents of the University of the State of New York or by special act of the legislature, including accessory uses on the same lot and customarily incidental and subordinate to the main use, subject to the applicable standards and requirements set forth in §§ 195-15 and 195-16, inclusive, and § 195-17 hereof.
- (9) Private schools as hereinbefore defined, including accessory uses on the same lot and

customarily incidental and subordinate to such use as a school, subject to the applicable standards and requirements set forth in §§ 195-15 and 195-16, inclusive, and § 195-17 hereof. Such permitted private schools shall in no event be deemed to include any camp as is hereinbefore defined, which said use is hereby expressly prohibited.

- (10) Farm dwellings, subject to the applicable standards and requirements set forth in §§ 195-15 and 195-16, inclusive, and § 195-20 hereof. [Added 4-17-1979 by L.L. No. 2-1979]

B. Permitted accessory uses are as follows:

- (1) Animals and horticulture. [Amended 10-25-1978 by L.L. No. 3-1978; 7-15-2003 by L.L. No. 4-2003]
- (a) Keeping of dogs.
 - (b) Horticulture, including noncommercial greenhouses, provided that no fertilizer is stored within 100 feet of any such boundary line unless kept in airtight storage.
 - (c) With respect to the accessory uses enumerated in Subsection B(1)(a) and (b), the uses shall be noncommercial and all buildings and structures used in connection with such use shall be set back at least 75 feet from each boundary line of the lot and at least 100 feet from all street lines. Buildings and structures used as a dog kennel or enclosed dog run shall be set back at least 500 feet from every boundary line and street line.
- (2) The keeping of horses or livestock on a lot in a residential district only for the personal use of occupants of a dwelling on such lot and provided that there is compliance with the following standards and conditions: [Added 10-25-1978 by L.L. No. 3-1978]
- (a) No such use shall be permitted on lots having less than two acres of land.
 - (b) The number of horses and livestock and the number of stalls and structural facilities reasonably necessary for the shelter of the same permitted on each lot shall not exceed the following: two horses or livestock (in any aggregate combination) for the first two acres of lot area plus one additional horse or livestock for each additional acre of lot area, subject to the provisions of Subsection B(2)(h) below.
 - (c) Any such horse or livestock shall be beneficially owned in fact, as well as in title, solely by the resident occupants of the lot, who shall, upon written request of the Building Inspector, produce a sworn affidavit and other reasonable evidence of said ownership.
 - (d) The boarding or keeping on any lot of horses or livestock owned by or for the use or

benefit of persons other than those who are the resident occupants of such lot is strictly prohibited.

- (e) All grain-type feed shall be kept in rodent-proof metal containers.
 - (f) No manure shall be stored or permitted to accumulate within 100 feet from any boundary line. The Building Inspector shall approve the storage area for manure, and it shall be treated in such a manner so that it shall not create any odor or attract or harbor any rodents, flies or other insects or create any nuisance to the adjoining properties.
 - (g) The location of stables, barns and sheds used to shelter horses and livestock shall be subject to the setback requirements for a main building as set forth in § 195-14 and, in addition, shall be set back 100 feet from any principal dwelling on any adjacent lots, except that any private riding ring, private paddock, corral fencing or other roofless enclosure for horses and livestock and any unenclosed area for their unattended maintenance shall be located not less than 75 feet from any side or rear boundary line, 75 feet from any front boundary line and 100 feet from any principal dwelling on any adjacent lot.
 - (h) No person shall keep more than five horses or livestock on any one lot irrespective of its area unless a special permit for the same is authorized and approved by the Board of Appeals in a manner and in accordance with the standards stipulated in §§ 195-15 and 195-16 of this chapter.
- (3) The carrying on of a home occupation by a person residing in the dwelling unit in which such home occupation is carried on, provided that there is no display of goods or advertising visible from any street, that no assistant is employed and that no mechanical or electrical equipment is used, except ordinary household equipment, and provided that the space so used does not occupy more than 1/4 of the total floor area of the dwelling unit and provided, further, that such home occupation is not carried on in any accessory building.
 - (4) Real estate activities of an owner or of his duly authorized agent in connection with his property within the Village.
 - (5) The office or studio of a physician, surgeon, architect, dentist, teacher, painter or sculptor, musician, lawyer or engineer residing in the dwelling unit in which such office or studio is located, provided that:
 - (a) There is no display or advertising on the premises in connection with such use, except for a professional nameplate not over one square foot in area, provided that said nameplate shall comply with the provisions of Article V of this chapter;

- (b) Such studio or office does not occupy more space than the equivalent of 1/3 of the area of one floor of such dwelling and such use is merely incidental to the use of such dwelling unit primarily for residential purposes;
 - (c) Any such musician's studio is equipped and used in such a manner that sounds therefrom are not unduly annoying to other persons on nearby premises or public places;
 - (d) No assistants, whether paid or not, may participate in such use, except that one assistant may be employed if the nature of the profession is such as to require an assistant;
 - (e) No use shall be made of more than one building in connection with such professional use; and
 - (f) Such professional use by the artist shall not be deemed to include the right to engage in wholesale or retail trade, as such term is ordinarily understood.
- (6) Accessory buildings. [Amended 7-15-2003 by L.L. No. 4-2003]
- (7) Private garage for noncommercial passenger vehicles used by occupants of the premises and commercially licensed vehicles used for agricultural and horticultural purposes on the premises.
- (8) Accessory dwellings legally existing as of July 1, 2003. An accessory dwelling legally existing prior to July 1, 2003, may be rented or occupied by persons other than bona fide domestic employees only if the lot upon which the principal and accessory dwellings are located has sufficient surplus land area so as to provide a minimum land area for each principal and accessory dwelling as required in the district in which the lot is located as if each dwelling were situated on a separate lot. Legally existing accessory dwellings not complying with this minimum land area shall not be rented and shall be occupied only by bona fide domestic employees after July 1, 2003. No other accessory dwelling may be erected, created, altered or enlarged, and no existing structure may be converted into an accessory dwelling. [Added 7-15-2003 by L.L. No. 4-2003]
- C. No use carried on as a business shall be permitted in any accessory building. The renting to a tenant of any accessory building alone and not in conjunction with the principal building or principal use shall constitute a prohibited business use.

§ 195-13 Schedule of uses for the Business District.

In the Business District no building or premises shall be used or maintained for any except the following purposes and no other, and no building shall hereafter be erected, enlarged or altered

if, as so erected or as a result of such enlargement or alterations, such building or any part thereof is arranged, designed or intended to be used for any except the following purposes:

- A. Any use permitted in a residence district.
- B. Store.
- C. Restaurant.
- D. Carpenter, cabinetmaking or decorator.
- E. Coal, lumber, hardware, building materials and paints.
- F. Community house or building for any approved municipal purpose of the Village.
- G. Accessory use on the same lot with and customarily incidental to any of the above permitted uses.

§ 195-14 Schedule of area, yard and other dimensional standards. [Amended 7-15-2003 by L.L. No. 4-2003]

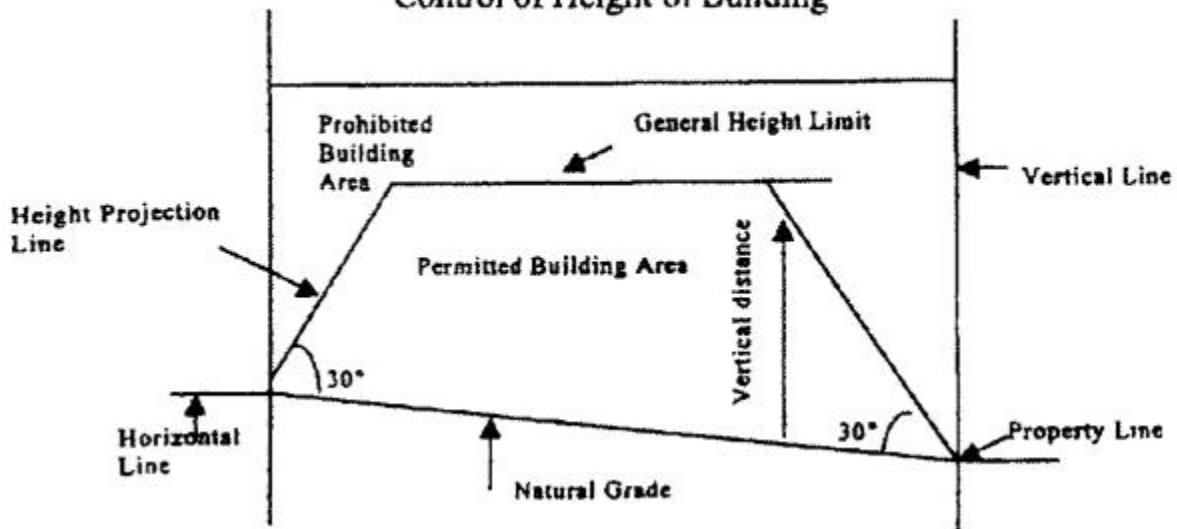
Standards shown are minimum requirements unless otherwise indicated. Dimensions are in feet unless otherwise indicated.

		R-5A	R-2A	R-15	R-10	Business
1.	Lot area	5 acres	2 acres	15,000 square feet	10,000 square feet	
2.	Street frontage	50	50	75	60	100
3.	Street frontage on circumference of cul-de-sac	90	90	60	60	
4.	Lot width ^a	300	200	100	60	100
5.	Lot depth	300	250	100	100	100
6.	Front yard ^b	75 ^e	50 ^e	40	30	50

		R-5A	R-2A	R-15	R-10	Business
7.	Side yard	60 ^e	50 ^e	20	15	d
	Principal or accessory building					
	Driveway	25	15	5	5	
8.	Rear yard	60 ^e	50 ^e	30	15	d
	Principal or accessory building					
	Driveway	25	15	5	5	
9.	Maximum height ^c	35	35	35	35	35
	Main building					
	Accessory building	15	15	15	15	35
10.	Floor area per dwelling unit (square feet)	1,400	1,600	900	750	
	1 story principal					
	Minimum	7,000	5,000	2,500	2,500	
	Maximum					
	1 1/2 story principal	1,900	1,900	1,200	1,000	
	Minimum					
	Maximum	8,000	7,000	2,500	2,500	

		R-5A	R-2A	R-15	R-10	Business
	2 story principal	2,200	2,200	1,500	1,250	
	Minimum					
	Maximum	12,000	9,000	3,000	3,000	
	Accessory dwelling maximum	2,500	2,000	900	900	
11.	Maximum building area (all buildings) ^f	15%	15%	25%	25%	
12.	Maximum building area, principal building ^f	4%	6%	20%	20%	
13.	Maximum area of improved surface ^f	15%	20%	30%	30%	
14.	Usable minimum floor areas for churches, clubs and classrooms in private colleges, universities and schools: 25 square feet for each occupant as aforesaid of each of said buildings.					
15.	Required off-street parking in the Business District: one parking space for each 200 square feet of floor area.					
16.	Setback based upon building height. In the R-5A and R-2A Zoning Districts, principal and accessory buildings shall be set back from all property lines so that the height of the building does not exceed the vertical distance between an imaginary line known as the "height projection line" and the natural grade of the property immediately adjacent to that portion of the building closest to the property line; provided, however, that the height shall not in any case exceed the maximum height permitted above nor shall the setback of the building be less than the minimum yards set forth above. The height projection line shall be defined as an imaginary line projecting upward at a thirty-degree angle from a point at the intersection of a horizontal line drawn at the elevation of the natural grade and the property line nearest the building. (See Exhibit A.)					

Exhibit A
Typical Elevation View Showing
Control of Height of Building



NOTES:

- ^a Within any residence district, no part of any dwelling or other structure housing a main use and no part of any residence structure shall be erected on that part of a lot where the lot width is less than the minimum requirement for the district in which it is located.
- ^b On streets with less than a fifty-foot right-of-way, all buildings shall be set back a distance, measured from the center line of the existing roadway, of at least the required front yard plus 25 feet.
- ^c Except as provided in § 195-10B(7).
- ^d None, except 20 feet next to a residential district.
- ^e Subject to additional requirement No. 16 of § 195-14.
- ^f Defined as a percentage of lot area.

ARTICLE IV, Uses Subject to Additional Standards

§ 195-15 Uses deemed permitted uses; general requirements.

- A. General provision. The uses for which conformance to additional standards is required by this chapter shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein in addition to all other requirements of this chapter. All uses listed as subject to additional standards are declared to possess characteristics of such unique and distinct form that each specific use shall be considered as an individual case, and they shall conform to the following general requirements as well as the pertinent specific requirements.
- B. General requirements for uses under this article.
- (1) The location and size of the use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it shall be such that it will be in harmony with the appropriate and orderly development of the neighborhood in which it is proposed to be located and shall accord with and promote the purposes set forth in § 7-704 of the Village Law.
 - (2) The operation in connection with any such use shall not be more objectionable to nearby properties, by reason of noise, vibration, excessive light, smoke, gas, fumes, odor or other atmospheric pollutant, than would be the operations of any other permitted use in the same zoning district.
 - (3) The entrance and exit drives shall be laid out so that there is maximum safety for vehicular traffic and pedestrians.
 - (4) Buffer planting, walks and fences shall be required, where necessary, to protect adjoining residential properties. Such planting shall be specified in detail when a plan is approved.
 - (5) Exterior lighting shall be so installed and arranged as to reflect light away from adjoining streets and to prevent any nuisance to property in adjoining residence districts.

§ 195-16 Building permit procedure.

- A. Application for a building permit; required map and plan. An application for a building

permit involving a use subject to additional standards shall be made to the Building Inspector. An area map, showing the location of the property with respect to surrounding property, streets and other important features, and a plan for the proposed development shall be submitted with an application for a building permit. The plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, topography, special features and any other pertinent information, including such information about neighboring properties as may be necessary to determine that the requirements of this chapter are met.

- (1) Every application made pursuant to this section to the Board of Appeals for a permit shall contain and conform to the following regulations:
 - (a) The person, firm or corporation for whom or for which the use is intended shall be the owner of the fee title of the lot or premises on which the use is sought at the time application is made.
 - (b) The application shall be in writing and shall be made and be verified by the fee owner of the lot or premises.
 - (c) The name and address of the owner.
 - (d) If a firm or corporation, the full name and residence of each member of the firm or that of the principal officer of the corporation, as the case may be.
 - (e) Land and tax map description and the area of the lot or premises.
 - (f) Description of existing structures and uses.
 - (g) Distance from public water supply.
 - (h) Statement of proposed use.
 - (i) Period of time for which the permit is requested.
- (2) Accompanying said verified application, which shall be construed as constituting a part thereof, shall be submitted:
 - (a) A site plan showing the location and uses of existing buildings, structures, facilities and open spaces on the lot or premises, including, but not limiting the foregoing, parking areas, sports and recreational areas, driveways, walks, means of water supply, buildings and structures on adjoining premises with 200 feet of the subject lot or premises, streets and highways and the width thereof abutting the subject lot or premises.
 - (b) A site plan showing all existing buildings and facilities to be retained and all future

proposed buildings, structures, facilities, open spaces and their uses on the lot or premises, including, but not limiting the foregoing, parking areas, sports and recreational areas, driveways, walks and landscaping. Dimensions and distances shall be set forth on the plan.

- (c) A statement setting forth all present and proposed future uses of the buildings, structures and facilities.
 - (d) When buildings and structures are to be erected or altered, a certificate of the Building Inspector that an application has been filed for a building permit and that the plans, specifications and facilities comply with all laws, ordinances and regulations applicable to the intended use.
 - (e) Where no buildings or structures are to be erected, a certificate of the Building Inspector that an application has been filed for a use permit and that the existing buildings, structures and facilities comply with all laws, ordinances and regulations applicable to the intended use.
- (3) No use of the lot or premises or buildings, structures or facilities thereon, nor the erection or alteration of any building, structure or facility other than as shown on the site plan and/or described in the statement approved by the Board of Appeals in the granting of a permit, shall be made except on application to the Board of Appeals to amend said site plan and statement, and any amendment of said site plan and statement shall be acted upon in the same manner as an original application for a permit under this section.
 - (4) The Board of Appeals, in authorizing the issuance of any permit under this section, may provide that said permit shall be temporary and fix the term thereof. Any application for a renewal of a temporary permit shall be acted upon in the same manner as an original application.
- B. Referral of application to Board of Appeals. Each application for a permit involving a use subject to additional standards and requirements, together with the required map and plan, shall be referred to the Board of Appeals by the Building Inspector. No action shall be taken by the Building Inspector regarding the issuance of the permit applied for until the Board of Appeals has rendered its decision and order made thereon after public notice and hearing.
 - C. Board of Appeals report; considerations and scope. In making its decision and order, the Board of Appeals shall be subject to and bound by all the requirements set forth in this article and shall give effect to the general standards and requirements set forth in § 195-15 hereof and to the specific standards and requirements for each such use under consideration as set forth in §§ 195-17 through 195-20. However, in the case of a parcel of land where a use subject to addition standards was in existence on said parcel on or before the enactment of the original Building Zone Ordinance, the Board of Appeals shall have the power to vary the

minimum yard, height and setback requirements for structures and other facilities subject to the criteria contained in § 195-39B(3) of this chapter. Said decision and order shall state whether or not the specific and general standards and requirements have been met by the applicant or whether the minimum yard, height and setback requirements have been varied as authorized above and shall include appropriate and reasonable conditions and safeguards which the Board of Appeals itself deems necessary to impose in any case to assure continual conformance to all applicable requirements. [Amended 10-12-1975 by L.L. No. 1-1975]

- D. Action by Building Inspector. If the decision and order of the Board of Appeals indicate that all applicable requirements have been met or that minimum yard, height and setback requirements have been varied as permitted by Subsection C above and the Building Inspector has determined that all other applicable requirements and laws have been complied with, he shall issue the building permit for which application has been made, in accordance with § 195-15B. The Building Inspector may include such conditions and safeguards in the permit and certificate of occupancy as have been imposed by the Board of Appeals in its decision and order. If the Board of Appeals shall make a finding in its decision that any of the applicable requirements have not been met or if the Board of Appeals does not grant variances from the minimum yard, height and setback requirements permitted by Subsection C above, the Building Inspector shall consequently not issue the building permit for which the application has been made. [Amended 10-12-1975 by L.L. No. 1-1975]
- E. Expiration of building permits. A building permit issued for a use subject to additional standards shall be deemed to authorize only that particular use, and such permit shall be considered null and void if within one year from the date of issue all improvements required for said use are not completed, unless otherwise provided in the Building Inspector's approval of said use.
- F. Revocation of building permits. A building permit issued for a use subject to additional standards may be revoked by the Building Inspector if it is found and determined that there has been a failure of compliance with any one of the terms, conditions, limitations and requirements imposed by said permit.
- G. Existing violations. No permit shall be issued for a use subject to additional standards for a property where there is an existing violation of this chapter.

§ 195-17 Schools.

- A. Private primary or grade schools as defined herein. The lot for any such school shall have an area of at least 10 acres. Such lot shall have a frontage of at least 200 feet on a suitably improved public street. No such school shall be designed, erected, altered or used for more than 300 pupils.

- B. The lot for any parochial or private secondary, junior high or high school shall have an area of at least 15 acres, plus one acre for each 100 pupils, or major portion thereof, in excess of 250 pupils. Such lot shall have a frontage of at least 400 feet on a suitably improved public street. No private or parochial junior high or high school shall be designed, erected, altered or used for more than 500 students.
- C. The lot for any parochial or private university, college or seminary shall have an area of at least 25 acres, plus five acres for each 100 pupils, or major portion thereof, in excess of 200 pupils. Such a lot shall have a frontage of at least 500 feet on a suitably improved public street. No private or parochial university or college shall be designed, erected, altered or used for more than 750 pupils.
- D. All buildings shall be located at least 200 feet from street lines and at least 100 feet from all other property lines. Grandstands, gymnasiums, central heating plants and similar buildings shall be set back at least 200 feet from all property lines. The distance between buildings shall be at least twice the height of the taller building. Total coverage of the site by all buildings shall be limited to 20%. Dormitories and single-family dwellings shall be permitted as accessory buildings, provided that the minimum area of the lot shall be increased by at least 1,000 square feet for each dormitory bed and by at least the minimum lot area of the applicable zoning district for each single-family dwelling. Use of such dormitories or dwellings shall be limited exclusively to students, teachers or other members of the staff of the school or college, and a dormitory or dwelling shall not subsequently be sold or rented as a private residence or for any other legal use unless the building and any required lot surrounding it shall meet all regulations of the district in which it is located.
- E. One off-street parking space shall be provided for each teacher or other member of any private school or university or college staff, and one additional space for each five students. For auditoriums, gymnasiums, grandstands and other gathering places, one off-street parking space shall be provided for each three seats.
- F. A school site shall contain suitably designed and improved outdoor playground or playfield areas of the following size:

School	Minimum Playground Size (acres)	Minimum Area of Playground Per 100 Students (acres)
Primary	3	
Junior or senior high	5	1.5

School	Minimum Playground Size (acres)	Minimum Area of Playground Per 100 Students (acres)
(secondary)		
College or university	5	2

G. Such playgrounds or playfields shall be located no closer than 150 feet to any property line.

§ 195-18 Clubs.

Clubs as referred to in Subsection A(4) of § 195-12 shall be subject to the following:

- A. The site shall be at least 20 acres in area for a tennis, skating or swimming club and at least 60 acres in area for a golf club, country club or riding club. [Amended 7-18-2000 by L.L. No. 3-2000]
- B. For country club use, at least one off-street parking space shall be provided for each 200 square feet of floor, terrace and patio space devoted to patron use. For golf club use, at least five off-street parking spaces shall be provided for each tee, plus five spaces for visitor and employee parking. Parking areas shall be permanently improved and shall be located at least 100 feet away from all property lines. Suitable screening or fencing must be provided to safeguard adjoining property from nuisances or for safety reasons. [Amended 7-18-2000 by L.L. No. 3-2000]
- C. There shall be no more than two permanent single-family dwellings on the club site, and each dwelling shall not be occupied by more than one family.
- D. All buildings and structures shall be set back at least 200 feet from all property lines and shall not cover more than 10% of the site.
- E. All athletic or recreation areas and facilities shall be located at least 150 feet from all property lines, except that a golf tee may be located no less than 100 feet from any property line.
- F. Outdoor public address systems may not be permitted.
- G. One sign, not exceeding four square feet in area, not flashing and not lighted by exposed tubes, bulbs or other exposed light sources, announcing the name of the club may be

permitted facing each street on which it is situated.

- H. An area for practice shall be permitted.^{EN(38)}
- I. (Reserved)
- J. Permits shall be authorized by the Building Inspector for five-year periods.
- K. A special permit may be granted only when the petitioner files with the Board of Appeals written consents, duly acknowledged, of the owners of at least 75% of all land which lies outside of and within 1,000 feet of each boundary line of the lot or lots of the petitioner to be used for such special permit use, excluding, however, in such one-thousand-foot computation all the land contained in public streets and all the land owned by the petitioner which is adjacent to the lot or lots intended to be used for such special permit use, and, if the petitioner shall be a prospective purchaser with a contract of purchase, all lands which lie adjacent to the lot or lots to be used for such special permit use owned by the seller; provided, however, that notwithstanding such limitation the Board of Appeals, by majority vote of all the members of the Board then in office, may grant permission for any such use even though consents are not so filed on behalf of the owners of at least 75% of the above-mentioned area. [Amended 7-18-2000 by L.L. No. 3-2000]

§ 195-19 Churches.

Churches as referred to in Subsection A(2) of § 195-12 shall be subject to the following:

- A. Building area. All buildings, including accessory buildings, shall not cover more than 10% of the area of the lot.
- B. Height. The height of any principal building shall not exceed 25 feet. The height of any accessory building shall not exceed 20 feet, except that an accessory building may be 25 feet in height, provided that it shall be a distance of at least 100 feet from the main building.
- C. Yards. Each lot shall have front, side and rear yards not less than the depths and widths following:
 - (1) Front yard depth: 110 feet.
 - (2) Side yard width: 50 feet each for a one-story principal building and 70 feet each for a building of two or more stories. However, when a side yard abuts a street line the width shall be 110 feet.
 - (3) Rear yard depth: 50 feet for a one-story principal building and 70 feet for a two-story principal building.

- D. Parking area. Off-street parking on the lot shall be provided in a paved area equal in area to one times the area of the buildings. Such parking area may extend into the side and rear yards but shall be distant not less than 30 feet from any lot line and 20 feet from any street line.
- E. Screen. Where a parking area abuts a property line a screen of evergreen shrubs four feet in height and 20 feet in width shall be installed and maintained along said lines.
- F. Marginal roadway. A marginal roadway 50 feet in width in the front yard and in any side yard abutting a street shall be provided. Said marginal roadway shall extend from the road or street line into the front and side yard and shall be separated from the street by a mall 10 feet in width; no more than two openings in the mall for access shall be made on any one street; the mall shall be curbed; the pavement in the roadway shall be 30 feet in width; and a sidewalk four feet in width shall be constructed along the inner side of the marginal roadway. All work and construction hereinabove set forth shall be in accordance with Village specifications and regulations.

§ 195-20 Use for rental purposes of farm dwellings or farm dwelling units. [Added 4-17-1979 by L.L. No. 2-1979]

Notwithstanding other provisions of this chapter to the contrary, the use for rental purposes of farm dwellings or farm dwelling units which were in existence and were used for dwelling purposes in connection with a farm or farm use prior to the effective date of this chapter may be permitted by the Zoning Board of Appeals, subject to the following conditions.

- A. Such special permit use shall be limited to the R-5A Rural Residence District.
- B. Sufficient land shall be committed and dedicated to the special permit use area to ensure a density no greater than one dwelling unit per five acres in the R-5A District.
- C. In addition to the above density, a residence may be permitted for one caretaker as defined under the term "building or use, accessory," in § 195-3 hereof.
- D. Each overall parcel not divided by a publicly owned highway devoted to such special permit use shall be at least 20 acres in size and shall meet the lot area standards established in Items 2 through 5 of § 195-14, Schedule of area, yard and other dimensional standards, for the R-5A Rural Residence District.
- E. Structures and facilities under consideration for approval shall be limited to those which were in existence at the effective date of this chapter and which were in use for dwelling purposes at that time. Any approval for rental dwelling unit purpose shall result in a dwelling unit which complies with the State Uniform Fire Prevention and Building Code and other applicable health and safety regulations. No new external construction shall be permitted

except for maintenance and safety purposes, as required by law.

- F. Any permit issued in accordance with this section shall run with the land and shall expire five years after the issuance of the permit unless renewed after review and approval by the Zoning Board of Appeals, subject to findings by the Board of continued compliance with the terms of the original approval and this chapter and the continued compatibility with adjacent land use.
- G. During the term of any permit issued in accordance with this section, the owner of the subject parcel shall, upon the request of the Building Inspector, and in such detail as may be requested by him, furnish an affidavit with respect to compliance with the terms of such permit and this chapter.
- H. No parcel for which a certificate of occupancy is granted or for which a permit is granted in accordance with the standards of this section shall be subdivided or used for any other purpose unless approved by the Board of Appeals.

§ 195-20.1 Antique studio in historic dwelling. [Added 8-31-2004 by L.L. No. 1-2004]

A retail antique studio may be permitted by the Board of Zoning Appeals on the first floor of a historic dwelling, provided there is compliance with and subject to the standards and requirements set forth in § 195-15 and § 195-16 of the Code, and the following conditions:

- A. This section shall apply only to a dwelling within the Village which is over 100 years old and is located on a parcel which has a minimum lot area of two acres and is situated within or immediately adjacent to the Village's Business District.
- B. The retail antique studio shall be located only on the first floor of the existing principal dwelling and shall not exceed a contiguous area greater than one-quarter of the first floor of the existing dwelling or 500 square feet, whichever is less.
- C. The retail antique studio shall be owned and operated by the property owner who must reside in the dwelling as his principal residence. The retail antique studio's use shall be incidental to the use of such dwelling which shall be primarily occupied for residential purposes.
- D. There shall be no display or advertising on the premises or along the road frontage in connection with this use, except for one unilluminated sign along the road frontage not exceeding four square feet in area, stating the name of the owner and the term "antique studio."
- E. Adequate off-street parking shall be provided for every 200 square feet of area devoted to the retail antique studio, plus an additional parking space for one employee. The parking area shall be adequately located from the street and adjacent properties to minimize adverse

impact on adjacent property. Suitable site screening may be required to mitigate visual and sound impacts of the parking area and use.

- F. No use shall be made of any accessory building in connection with such retail antique studio use.
- G. The Board of Zoning Appeals may require the submission of a site plan showing all existing buildings and facilities to be used and may impose appropriate conditions and safeguards designed to mitigate any adverse impacts that such use may have on the Village and adjacent properties.
- H. The Board of Zoning Appeals may impose reasonable conditions, including but not limited to type of antiques to be displayed and sold, the hours of operation, number of employees, days of operation, parking configuration, exterior lighting, ingress and egress, and require the exterior of the existing dwelling to be preserved and maintained. Outdoor displays, yard sales and outdoor storage of stock or shipments shall not be permitted.
- I. A permit issued in accordance with this section shall expire five years after issuance or immediately upon the existing dwelling being removed, destroyed or deemed uninhabitable. The Board of Zoning Appeals may renew said permit, provided that after a public hearing there is a finding by the Board of Zoning Appeals of continued compliance with the terms of this section and the original approval. The Board of Zoning Appeals may revoke said permit, after a public hearing and a finding by the Board of Zoning Appeals of noncompliance with the terms of this section or the original approval. The Board of Zoning Appeals may revoke a permit for a material breach of any condition of approval after providing written notice and a reasonable opportunity to correct the violation.

ARTICLE V, Signs

§ 195-21 Permit required.

It shall be unlawful for any person to erect, alter or relocate any sign without first obtaining a building permit from the Building Inspector, as required in § 195-36. The changing of the lettering, wording and accompanying symbols on a sign shall not be considered an alteration within the meaning of these regulations so long as the sign size and type are not changed. Permits for all signs which require approval of the Board of Appeals shall be issued by the Building Inspector only upon approval of said Board.

§ 195-22 Time limits on certain permits.

All permits for real estate development and real estate direction signs shall be issued for a period of one year only, with the privilege of renewal by the Building Inspector, subject to the approval of the Board of Appeals. Permits for temporary business signs and seasonal use signs shall be issued by the Building Inspector for a period specified by the Board of Appeals in each case, but in no case for less than one year.

§ 195-23 Findings of Board of Appeals.

In acting on an application for a sign requiring its approval under this chapter, the Board of Appeals shall find that:

- A. All applicable standards and requirements of this article and chapter have been met.
- B. The erection of the sign or signs will have no appreciable adverse effect on the value of property in the neighborhood, will be in reasonable conformity to the character of the surrounding area and will not be an annoyance to any adjoining residential property.
- C. The erection of the sign or signs will not create an undue hazard to pedestrian or vehicular traffic on any street.

§ 195-24 Conditions and safeguards.

In acting on any application for a sign requiring its approval under this chapter, the Board of Appeals may require additional conditions and safeguards as a prerequisite to the issuance of a permit for such sign, which conditions and safeguards shall, in the Board's opinion, be required to protect the public interest and the intent of this chapter in the particular circumstances. No such sign shall be maintained except in conformity with the conditions and safeguards required by said Board.

§ 195-25 Unsafe and unlawful signs.

If the Building Inspector shall find that any sign is unsafe, dangerous, defective or insecure or is a menace to the public or tends to endanger the safety of the public or has been constructed or created or is being maintained in violation of the provisions of this chapter, he shall give written notice to the permittee thereof. If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within 10 days after such notice, such sign may be removed, or altered to comply, by the Building Inspector at the expense of the permittee or

owner of the property upon which it is located. The Building Inspector shall refuse to issue a permit for a new sign to any permittee or owner who refuses to pay costs so assessed. The Building Inspector may cause any sign which appears to be an imminent danger to the safety of persons or property to be removed summarily and without notice.

§ 195-26 Date and permit number.

Every sign as defined herein and hereafter erected shall have painted in a conspicuous place thereon, in letters not less than one inch in height, the date of erection and the permit number.

§ 195-27 Removal of certain signs.

Any sign hereafter existing which shall cease to serve the purpose for which its permit has been issued shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or lot upon which such sign may be found within 10 days after written notification from the Building Inspector, and, upon failure to comply with such notice within the time specified in such notice, the Building Inspector is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building, structure or lot upon which such sign is attached.

§ 195-28 Signs not to constitute traffic hazard.

No sign shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device or which makes use of the word "stop," "look," "drive-in," "danger" or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic.

ARTICLE VI, Nonconforming Uses and Buildings

§ 195-29 Continuing existing uses. [Amended 7-18-2000 by L.L. No. 3-2000]

Except as otherwise provided in this article, the lawfully permitted use of land or buildings existing at the time of the adoption or amendment of this chapter may be continued although such use does not conform to the standards specified in this chapter for the zone in which such land or building is located. Said uses shall be deemed nonconforming uses.

§ 195-30 Nonconforming use of land. [Amended 7-18-2000 by L.L. No. 3-2000]

Where no building is involved, the nonconforming use of land may be continued; provided, however, that no such nonconforming use shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption or amendment of this chapter, unless specifically allowed by other provision in this chapter, nor shall any such nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption or amendment of this chapter, provided, further, that if such nonconforming use of land, or any portion thereof, ceases for any reason for any continuous period of more than six months or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this chapter. No nonconforming use of land shall be changed to another nonconforming use.

§ 195-31 Nonconforming use of buildings.

- A. A building or structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged or extended unless the use therein is changed to a conforming use. (See also § 195-32.)
- B. Such nonconforming building shall not be structurally altered to an extent greater than 50% of its actual value unless such alterations are required by law; provided, however, that such maintenance and repair work as is required to keep a nonconforming building or structure in sound condition shall be permitted, and provided further that any such nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of the adoption or amendment of this chapter. [Amended 7-18-2000 by L.L. No. 3-2000]
- C. A nonconforming use of a building may be changed only to a conforming use.
- D. If any nonconforming use of a building ceases for any reason for a continuous period of more than six months or is changed to a conforming use, or if the building in or on which such use is conducted or maintained is moved for any distance whatever for any reason, then any future use of such building shall be in conformity with the standards specified by this chapter for the district in which such building is located.
- E. If any building in which any nonconforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building was located and the subsequent use of any building thereon shall be in conformity with the standards specified by this chapter for the district in which such land or building is located.

§ 195-32 Nonconformities in building height, yards or coverage.

A building that is conforming in use but does not conform to the height, yard or land coverage requirements of this chapter shall not be considered to be nonconforming within the meaning of § 195-31. No permits shall be issued that will result in the increase of any nonconformity in height, yard space or land coverage.

§ 195-33 Restoration of damaged buildings.

If any building legally nonconforming in use shall be destroyed by any means, it may be repaired or reconstructed to the same size and on the same location or at the location specified for new buildings in the district in which such use is located. All repairs or reconstruction for such nonconforming use shall be started within one year of the date on which the destruction occurred.

§ 195-34 Nonconforming signs. [Amended 7-18-2000 by L.L. No. 3-2000]

Regardless of any other provisions of this chapter, every sign which, after the adoption or amendment of this chapter, may exist as a nonconforming use in any district shall be discontinued and removed or changed to conform to the standards of said district within a period of 18 months from the date of adoption or amendment of this chapter.

ARTICLE VII, Administration and Enforcement

§ 195-35 Enforcement.

- A. No board, agency, officer or employee of the Village shall issue, grant or approve any permit, license, certificate or other authorization for any construction, reconstruction, alteration, enlargement or moving of any building or structure or for any use of land or building that would not be in full compliance with the provisions of this chapter. Any such permit, license, certificate or other authorization issued, granted or approved in violation of the provisions of this chapter shall be null and void and of no effect, without the necessity of any proceedings for revocation or nullification thereof.
- B. The Building Inspector, the police or any other persons duly authorized by the Board of Trustees shall have the duty, and they are hereby given the authority, to enforce the

provisions of this chapter. The Building Inspector, the police or any other person authorized by the Board of Trustees shall have the authority, as permitted and in full accordance with all lawful procedures, to enter any building or premises at any reasonable hour to discharge his duties and to issue appearance tickets for violations of this chapter. [Amended 6-23-1982 by L.L. No. 2-1982]

§ 195-36 Building permits.

- A. No building or structure shall be erected, enlarged, altered or moved until a permit therefor has been issued by the Building Inspector. Except upon a written authorization of the Board of Appeals, under circumstances set forth in § 195-39B(3), no building permit or certificate of occupancy shall be issued for any building or structure where said construction, addition, alteration, moving or use thereof would be in violation of any of the provisions of this chapter. An accessory building which is less than 100 square feet in floor area and to be used for storage purposes only shall be exempt from this section. [Amended 7-15-2003 by L.L. No. 4-2003]
- B. There shall be submitted with all applications for building permits, except those for signs, two copies of a layout or plot plan drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings existing and the lines within which the building or structure shall be erected or altered, the existing and intended use of each building or part of the building and such other information with regard to the lot and neighboring lots that may be necessary to determine and provide for the enforcement of this chapter. One copy of such plan shall be returned to the owner when such plans shall have been approved by the Building Inspector. All dimensions shown on this plan relating to the location and size of the lot to be built upon shall be based on an actual survey, and the lot shall be staked out on the ground before construction is started so that the Building Inspector may determine by measurement in the field that the yard requirements for the district in which the use is located have been met.
- C. A building permit shall be void if construction is not started within a period of 12 months or not completed within a period of two years of the date of said permit.
- D. No building permit shall be issued for a use listed in § 195-12 as subject to additional standards except in conformity with the procedure set forth in §§ 195-15 and 195-16.
- E. Any building, extension or alteration for which a permit has been duly granted, the construction of which has been started before the effective date of this chapter or of an amendment thereto, and the ground story framework of which, including the second tier of beams, has been completed within one year after the adoption of this chapter or amendment thereto, may be completed in accordance with plans on file with the Building Inspector,

provided that such construction is diligently prosecuted and the building is completed within two years of the adoption of this chapter or an amendment thereto. If any of the requirements shall not have been fulfilled within the prescribed period, or if the building operations are discontinued for a period of six months, any other construction shall be in conformity with the provisions of this chapter.

- F. Whenever the Village Board, by resolution, authorizes a public hearing on a proposed amendment to this chapter, and for a period of 60 days following the date of such resolution, no building or structure shall be erected, enlarged or altered and no permit shall be issued for the erection, enlargement or alteration of any building or structure or for the occupancy of any land or building in any manner that would be contrary to the provisions of the proposed amendment.
- G. The Building Inspector shall not issue a building permit without obtaining from the applicant either: [Amended 7-18-2000 by L.L. No. 3-2000]
 - (1) Proof duly subscribed that workers' compensation insurance and disability benefits coverage issued by an insurance carrier in a form satisfactory to the Chair of the Workers' Compensation Board as provided for in § 57 of the Workers' Compensation Law is effective; or
 - (2) An affidavit that such applicant has not engaged an employer or any employees as those terms are defined in § 2 of the Workers' Compensation Law to perform work relating to such building permit.

§ 195-37 Certificate of occupancy.

- A. It shall be unlawful for an owner to use or permit the use of any building or premises, or parts thereof, hereinafter created, erected, changed, converted or enlarged, wholly or partly, in its use or structure until a certificate of occupancy shall have been issued by the Building Inspector. Such certificate shall state that such building or premises, or part thereof, and the proposed use thereof are in complete conformity with the provisions of this chapter. It shall be the duty of the Building Inspector to issue a certificate of occupancy, provided that the building and the proposed use of the building or premises conform to all the requirements herein set forth. A certificate of occupancy shall be applied for coincident with an application for a building permit.
- B. Under such rules and regulations as may be established by the Village Board, a temporary certificate of occupancy for part of a building may be issued.
- C. A certificate of occupancy shall be deemed to authorize and is required for both initial and continued occupancy and use of the building or land to which it applies and shall continue in

effect as long as such building and the use thereof or of such land is in full conformity with the provisions of this chapter and any requirements made pursuant thereto.

- D. A copy of a certificate of occupancy shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected. Upon request from the owner, and by payment by him to the Village of a fee as provided in Chapter 64, Fees and Deposits, the Building Inspector shall issue a certificate of occupancy for any building or premises, certifying, after inspection, that the extent and kind of use and disposition conforms to the provisions of this chapter. [Amended 7-18-2000 by L.L. No. 3-2000]

§ 195-38 Penalties for offenses. [Amended 6-23-1982 by L.L. No. 2-1982; 11-8-1986 by L.L. No. 2-1986]

- A. Any owner, lessee, contractor, agent, including real estate agent or broker, or individual, whether person, partnership or corporation, shall be guilty of an offense if he:
- (1) Occupies, uses or maintains, or causes or permits to be occupied, used or maintained, or erects, enlarges, alters or converts, or causes or permits to be erected, enlarged, altered or converted, any building, structure or part thereof or any land in the Village except in conformity with the provisions of this chapter or a decision of the Board of Appeals or Planning Board; or
 - (2) In any manner violates, or allows, causes, permits, takes part in or assists in a violation of, any provision of this chapter, including illegal rentals, or of any regulation, order or ruling promulgated hereunder.
- B. A person convicted of an offense shall be guilty of a violation as defined in the Penal Law.
- C. A violation of two or more sections of this chapter, or provisions within a section, shall be separate and distinct offenses for which a fine may be levied.
- D. Each and every week a violation exists or continues shall constitute a separate and distinct violation, conviction for which shall be an additional offense.
- E. Each violation of this chapter shall be punishable by:
- (1) A fine not to exceed \$350 or a term of imprisonment not to exceed five days, or both, for a conviction of a first offense.
 - (2) A fine not to exceed \$700, but not less than \$350, or a term of imprisonment not to exceed 10 days, or both, for the conviction of a second offense both of which were committed within a five-year period.

- (3) A fine not to exceed \$1,000, but not less than \$700, or a term of imprisonment not to exceed 15 days, or both, for the conviction of a third or subsequent offense all of which were committed within a five-year period.
- F. If any person fails to abate any such violation of this chapter within five calendar days after written notice has been served personally upon said person, or within 10 days after written notice has been sent to said person by certified mail at said person's home or business address, said person shall be subject to a civil penalty of \$250 for each and every day that said violation continues, recoverable by suit brought by the Village.
- G. Any violation of this chapter may be enjoined pursuant to law.
- H. The remedies provided for herein shall be cumulative and shall be in addition to any other remedies provided by law, including injunctive relief.

§ 195-39 Board of Appeals.

- A. Organization. A Board of Appeals, as heretofore established by the Village Board, is hereby maintained.
- B. Powers and duties.
 - (1) General. The Board of Appeals shall have all the powers and duties prescribed by the Village Law and by this chapter, which powers and duties are summarized and more particularly specified as follows, provided that none of the following subsections shall be deemed to limit any of the power of the Board of Appeals that is conferred by the Village Law.
 - (2) Interpretation and referral. On appeal from an order, requirement, decision or determination made by an administrative official or on request from any official or agency of the Village, the Board of Appeals shall have authority to decide any question involving the interpretation of any provision of this chapter, including determination of the exact application of the rules specified in § 195-6. The Board of Appeals is authorized and empowered to hear and decide all applications for permits involving any use subject to specific standards referred to it under § 195-16B hereof.
 - (3) Variances. The Board of Appeals shall have the power to grant use and area variances, as defined in § 7-712 of the Village Law, in accordance with the procedures established in § 7-712-b of the Village Law. [Amended 7-18-2000 by L.L. No. 3-2000]
 - (4) Permits for certain signs. In accordance with Article V, Signs, the Board of Appeals may authorize the issuance of permits for certain signs in districts in which such signs are

permitted.

- (5) Conditions and safeguards. In all cases where the Board of Appeals authorizes the issuance of a building permit or occupancy permit under any of the above powers, it shall be the duty of said Board to impose such conditions and safeguards as may be required to protect the public health, safety, morals and general welfare.
- C. Appeals, how taken to Board of Appeals. All appeals and applications to the Board of Appeals shall be taken in the manner prescribed by law and within such time as shall be prescribed by the Board of Appeals by general rule. All such appeals and applications shall be in writing on forms prescribed by the Board, and each appeal or application shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specific provision of this chapter involved and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the adjustment that is applied for and the grounds for which it is claimed that the same should be granted or the use for which a permit is sought. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and the findings on which the decision was based.
- D. Court review, how taken on Board of Appeals actions. Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the Village may apply to the Supreme Court for relief in the manner provided for by law.

§ 195-40 Fees. [Amended 11-20-1969 by L.L. No. 1-1969]

- A. Applicants for the issuance of a permit by the Building Inspector for a use subject to additional standards, site plan of development approval by the Planning Board or application to the Board of Appeals shall pay to the Village a fee determined by Chapter 64, Fees and Deposits.
- B. In the case of an application for the extension or renewal of any previously authorized permit for a use subject to additional standards, the fee for such extension or renewal shall be 1/2 the amount required for the original permit.

§ 195-41 Amendments.

The Board of Trustees may from time to time, either on its own motion or on petition, after public notice and hearing, amend, supplement, change, modify or repeal the regulations, restrictions and boundaries herein established pursuant to the provisions of the Village Law of

the State of New York, as amended from time to time.

ARTICLE VIII, Regulation of Slopelands [Added 9-9-2008 by L.L. No. 2-2008]

§ 195-42 Construction on slopelands.

No excavating, grading, filling, or paving of land, nor the construction, alteration or addition to a structure or building shall be permitted on slopelands, unless and until a slopelands use permit ("slopelands permit") has been issued by the Planning Board.

§ 195-43 Application for permit.

Application for such slopelands permit shall be submitted with the following:

- A. A completed application with a State Environmental Quality Review Full Environmental Assessment Form, along with a current list of record owners of lands within 100 feet of the property.
- B. A current, up-to-date topographical survey of the property showing existing contours with vertical intervals of no more than two feet; the location and boundaries of any slopelands clearly labeled as steep slope, very steep slope, or extremely steep slope; the location of all existing buildings, structures, driveways and utilities serving the property; existing easements and rights-of-way; the present use of land and structures; the specific type, size and location of trees with a circumference of 24 or more inches measured at a height four feet above ground level; and any other existing features or characteristics of the land which are required by the Planning Board.
- C. A plan showing all proposed construction and the disturbance of any portion of the site, including building and driveway locations, parking areas, landscaping, grading, drainage, utilities and other planned site uses or improvements contemplated by the applicant.
- D. Specific design and construction procedures to be followed which will mitigate the potential impact of the proposed site development on the slopelands both during and after construction. This shall include, but not be limited to, location and type of construction and material to be used, erosion control measures, site restoration, plantings, and all other appropriate safeguards and precautions the Planning Board deems necessary.
- E. An application fee and deposit in an amount to be determined by resolution of the Board of Trustees. If the application is for work that had been started or completed without the

required permit, the application fee shall be tripled.

§ 195-44 Standards.

In reviewing an application for a slopelands permit, the Planning Board shall consider the following:

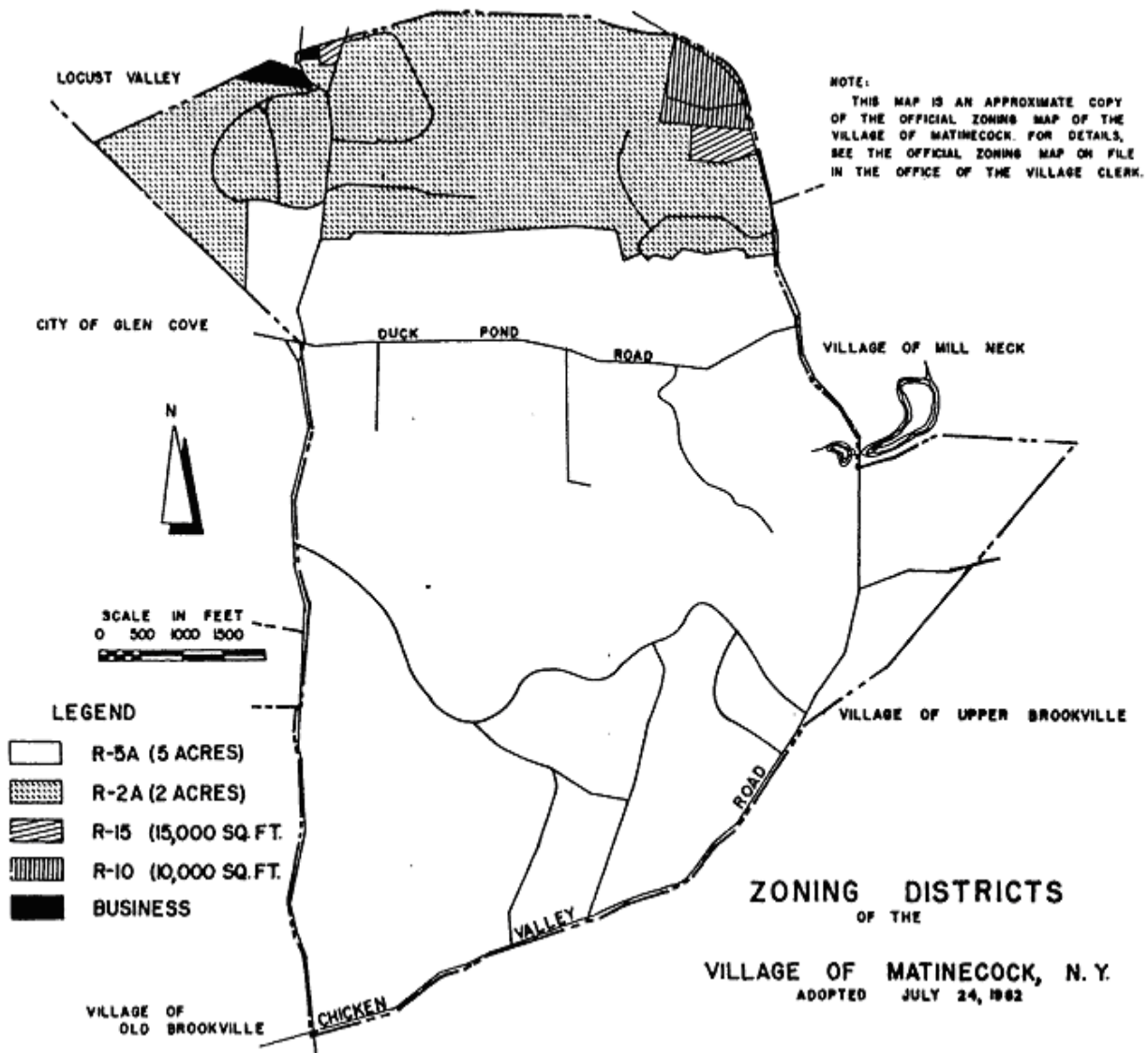
- A. Whether the proposed construction and its location for the requested activity is the appropriate location on the lot, taking in consideration the slopelands, lot shape, required setbacks, topography and other lot features, and impact on the surrounding properties. For areas of extremely steep slope, no activities shall be permitted, except under extreme circumstances. Application for construction in areas of extremely steep slope shall be deemed a Type I action under the New York State Environmental Quality Review Act. For areas of very steep slope, no activities are permitted except as necessary to provide basic improvements to the property or residence, such as a driveway or utility connection, where no other available location exists;
- B. Whether the activity or construction proposed is the minimum necessary for the applicant's reasonable use and enjoyment of the land and is in keeping with the character of the surrounding properties and the Village;
- C. All feasible construction standards and precautions are to be considered and if approved are to be strictly adhered to. The installation and maintenance of erosion control measures, retaining walls to limit site disturbance and protecting existing trees and vegetation and other mitigation measures are priority actions that must be promptly implemented;
- D. The applicant is required to be in compliance with all other applicable requirements of the Village, town, county, state and federal agencies including stormwater management. The Planning Board may withhold approval until all other approvals are obtained.

§ 195-45 Determination; conditions.

- A. Before rendering its decision, the Planning Board shall mail notice to the adjoining property owners or within 100 feet and allow adequate opportunity to be heard. The Planning Board shall only approve those applications where it determines that the proposed activity on the slopelands is in compliance with the provisions and intent of this chapter and will not have a significant adverse impact on the slopelands, the site and the surrounding properties.
- B. The Planning Board may impose such conditions to the slopeland permit as it deems necessary and proper, including the posting of security to assure compliance with the

slopeland permit and this chapter.

Zoning Map



DISPOSITION LIST

The following is a chronological listing of legislation of the Village of Matinecock adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Village Clerk. The last legislation reviewed for the original publication of the Code was L.L. No. 2-2000, adopted 4-18-2000. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the Village Clerk.

§ DL-1. Disposition of legislation.

Local Law Number	Adoption Date	Subject	Disposition
3-2000	7-18-2000	Adoption of Code	Ch. 1, Art. I
4-2000	7-18-2000	Noise	Ch. 109
1-2002		Building moratorium	NCM
1-2003	4-15-2003	Board of Appeals amendment	Ch. 18
2-2003		Building moratorium extension	NCM
3-2003	5-20-2003	Vehicles and traffic amendment	Ch. 185
4-2003	7-15-2003	Zoning amendment	Ch. 195
1-2004	8-31-2004	Zoning amendment	Ch. 195
2-2004	11-16-2004	Alarm systems amendment	Ch. 11
1-2006	12-19-2006	Fees and deposits	Ch. 64
1-2007	4-17-2007	Moratorium	NCM

Stormwater management and

Local Law Number	Adoption Date	Subject	Disposition
2-2007	5-22-2007	erosion and sediment control	Ch. 157
3-2007	5-22-2007	Illicit discharges, activities and connections to separate storm sewer system	Ch. 80
4-2007	5-22-2007	Subdivision of land amendment	Ch. 162, Part 2
1-2008	4-23-2008	Extension of moratorium on subdivision	NCM
2-2008	9-9-2008	Zoning amendment	Ch. 195
3-2008	9-9-2008	Fees and deposits amendment	Ch. 64
1-2009	7-21-2009	Fees and deposits amendment	Ch. 64
1-2010	11-16-2010	Fees and deposits amendment	Ch. 64
1-2012	2-23-2012	Noise amendment	Ch. 109
2-2012	3-20-2012	Tax levy limit override 2012	NCM
3-2012	9-18-2012	Temporary moratorium on approval and construction of telecommunications facilities	NCM
1-2013	3-19-2013	Tax levy limit override 2013	NCM
2-2013	11-19-2013	Officers and employees: terms of office for Mayor and Trustees	Ch. 113, Art. I
3-2013	12-17-2013	Fees and deposits amendment	Ch. 64
1-2014	2-25-2014	Tax levy limit override 2014	NCM
1-2015	3-17-2015	Fees and deposits amendment	Ch. 64

Local Law Number	Adoption Date	Subject	Disposition
2-2015	3-17-2015	Tax levy limit override 2015	NCM
3-2015	5-19-2015	Repeal of L.L. No. 2-2015	NCM

Endnotes

1 (Popup - Popup)

Editor's Note: In accordance with § 1-11B, the chapters and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Ch. 1, General Provisions, Art. I. During routine supplementation, footnotes indicating amendments, additions and deletions will be replaced with the following wording: "Adopted/Amended/Added/Repealed 7-18-2000 by L.L. No. 3-2000." A complete description of all changes is on file in the Village Clerk's office.

2 (Popup - Popup)

Editor's Note: The former definition of "Local Law 1-69," which immediately followed this definition, was deleted 7-18-2000 by L.L. No. 3-2000.

3 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4 (Popup - Popup)

Editor's Note: This local law provided that it take effect 1-1-2005.

5 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

6 (Popup - Popup)

Editor's Note: Original Sec. 2400.16, Penalties for violation, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now the general penalty in Ch. 1, Art. II.

7 (Popup - Popup)

Editor's Note: Former § 18-1, Amendment of Village Law § 7-712, Subdivisions 1 through 5, was repealed 4-15-2003 by L.L. No. 1-2003.

8 (Popup - Popup)

Editor's Note: Throughout this chapter, references to "rubbish" were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now Ch. 154, Solid Waste.

9 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

10 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

11 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

12 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

13 (Popup - Popup)

This local law also repealed former Ch. 64, Fees and Deposits, adopted 11-20-1969 by L.L. No. 1-1969, as amended.

14 (Popup - Popup)

Editor's Note: This local law also provided for the renumbering of former §§ 64-7 and 64-8 as §§ 64-8 and 64-9, respectively.

15 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

16 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

17 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

18 (Popup - Popup)

Editor's Note: This local law was adopted as Ch. 158, but was renumbered to fit into the organizational structure of the Code.

19 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

20 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

21 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

22 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

23 (Popup - Popup)

Editor's Note: This local law also repealed former Ch. 109, Noise, adopted 3-10-1974 by L.L. No. 1-1974 as Art. 14 of the 1974 General Ordinances.

24 (Popup - Popup)

Editor's Note: See Article 6 of the Public Officers Law.

25 (Popup - Popup)

Editor's Note: See also Ch. 64, Fees and Deposits, § 64-2.

26 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

27 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

28 (Popup - Popup)

Editor's Note: Throughout this chapter, "Master Plan" was amended to "Comprehensive Plan" 7-18-2000 by L.L. No. 3-2000.

29 (Popup - Popup)

Editor's Note: Original Sec. 320.7, Public hearing, which immediately followed this subsection, was deleted 7-18-2000 by L.L. No. 3-2000.

30 (Popup - Popup)

Editor's Note: Throughout this article, references to § 6-640 of the Village Law were amended to § 5-530 at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

31 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

32 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

33 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

34 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

35 (Popup - Popup)

Editor's Note: See Chapter 532 of the Laws of 1994.

36 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

37 (Popup - Popup)

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

38 (Popup - Popup)

Editor's Note: Original Sec. 442.09, which immediately followed this subsection and provided off-street parking requirements for golf clubs, was deleted 7-18-2000 by L.L. No. 3-2000. See now § 195-18B.