

# Code of the Village of Port Dickinson

COUNTY OF BROOME  
STATE OF NEW YORK

As of April, 2006

## **PREFACE**

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

## **Contents of Code**

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

## **Reserve Chapters**

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

### **Division of Code**

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

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

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

### **Table of Contents**

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

### **Pagination**

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

## **Numbering of Sections**

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

### **Scheme**

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

### **General References**

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

### **Index**

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

### **Appendix**

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

### **Supplementation**

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

## **Acknowledgment**

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

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

## **CERTIFICATION**

### **VILLAGE OF PORT DICKINSON**

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

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

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

**s/WALTER J. WELCH**

Village Clerk

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GENERAL PROVISIONS

ARTICLE I

Adoption of Code

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- § 1-2. Distribution of local laws, ordinances and resolutions.
- § 1-3. Repeal of local laws, ordinances and resolutions not contained in Code.
- § 1-4. Local laws, ordinances and resolutions saved from repeal; matters not ? affected by repeal.
- § 1-5. Severability.
- § 1-6. Copy of Code on file.
- § 1-7. Amendments to Code.
- § 1-8. Code book to be kept up-to-date.
- § 1-9. Sale of Code book; supplementation.
- § 1-10. Publication; filing.
- § 1-11. Penalties for offenses.
- § 1-12. Incorporation of provisions into Code.
- § 1-13. When effective.

ARTICLE II

Legislation Enacted During Codification

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

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

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

§ 1-1. Legislative intent.

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

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

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

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

New Number (Chapter, title, Article, section)	Old Number (Source)	Adoption Date
§ 16-2	Second un- numbered paragraph	
§ 16-3	Third un- numbered paragraph	
Chapter 22, Animals	L.L. No. 2-1974	7-9-74



§ 22-1	Sec. 22-1	
§ 22-2	Sec. 22-2	
§ 22-3	Sec. 22-3	
§ 22-4	Sec. 22-4	
§ 22-5	Sec. 22-5	
	Sec. 22-6	Omitted*
	Sec. 22-7	Omitted*
§ 22-6	Sec. 22-8	
	Sec. 22-9	Omitted*
Chapter 33, Firearms	Ordinance (unnumbered)	11-2-31
§ 33-1	First unnumbered paragraph	
§ 33-2	Second unnumbered paragraph	Amended 6-10-75 by L.L. No. 1-1975
Chapter 34, Fire Prevention	L.L. No. 3-1974	7-9-74
§ 34-9	Sec. 34-1	
§ 34-2	Sec. 34-2	
§ 34-3	Sec. 34-3	
§ 34-4	Sec. 34-4	

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

New Number (Chapter, title, Article, section)	Old Number (Source)	Adoption Date
§ 34-5	Sec. 34-5	
	Sec. 34-6	Omitted*
§ 34-6	Sec. 34-7	
	Sec. 34-8	Omitted*
	Sec. 34-9	Omitted*
Chapter 43, Peddling and Soliciting	L.L. No. 1-1974	7-9-74
§ 43-1	Sec. 43-1	
§ 43-2	Sec. 43-2	
§ 43-3	Sec. 43-3	
§ 43-4	Sec. 43-4	
	Sec. 43-5	Omitted*
	Sec. 43-6	Omitted*
	Sec. 43-7	Omitted*
Chapter 45, Property Maintenance	L.L. No. 5-1974	7-9-74
§ 45-1	Sec. 45-1	
§ 45-2	Sec. 45-2	
§ 45-3	Sec. 45-3A, B	
§ 45-4	Sec. 45-3C	
§ 45-5	Sec. 45-4	
	Sec. 45-5	Omitted*
	Sec. 45-6	Omitted*

Chapter 49, Sewers	Sec. 45-7 Ordinance (unnumbered)	Omitted* 3-3-70
Article I	Article 1	
§ 49-1	Sections 1 through 32	Amended 6-10-75 by L.L. No. 2-1975

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

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

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

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

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

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

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

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

New Number (Chapter, title, Article, section)	Old Number (Source)	Adoption Date
§ 56-20	Sec. 16	
§ 56-21	Sec. 17	
	Sec. 18	Omitted*
	Sec. 19	Omitted*
Chapter 59, Vehicles, Abandoned	L.L. No. 1-1965	6-15-65; amended in its entirety 7-11-72 by L.L. No. 1-1972
§ 59-1	Sec. 1	
§ 59-2	Sec. 2	
§ 59-3	Sec. 3	
§ 59-4	Sec. 4	
§ 59-5	Sec. 5	
§ 59-6	Sec. 6	
§ 59-7	Sec. 7	
§ 59-8	Sec. 8	
§ 59-9	Sec. 8	
	Sec. 9	Omitted*
	Sec. 10	Omitted*
Chapter 60, Vehicles and Traffic	Ordinance (unnumbered)	1-12-65
Article I	Article I	
§ 60-1	Sec. 1	
Article II	Article II	
§ 60-2	Sec. 20	
Article III	Article VII	
§ 60-3	Sec. 70	
Article IV	Article VIII	
§ 60-4	Sec. 80	

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

New Number (Chapter, title, Article, section)	Old Number (Source)	Adoption Date
§ 60-5	Sec. 81	
Article V	Article IX	
§ 60-6	Sec. 90	
Article VI	Article X	
§ 60-7	Sec. 100	
§ 60-8	Sec. 101	Amended 12-4-73

§ 60-9	Sec. 102	by L.L. No. 2-1973 Amended 6-7-66; 12-4-67; 7-9-68; 12-4-73 by L.L. No. 2-1973;?	6-
10-75 by L.L.		No. 3-1975	
§ 60-10	Sec. 103		
§ 60-11A	Sec. 104		
§ 60-11B	Sec. 105		
Article VII	Article XII		
§ 60-12	Sec. 120		
§ 60-13	Sec. 121		
§ 60-14	Sec. 122		
Article VIII	Article XIII		
§ 60-15	Sec. 130		
§ 60-16	Sec. 131		
Article IX	Article XXX		
§ 60-17	Sec. 300		
	Article XXXI		
	Sec. 310	Omitted*	

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

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

Article I	Article I
§ 65-1A	Sec. 101
§ 65-1B	Sec. 102
§ 65-2	Sec. 103
§ 65-3	Article II, Sec. 201

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

New Number (Chapter, title, Article, section)	Old Number (Source)	Adoption Date
Article II	Article III	
§ 65-4	Sec. 301	
§ 65-5	Sec. 302	
§ 65-6	Sec. 303	
§ 65-7	Sec. 304	
Article III		
§ 65-8	Sec. 305	
§ 65-9	Sec. 306	
§ 65-10	Article IV, Sec. 401	
Article IV	Article V	
§ 65-11	first unnumbered paragraph	
§ 65-12	Sec. 501	
§ 65-13	Sec. 502	
§ 65-14	Sec. 503	
§ 65-15	Sec. 504	
§ 65-16	Sec. 505	
§ 65-17	Sec. 506	
§ 65-18	Sec. 507	
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§ 65-34	Sec. 601	
§ 65-35	Sec. 602	
§ 65-36	Sec. 603	
§ 65-37	Sec. 604	
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§ 65-39	Sec. 702	
§ 65-40	Sec. 703	
§ 65-41	Sec. 704	
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§ 65-42	Sec. 1101	
§ 65-43	Sec. 1102	
Article X	Article IX	
§ 65-44	Sec. 901, first, second and fourth unnumbered paragraphs	
§ 65-45	Sec. 901, third unnumbered paragraph	
§ 65-46	Sec. 901, fifth unnumbered paragraph Article X Sec. 1001	Omitted*

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

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

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

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



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

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

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

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

- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Village of Port Dickinson.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Port Dickinson.
- E. Any local law, ordinance or resolution of the Village of Port Dickinson providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Village of Port Dickinson or any portion thereof.
- F. Any ordinance or resolution of the Village of Port Dickinson appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Village of Port Dickinson, or other instruments or evidence of the village's indebtedness.
- G. Local laws, ordinances or resolutions authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The dedication of property.
- J. Any local laws, ordinances or resolutions relating to salaries.
- K. Any ordinance or resolution establishing a water, sewer, lighting, garbage or other special purpose district.
- L. Any local law, ordinance or resolution adopted subsequent to September 10, 1974.

M. Any ordinance or resolution pertaining to or amending the Zoning Map adopted June 10, 1958, and updated July 29, 1974.

N. The Police Department Rules and Regulations adopted December 4, 1935.

§ 1-5. Severability.

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

§ 1-6. Copy of Code on file.

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

§ 1-7. Amendments to Code.

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

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

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

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

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

§ 1-10. Publication; filing.

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

§ 1-11. Penalties for offenses.

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

§ 1-12. Incorporation of provisions into Code.

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

§ 1-13. When effective.

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

## ARTICLE II Legislation Enacted During Codification

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

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

Amendment Date/ Chapter/Section	Local Law Number
Ch. 33, Firearms § 33-2	6-10-75 by L.L. No. 1-1975
Ch. 49, Sewers § 49-1A § 49-33	6-10-75 by L.L. No. 2-1975 6-10-75 by L.L. No. 2-1975
Ch. 59, Vehicles, Abandoned § 59-8	6-10-75 by L.L. No. 1-1975
Ch. 60, Vehicles and Traffic § 60-9	6-10-75 by L.L. No. 3-1975
Ch. 62, Water § 62-13	6-10-75 by L.L. No. 1-1975

# PART I

## ADMINISTRATIVE LEGISLATION

### Chapter 1

#### GENERAL PROVISIONS

#### ARTICLE I

#### Adoption of Code

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

ARTICLE II  
Legislation Enacted During Codification

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

Chapter 3

DEFENSE AND INDEMNIFICATION

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

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

GENERAL REFERENCES

Code of Ethics — See Ch. 5.

- § 3-1. Definitions.

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

EMPLOYEE — Any Village of Port Dickinson commissioner, member of a Village of Port Dickinson board or commission, Village of Port Dickinson officer, Village of Port Dickinson employee, Village of Port Dickinson volunteer expressly authorized by the Village of Port Dickinson to participate in a publicly sponsored volunteer program or any other person holding a Village of Port Dickinson position by election, appointment or employment in the service of the Village of Port Dickinson, whether or not compensated, but shall not include an independent

contractor. The term “employee” shall include a former employee of the Village of Port Dickinson, his estate or judicially appointed personal representative.

VILLAGE — The Village of Port Dickinson.

§ 3-2. Provisions for defense and indemnification.

A. Upon compliance by the employee with the provisions of §3-3 of this Chapter, the Village shall provide for the defense of the employee in:

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

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

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

- B. Subject to the conditions set forth in this chapter, the employee shall be present by the Village Attorney or an attorney employed or retained by the village for the defense of the employee. The Village Board shall employ or retain an attorney for the defense of the employee whenever the village does not have a Village Attorney; the Village Board determines based upon its investigation and review of the facts and circumstances of the case that representation by the Village Attorney would be inappropriate; or a court of competent jurisdiction determines that a conflict of interest exists and that the employee cannot be represented by the Village Attorney. Reasonable attorney’s fees and litigation expenses shall be paid by the village to such attorney employed or retained, from time to time, during the pendency of the civil action or proceeding subject to certification by the Village Mayor that the employee is entitled to representation under the terms and conditions of this chapter. Payment of such fees and expenses shall be made in the same manner as payment of other claims and expenses of the village. Any dispute with respect to representation of multiple employees by the Village Attorney or by an attorney employed or retained for such purposes or with respect to the amount of the fees or expenses shall be resolved by the court.
- C. Where the employee delivers and processes a request for a defense to the Village Attorney or the Village Mayor, as required by § 30-3 of this chapter, the Village Attorney or the Mayor, as the case may be, shall take the necessary steps, including the retention of an attorney under the terms and conditions provided in Subsection B of this section on behalf of the employee to avoid entry of a

default judgment, pending resolution of any question relating to the obligation of the village to provide a defense.

- D. Subject to the condition set forth in this chapter, the village shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in a state or federal court or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while the employee was acting within the scope of his public employment duties; provided, further, that in the case of a settlement the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the Village Board. The duty to indemnify and save harmless prescribed by this subsection shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee or with respect to punitive or exemplary damages, fines or penalties or money recovered from an employee pursuant to § 51 of the General Municipal Law.

§ 3-3. Responsibilities of employee.

- A. The duties to defend provided in this chapter shall be contingent upon delivery to the Village Attorney or, if none, to the Village Mayor of the original or a copy of any summons, complaint, process, notice, demand or pleading within five (5) days after he is served with such document and the full cooperation of the employee in the defense of such action or proceeding and defense of any action or proceeding against the village based upon the same act or omission and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the village provide for his defense pursuant to this chapter, unless the employee shall state in writing that a defense is not requested.
- B. The duty to indemnify and save harmless prescribed by this chapter shall be conditioned upon the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the village based upon the same act or omission and in the prosecution of any appeal.
- C. Upon entry of a final judgment against the employee or upon the settlement of the claim, the employee shall serve a copy of such judgment or settlement, personally or by certified or registered mail within thirty (30) days of the date of entry or settlement, upon the Village Mayor of the village: and if not inconsistent with tile provisions of this section, the amount of such judgment or settlement shall be paid by the village.

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

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

§ 3-5. Effect on insurers.

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

§ 3-6. Effect on other laws.

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

§ 3-7. Applicability.

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

§ 3-8. When effective.

This chapter shall take effect immediately.

## Chapter 4

### RULES OF PROCEDURE

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

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

§ 4-1. Regular Meetings.

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



#### § 4-2. Special Meetings.

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

#### § 4-3. Quorum.

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

#### § 4-4. Executive Sessions.

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

#### § 4-5. Agendas.

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

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

#### § 4-6. Voting.

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

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

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

#### § 4-7. Minutes.

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

Minutes shall also include the following:

- Name of the Board;
- Date, place and time of meeting;

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

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

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

#### § 4-8. Order of Business.

The order of business shall be:

- Call to Order - Welcome
- Pledge of Allegiance
- Approval of Minutes
- Treasurer's Report
- Reading of Bills Payable
- Approval of Bills Payable
- Invitation for Public Comments & Discussion
- Public Hearings (if any)
- Opening of Bids (if any)
- Commissioners' Reports:
  - Water and Sewers
  - Public Safety
  - Administration
  - Public Works, Parks & Recreation
- Planning Board Report
- Zoning Board Report
- Community Association Report
- Resolutions
- Discussion Items
- Questions & Answers
- Adjournment

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

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

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

Board members are not required to rise but must be recognized by the presiding officer before making motions and speaking. Motions do not require a second. A member, once recognized shall not be

interrupted when speaking unless it be to call the member to order. If a member, while speaking, be called to order, such member shall cease speaking until the question of order be determined, and, if in order, such member shall be permitted to proceed.

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

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

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

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

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

Speakers must be recognized by the presiding officer.

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

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

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

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

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

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

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

#### § 4-12. Adjournment.

Meetings shall be adjourned by motion.

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

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

## ETHICS, CODE OF

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

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

- § 5-1. Purpose; relationship to statutory provisions.
  - A. Pursuant to the provisions of Section 806 of the General Municipal Law, the Board of Trustees of the Village of Port Dickinson recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Village of Port Dickinson. These rules shall serve as a guide for official conduct of the officers and employees of the Village of Port Dickinson.
  - B. The rules of ethical conduct of this chapter, as adopted, shall not conflict with, but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

### § 5-2. Definitions.

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

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

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

### § 5-3. Standards of conduct.

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

- A. Gifts. He shall not directly or indirectly, solicit any gift; or accept or receive any gift having a value of seventy-five dollars (\$75.) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances to which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part. (Amended January 14, 1997)
- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- C. Representation before one's own agency. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Board of Trustees and any officer or employee of the Village of Port Dickinson, whether paid or unpaid, who participates in the discussion or gives official opinion to the Board of Trustees on any legislation before the Board of Trustees shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.
- F. Investments in conflict with official duties. He shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with his official duties.
- G. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- H. Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Village of Port Dickinson in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

§ 5-4. Filing of claims.

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

§ 5-5. Distribution of code.

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

§ 5-6. Penalties for offenses.

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

§5-7. Posting.

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

## Chapter 6

### EMPLOYMENT DISCRIMINATION AND HARASSMENT POLICY

§ 6-1 Purpose.

§ 6-2. Policy.

§ 6-3. Definition of Sexual Harassment.

§ 6-4. Procedure.

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

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

§ 6-1. Purpose.

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

§ 6-2. Policy.

- A. In addition to prohibiting illegal discrimination on the basis of race, color, sex, religion, age, disability, marital status, military status, national origin, or other unlawful conduct, the Village of Port Dickinson also prohibits the illegal harassment of its employees or officers in any form. The Village will take all steps necessary to prevent and stop the occurrences of any illegal discrimination or harassment in the workplace.

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

§ 6-3. Definition of Harassment.

- A. Sexual advances that are not welcome, requests for sexual favors, and other verbal or physical conduct with sexual overtones constitute sexual harassment when:
  1. submission to such conduct is made, either explicitly, or implicitly, a term or condition of an individual's employment; or
  2. submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions such as promotion, transfer, or termination, affecting such individual;
  3. or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- B. Sexual harassment refers to behavior that an individual does not welcome; that is personally offensive; that fails to respect the rights of others; that lowers morale and that, therefore, interferes with an individual's work performance and effectiveness; or that creates an intimidating, hostile, or offensive working environment. Specific forms of behavior that the Village would consider sexual harassment include, but are not limited to, the following:
  1. **VERBAL HARASSMENT** – Abusive verbal language related to a person's sex, including sexual innuendos; slurs; suggestive, derogatory, or insulting comments or sounds; whistling; jokes of a sexual nature; sexual propositions; and threats. Included would be any sexual advance that is unwelcome or any demand for sexual favors.

2. NON-VERBAL HARASSMENT – Abusive written language, showing or displaying pornographic or sexually explicit objects or pictures, graphic commentaries, leering or obscene gestures in the workplace such that it unreasonably interferes with an individual’s work performance or creates an intimidating, hostile, or offensive working environment.
3. PHYSICAL HARASSMENT – Any physical contact which is not welcome, including touching, petting, pinching, coerced sexual intercourse, assault, or persistent brushing up against a person’s body.

§ 6-4. Procedure.

- A. Any Village officer or employee is encouraged to report an incident of suspected employment discrimination or harassment to a department head or to the employment discrimination/harassment committee as soon as possible after an alleged incident. A victim does not have to be the opposite sex of the harasser. The harasser does not have to be victim’s immediate supervisor. The harasser could be an agent of a supervisor, another supervisor, a co-worker, or even someone not on the payroll of the Village who might have occasion to appear at a work site or enter a Village building or facility. A victim of sexual harassment does not necessarily have to be the person at whom unwelcome sexual conduct is directed. Such an individual could be someone who is affected by such conduct when it is directed towards another person, thereby creating a hostile work environment. Such conduct is unlawful and is prohibited by the Village and by this policy.
- B. Should an officer or employee believe that he or she has been discriminated against or harassed and would like guidance as to how to proceed in filing a complaint, that individual should review the Village’s employment discrimination and harassment complaint procedure or contact any member of the employment discrimination/harassment committee.
- C. Should an individual file a complaint, the procedures of the employment discrimination/harassment committee must be followed, including the time limit of 180 days. The procedures describe the steps to be taken when an employee has filed a complaint, details the responsibilities of all involved parties, and provides the time frames for actions to be taken.
- D. All complaints will be handled in a timely and confidential manner. In no event will information concerning a complaint be released by the Village to any third party or to anyone within Village employment who is not directly involved with or in the investigation. A breach of this prohibition will result in disciplinary action.
- E. The investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses. The particular facts of the allegation will be examined individually, with a review of the nature of the behavior and the context in which the incident or incidents occurred. Confidentiality will be maintained throughout the investigatory process. The employment discrimination/harassment committee will also investigate cases in which a supervisor requests or requires assistance.
- F. An individual who believes that he or she has been unjustly charged with employment discrimination or harassment in violation of this policy will be afforded every opportunity to offer and present information in defense of the complaint. Any information will be confidential.
- G. A person who participates in this procedure may do so without fear of retaliation. Retaliation against anyone who has filed a complaint under this policy is prohibited and may well be a violation of federal or State law. Any such retaliation will result in disciplinary action by the Village.



- H. A person who is found to have committed an act of employment discrimination or harassment will be subject to disciplinary action in accordance with the provisions of a negotiated labor agreement or State law, as may be appropriate.
- I. Nothing in this policy should be construed to limit an individual's existing right to file a complaint with the New York State Division of Human Rights or the U.S. Equal Employment Opportunity Commission, or to take any legal action which he or she may deem advisable.

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

A. STEP ONE

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

B. STEP TWO

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

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

§ 7-1. Authority.

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

§ 7-2. Liability.

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

## Chapter 8

### TAX SEARCH CERTIFICATES

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

§ 8-1. Authority.

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

§ 8-2. Newsletter Distribution.

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

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

a and b: Remain the same

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

## Chapter 9

### FREEDOM OF INFORMATION

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

**§ 9-1. Promulgation**

**§ 9-2. Definitions**

**§ 9-3. Purpose and Scope**

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

**§ 9-5. Location**

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

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

**§ 9-8. Subject Matter List**

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

**§ 9-10. Fees**

**§ 9-11. Public Notice**

**§ 9-12. Severability**

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

**§ 9-1. Promulgation**

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

**§ 9-2. Definitions**

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

- (a) “Village” means the Village of Port Dickinson, a municipal corporation organized and existing under and by virtue of the laws of the State of New York and with offices and principal place of business at 786 Chenango Street, Port Dickinson (mailing address Binghamton, NY 13901)
- (b) “ Board of Trustees ” means the Board of Trustees of the Village of Port Dickinson

- (c) “Mayor” means the Mayor of the Village of Port Dickinson
- (d) “Village Clerk” means the Village Clerk of the Village of Port Dickinson
- (e) “Regulations” means the Regulations promulgated by the Committee on Open Government on January 10, 1978 pursuant to the New York Freedom of Information Law as amended.

### **§ 9-3. Purpose and Scope**

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

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

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

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

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

- (ii) Deny access to the records in whole or in part and explain in writing the reasons therefor.
5. Upon request for copies of records:
    - (i) Make a copy available upon payment or offer to pay established fees, if any, in accordance with Section 10 or
    - (ii) Permit the requester to copy these records.
  6. Upon request, certify that a record is a true copy, and
  7. Upon failure to locate records, certify that:
    - (i) The Village is not the legal custodian for such records, or
    - (ii) The records of which the Village is a custodian cannot be found after diligent search.

### **§ 9-5. Location**

Records shall be available for public inspection and copying at:

Village Hall  
786 Chenango Street,  
Village of Port Dickinson

or at the location where they are kept.

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

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

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

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

circumstances of the request and shall not be more than twenty business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure, within twenty business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or

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

## **§ 9-8. Subject Matter List**

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

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

- (a) Denial of access shall be in writing stating the reason therefor and advising the person denied access of his or her right to appeal to the person or body established to hear appeals, and that person or body shall be identified by name, title, business address and business telephone number. The records access officer shall not be the appeals officer.
- (b) The Village Board of Trustees shall hear appeals or shall designate a person or body to hear appeals regarding denial of access to records under the Freedom of Information Law.
- (c) If the Village fails to respond to a request as required in section 7 of these Regulations, such failure shall be deemed a denial of access by the Village.
- (d) Any person denied access to records may appeal within thirty days of a denial.
- (e) The time for deciding an appeal by the individual or body designated to hear appeals shall commence upon receipt of written appeal identifying:
  - (1) The date and location of a request for records;
  - (2) The records that were denied; and
  - (3) The name and return address of the appellant.
- (f) A failure to determine an appeal within ten business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.
- (g) The Village shall transmit to the Committee on Open Government copies of all appeals upon receipt of an appeal. Such copies shall be addressed to:

Committee on Open Government  
Department of State  
41 State Street  
Albany, New York 12231
- (h) The person or body designated to hear appeals shall inform the appellant and the Committee on Open Government of its determination in writing within ten business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in subdivision (g) of this section.

- (i) A final denial of access to a requested record, as provided for in subdivision (h) of this section, shall be subject to court review, as provided for in subdivision (g) of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law and Rules.

### **§ 9-10. Fees.**

Except when a different fee is otherwise prescribed by law:

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

### **§ 9-11. Public Notice**

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

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

### **§ 9-12. Severability**

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

## **Chapter 10**

### **CYBER SECURITY CITIZENS' NOTIFICATION POLICY**



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

## **§ 10-1 Definitions**

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

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

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

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

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

social security number; or

1. driver's license number or non-driver identification card number; or
2. account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account

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

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

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

**§ 10-3.** The Village of Port Dickinson ( the “Village”) shall notify an individual, in compliance with the Information Security Breach and Notification Act and this policy when there has been or is reasonably

believed to have been a compromise of the individual's private information, as defined in Section C below, after consulting with the State's Office of Cyber Security and Critical Infrastructure Coordination ICSCIC) to determine the scope of the breach and restoration measures.

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

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

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

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

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

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

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

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

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

## Chapter 14

### SALARIES AND COMPENSATION

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

#### §14-1 Payroll Deductions

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

#### §14-1 Payroll Deductions

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

## Chapter 16

### TERMS OF OFFICE

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

§ 16-2. Elections to be held biennially.

§ 16-3. Transitional elections.

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

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

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

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

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

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

§ 16-3. Transitional elections.\*

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

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

## Chapter 17

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

§17-1. Eligibility of Village Treasurer

§17-2. Compensation of Village Treasurer

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

§ 17-3. Eligibility of Deputy Village Clerk

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

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

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

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

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

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

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

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

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

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

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

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

## PART II

## GENERAL

# LEGISLATION

## Chapter 22

### ANIMALS

- § 22-1. Purpose.
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[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 7-9-74 as Local Law No. 2-1974. Amendments noted where applicable.]

#### § 22-1. Purpose.

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

#### § 22-2. Definitions.

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

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

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

#### § 22-3. Restrictions.

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

- A. Hereafter keep, house or maintain any animals, as defined by § 22-2 of this chapter, within the limits of the Village of Port Dickinson without a special permit in writing from the Board of Trustees, signed by the Mayor and one (1) Trustee. Said permit may be granted at the discretion of the Board of Trustees and shall remain valid until such time as it shall appear from the complaints

of the neighbors or otherwise that the keeping of such animals is objectionable or offensive by reason of noise, smell or other cause.

- B. Permit or allow any pet to run at large unless restrained by a collar and leash or unless accompanied by its owner or a responsible person able to control the pet. This subsection shall not apply to house cats.
- C. Permit a pet to engage in habitual howling, barking or production of noise or conducting itself in such manner as to habitually annoy any person.
- D. Permit a pet or fail to curb or control such pet so that it causes damage or destruction to property or to commit a nuisance upon the premises of a person other than the owner or person harboring such pet.
- E. Permit or fail to curb or control such pet so that it shall chase, bite, snap at, jump upon or otherwise harass any person in such a manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.
- F. Permit or to so fail to control the pet that it shall habitually chase or bark at motor vehicles.
- G. Board to keep pets owned by other persons for pay, whether in money or money's worth.
- H. Maintain kennels or pet harborage in such a manner as to be unsanitary or order bearing.
- I. To permit to allow a dog to be on that real property within the Village of Port Dickinson on Chenango Street known as Port Dickinson Community Park. [Added 12-8-92 by L.L. No. 2-1992]

§ 22-3A. Canine waste.

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

§ 22-4. Seizure and impoundment.

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

§ 22-5. Existing violations.

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

§ 22-6. Penalties for offenses.

The violation of this chapter and conviction thereof shall be punishable by a fine not to exceed twenty-five dollars (\$25.) for each and every offense, unless the amount of any such fine is specifically prescribed or limited by the Agricultural and Market Law of the State of New York.

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## Chapter 23

### ASSESSMENT

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

§ 23-1. Legislative intent.

The intent of the Board of Trustees of the Village of Port Dickinson is to implement section 1402(3) of the Real Property Tax Law providing for the voluntary termination of the Village's status as an assessing unit, as provided in the Village Law and the Real Property Tax Law. It is also the intent of this local law to

abolish the position of Assessor and to terminate any and all responsibility as provided by law for the review of the assessments of real property located within the Village of Port Dickinson.

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

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

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

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

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

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

## Chapter 24

### BRUSH, GRASS AND WEEDS

§ 24-1. Removal required.

§ 24-2. Determination of Enforcement Officer.

§ 24-3. Notice to owner.

§ 24-4. Compliance.

§ 24-5. Removal by village.

§ 24-6. Enforcement.

§ 24-7. Severability.

§ 24 -8. When effective.

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

#### GENERAL REFERENCES

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

§ 24-1. Removal required.

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

§ 24-2. Determination of Enforcement Officer.

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

§ 24-3. Notice to owner.

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

§ 24-4. Compliance.

A person upon whom notice has been served to cut, trim or remove such long grass, weeds or brush and who for five (5) days after service shall neglect or fail to comply with the provisions of any such notice shall be deemed to have violated this chapter.

§ 24-5. Removal by village.

If after the expiration of ten (10) days from the date of personal service or fifteen (15) days from the date of service by mailing, the owner shall fail to comply with the requirements of § 24-1, the Department of Public Works at the order of the Enforcement Officer shall have the power to cut, trim or remove such weeds, grass, brush or other uncultivated vegetation or accumulation of dead weeds, grass or brush on any such lot, plot or property in the Village of Port Dickinson. If in the judgement of the Commissioner of Public Works the employees of the Department of Public Works, by reason of their work schedule, will be unable to attend to such cutting activities within seven (7) days from receipt of said order, the Enforcement Officer may direct a private contractor previously approved by the Board of Trustees to perform such services at the pay schedule previously approved. In either such event the expense thereof shall become a lien upon the real property involved and be added to and become a part of the tax next so assessed by including such expense in the next annual tax levy against the property, pursuant to the Village Law of New York. [Amended 8-8-00 by L.L. No. 4-2000]

§ 24-6. Enforcement.

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

§ 24-7. Severability.

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

§ 24-8. When effective.

This chapter shall take effect immediately.

## **Chapter 26**

### **BUILDING CONSTRUCTION**

**§ 26-1. Authority**

**§ 26-2. Designation of Code Enforcement Official as Public Officer**

**§ 26-3. Code Enforcement Official**

**§ 26-4. Duties and Powers of Code Enforcement Official**

**§ 26-5. Rules and Regulations**

**§ 26-6. Restrictions on employees**

**§ 26-7. Review Board**

**§ 26-8. Building Permit**

**§ 26-9. Fees**

**§ 26-10. Certificate of Occupancy**

**§ 26-11. Inspections**

**§ 26-12. Departments of Records and Reports**

**§ 26-13. Stop-Work Orders**

**§ 26-14. Violations**

**[History: Adopted by the Board of Trustees of the Village of Port Dickinson 7-11-95 as Local Law 8-1995.]**

**§ 26-1. Authority**

This Local Law is enacted pursuant to the provisions of Section 381 of the Executive Law of the State of New York and all other applicable laws.

## **§ 26-2. Designation of Code Enforcement Official as Public Official**

There is hereby designated in the Village of Port Dickinson a public official to be known as the Code Enforcement Official, who shall be appointed by the Mayor with the approval of the Board of Trustees at a compensation to be fixed by it from time to time.

## **§ 26-3. Code Enforcement Official**

In the absence of the Code Enforcement Official, or in the case of his inability to act for any reason, the Mayor shall have the power to act in behalf of the Code Enforcement Official and to exercise all the powers conferred upon him by this Local Law, or, with the consent of the Board of Trustees to designate a person to act in behalf of the Code Enforcement Official and to exercise all the powers conferred upon him by this Local Law.

## **§ 26-4. Duties and Powers of Code Enforcement Official**

Except as otherwise specifically provided by law, ordinance, rule or regulation, the Code Enforcement Official shall administer and enforce all of the provisions of the New York State Uniform Fire Prevention and Building Code and other laws, ordinances, rules and regulations adopted by the Village of Port Dickinson Pursuant to this Local Law applicable to plans, specifications, or permits for the construction, alteration and repair of buildings and structures, and the installation and use of materials and equipment therein, and to the location, use and occupancy thereof.

## **§ 26-5. Rules and Regulations**

The Board of Trustees may, after public notice and publication at least five (5) days prior to the effective date thereof in a news-paper of general circulation within the Village, adopt such further procedural/administrative rules and regulations as the board deems reasonable to carry out the provisions of this local law. The Enforcement Officer may make recommendations to the Board of Trustees to adopt, amend or appeal such rules and regulations as they may relate to efficient administration and enforcement of the provisions of the Uniform Code. Such rules and regulations shall not conflict with the Uniform Code, this local law, or any other provision of law.

## **§ 26-6. Restrictions on Employees**

The Code Enforcement Official shall not engage in any activity inconsistent with his duties, or with the interests of the building department; nor shall he, during the term of his employment, be engaged directly or indirectly in any building business, in the furnishing of labor, materials, supplies or appliances for, or the supervision of, the construction, alteration, demolition or maintenance of a building or the preparation

of plans or specifications thereof within the County of Broome except that this provision shall not prohibit him from engaging in any such activities in connection with the construction of a building or structure owned by him for his own personal use and occupancy or for the use and occupancy of members of his immediate family, and not constructed for sale.

#### **§ 26-7. Review Board**

- (a) Where practicable difficulties or unnecessary hardship may result from enforcement of the strict letter of any provision of the uniform Code, applications for variances consistent with the spirit of the Code may be made to the regional Board of Review in accordance with Part 450 of the New York Code of Rules and Regulations entitled “Uniform Code: Board of Review” as promulgated by the New York Department of State. The Code Enforcement Official shall maintain a copy of such rules and regulations for public inspection and shall obtain and retain a copy of all decisions rendered by the Board of Review pertaining to matters affecting the Village of Port Dickinson.
- (b) Where practical difficulties or unnecessary hardship may result from enforcement of the strict letter of any provision of this Local Law or any rule or regulation hereunder which provision is not required by the Uniform Code, applications for variances and appeals, consistent with the spirit of such law, rule or regulation, may be made to the Village Zoning Board of Appeals.

#### **§ 26-8. Building Permit**

- (a) No person firm or corporation shall commence the excavation, erection, construction, enlargement, alteration, or improvement of any building or structure, install solid fuel heating equipment or cause the same to be done, or commence the demolition of any building or structure on any portion thereof, without first obtaining a separate building permit from the Code Enforcement Official for each such building or structure; except that no building permit shall be required for:
  - (1) Performance of necessary repairs which do not involve material alteration of structural features, and/or plumbing, electrical or heating/ventilation systems, including, for example, the replacement of siding and roofing materials, nor for the erection of fences, nor
  - (2) The construction of non-commercial storage facilities of less than 140 square feet of gross floor area. Such work shall nevertheless be done in conformance with the Uniform Fire Prevention and Building Code, nor
  - (3) Alterations to existing buildings, provided that they:
    - (i) Cost less than \$10,000;
    - (ii) Do not materially affect structural features;
    - (iii) Do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits;
    - (iv) Do not involve the installation or extension of electrical systems; and

- (v) Do not include the installation of solid fuel burning heating appliances and associated chimneys or flues; or more persons as quarters for living, sleeping, eating or cooking, for example; a small storage building, nor

(4) Agricultural buildings or structures.

- (b) The Code Enforcement Official shall receive applications, approve plans and specifications, and issue permits for the erection and alteration of buildings or structures or parts thereof and shall examine the premises for which such applications have been received, plans approved, or such permits have been issued for the purpose of insuring compliance with laws, ordinances, rules and regulations governing building construction or alterations.

A building permit will be issued when the application has been determined to be complete, when the proposed work is determined to conform to the provisions of the Uniform Code, and when the Code Enforcement Officer has determined that the proposed work is in compliance with the Zoning Code of the Village. The permit shall be prominently displayed on the property or premises to which it pertains during construction so as to be readily seen from adjacent thoroughfares, if possible.

- (c) The form of the permit and application therefore shall be prescribed by resolution of the Board of Trustees. The application shall be signed by the owner (or his authorized agent) of the building or work and shall contain at least the following:

- (1) Name and address of the owner;

- (2) Identification and/or description of the land on which the work is to be done;

- (3) Description of use or occupancy of the land and existing or proposed building;

- (4) Description of the proposed work;

- (5) Estimated cost of the proposed work;

- (6) Statement that the work shall be performed in compliance with the Uniform Code and applicable State and local laws, ordinances and regulations;

- (7) Required fee.

- (d) Such application shall be accompanied by such documents, drawings, plans (including plot plan) and specifications as the applicant shall deem adequate and appropriate for compliance with the local law, or as the Code Enforcement Officer may require as being necessary or appropriate in his judgment. Applicant may confer with the Code Enforcement Officer in advance of submitting his application to discuss the Code Enforcement Officer's requirements for same.

- (e) Any plans (including plot plan) or specifications which com-prise a portion of the application, whether submitted subsequently upon requirement by the Code Enforcement Officer, shall be stamped with the seal of an architect or professional engineer or land sur-veyor licensed in this State, and shall in all respects comply with Section 7209 and 7307 of the Education Law of the State of New York as same may be amended from time to time.
- (f) Applicant shall notify the Enforcement Officer of any changes in the information contained in the application during the period for which the permit is in effect. A permit will be issued when the application has been determined to be complete and when the proposed work is determined to conform to the requirements of the Uniform Code. The authority conferred by such permit may be limited by conditions, if any, contained therein.
- (g) A building permit issued pursuant to this Local Law may be suspended or revoked if it is determined that the work to which it pertains is not proceeding in conformance with the Uniform Code or with any condition attached to such permit, or if there has been misrepresentation or falsification of a material fact in connection with the application for the permit.
- (h) A building permit issued pursuant to this Local Law shall expire one (1) year from the date of issuance or upon the issuance of a certificate of occupancy (other than a temporary certificate of occupancy), whichever occurs first. The permit may, upon written request, be renewed for successive one-year periods provided that:
  - (1) The permit has not been revoked or suspended at the time the application for renewal is made.
  - (2) The relevant information in the application is up to date, and
  - (3) The renewal fee is paid.

**§26-9. Fees** [Para (a) amended 4-12-05 as Local Law 3 -2005]

Any person applying for a building permit shall, in addition to filing an application therefor as provided in §26-8 of this Chapter, pay to the Code Enforcement Officer before the permit is issued, the fee required in this section as follows:

- (a) For the construction of a new building, additions, alterations or other structures equal to or exceeding one hundred twenty (120) square feet in area:
  - (1) One and two-family dwellings: \$.01 per square foot or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:
  - (2) Multiple dwellings: \$.02 per square foot. or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:



- (3) General Commercial Construction: \$.02 per square foot. or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:
- (4) Industrial Construction: \$.03 per square foot. or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:
- (5) Supplemental Structure:
  - a. Residential - whether attached to or detached from the main structure, more particularly in reference to, but not limited to, garages, patios, decks, breezeways, porch enclosure or enlargement, dormers and swimming pools: \$5.00. . or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:
  - b. Commercial - \$.02 per square foot. or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:
  - c. Industrial - \$.03 per square foot. or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:
- (6) The square feet of area shall be determined from the outside dimensions of the structures and shall include all floor areas, except for nonhabitable basements and attics of dwellings and garages.

(b) Alteration of a Building:

- (1) Residential - \$5.00.
- (2) Commercial - \$10.00.
- (3) Industrial - \$10.00.

(c) Moving Any Type of Building to a New Location:

- (1) Residential - \$10.00.
- (2) Commercial - \$10.00.
- (3) Industrial - \$10.00.

(d) The demolition or wrecking of any building or structure shall be Five Dollars (\$5.00).

(e) Erection of signs and billboards equal to or exceeding ten (10) square feet in area shall be Five Dollars (\$5.00).

(f) No permit fee will be required for construction work less than one hundred twenty square feet (120) in area or for the erection of signs less than ten (10) square feet in area.

(g) No permit fee will be required for the erection on any lot of not more than one prefabricated metal storage shed not exceeding one hundred twenty (120) square

feet in gross floor area and to be used exclusively for the storage of lawn and garden equipment and tools.

- (h) The fee for renewal of a building permit when construction has not been completed within one year of its issuance shall be Five Dollars (\$5.00).
- (i) Any work which is not specifically provided for above, and for which a fee must be obtained, shall be charged a fee in accordance with the rate set forth in the category herein most analogous to such work to be determined at the discretion of the Code Enforcement Officer.
- (j) The definitions of one and two family dwellings, multiple dwellings and general construction shall be those set forth in the Uniform Code.
- (k) In the event any work is commenced prior to the issuance of a permit pursuant to the terms of this section, the permit fee shall be twice the amount of the regular fee above set forth.
- (l) The Building Inspector shall keep a record of all fees collected and received under this local law with the name of the persons upon whose account the fee was paid out and the date and amount there-of, together with the location of the building or premises to which they relate, and the amounts so collected shall be paid over monthly to the Village Treasurer.

#### **§ 26-10. Certificate of Occupancy**

- (a) No building erected subject to the Uniform Code and this local law shall be used or occupied, except to the extent provided in this section, until a certificate of occupancy has been issued. No building similarly enlarged, extended, or altered, or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than thirty (30) days after the completion of the alteration or work unless a certificate of occupancy has been issued. No change shall be made in the nature of the occupancy of an existing building unless a certificate of occupancy authorizing the change has been issued. The owner or his agent shall make application for a certificate of occupancy.
- (b) A temporary certificate of occupancy may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use for which it is intended. A temporary certificate of occupancy shall expire six (6) months from the date of issuance, but may be renewed an indefinite number of times.
- (c) No certificate of occupancy shall be issued except upon an inspection which reveals no uncorrected deficiency or material violation of the Uniform Code in the area intended for use and upon payment of the appropriate fee.

#### **§ 26-11. Inspections.**

- (a) Work for which a building permit has been issued under this local law shall be inspected for

approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction including, but not limited to, building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing, and heating and air conditioning. It shall be the responsibility of the owner, applicant, or his agent to inform the Code Enforcement Officer that the work is ready for inspection and to schedule such inspection.

- (b) Existing buildings not subject to inspection under subdivision “(a)” of this section shall be subject to periodic inspections for compliance with the Uniform Code in accordance with the following schedule: all areas of public assembly as defined in the Uniform Code, all buildings or structures containing areas of public assembly, and the common areas of multiple dwellings - every six months; all buildings or structures open to the general public - every twelve months; all other buildings - every 24 months. Notwithstanding any requirement of this subdivision to the contrary, no regular periodic inspections of occupied dwelling units shall be required provided, however, that this shall not be a limitation on inspections conducted at the invitation of the occupant or where conditions on the premises threaten or present a hazard to public health, safety, or welfare.
- (c) This Local Law shall not be construed to relieve from or lessen the responsibility of any person, owning, operating, or controlling any building or structure within the Village of Port Dickinson for loss of life or damage to person or property caused by any defect therein, nor shall the Village of Port Dickinson be deemed to have assumed any such liability by reason of any inspection made pursuant to this Local Law.

#### **§ 26-12. Department Records and Reports**

- (a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by him including all applications received plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by the municipality, and notices and orders issued. All such reports shall be public information open to public inspection during normal business hours.
- (b) The Code Enforcement Officer shall monthly submit to the Board of Trustees a written report of all business conducted.

#### **§ 26-13. Stop-Work Orders**

- (a) Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is proceeding without a permit, or is otherwise in violation of the provisions of any applicable law, code, ordinance or regulation, or is not in conformity with any of the provisions of the application, plans or specifications on the basis of which a permit was issued, or

is being conducted in an unsafe and dangerous manner, he shall notify either the owner of the property or the owner's agent or person, firm or corporation performing the work to immediately suspend all work. In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.

- (b) Such stop-work order shall be in writing on a form pre-scribed by the Code Enforcement Officer and shall state the reasons of the stop-work order, together with the date of issuance. The stop-work order shall bear the signature of the Code Enforcement Officer and shall be prominently posted at the work site. A stop work order shall be served upon a person to whom it is directed either by delivering it personally, or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to the person, firm or corporation by certified mail.

#### **§ 26-14. Violations.**

- (a) Upon determination by the Code Enforcement Officer that a violation of the Uniform Code or this local law exists in, on, or about any building or premises, the Code Enforcement Officer shall order in writing the remedying of the condition. Such order shall state the specific provision of the Uniform Code which the particular condition violates and shall grant such time as may be reasonably necessary for achieving compliance before proceedings to compel compliance shall be instituted. Such order shall be served personally or by registered mail.
- (b) It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provision of the new York State Uniform Fire Prevention and Building Code, or any amend-ment hereafter made thereto, as well as any regulation or rule promulgated by the Board of Trustees, or to fail to comply with a notice, order or directive of the Code Enforcer, or to construct, alter, repair, move or equip any building or structure or part hereof in a manner not permitted by an approved building permit.
- (c) Any person, firm or corporation who violates any provision of the Uniform Code or any rule or regulation of this local law, or 'the terms or conditions of any Certificate of Occupancy issued by the Building and Fire Safety Inspector, shall be liable to a fine of not more than \$50.00 for each day that the violation continues and to a civil penalty of not more than \$100.00 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Board of Trustees on its own initiative or at the request of the Code Enforcement Officer.
- (d) Alternatively or in addition to an action to recover the civil penalties provided by subsection (b), the Board of Trustees may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code or the terms or conditions of any Certificate of Occupancy issued by the Code Enforcement Officer, or to vacate the occupancy or building in case of imminent peril of life or property, notwithstanding that

a penalty or other punishment for such violation has otherwise been provided.

## Chapter 29

### DEFECTS, NOTIFICATION OF

§ 29-1. Notification required.

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

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

§ 29-4. When effective.

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

#### GENERAL REFERENCES

Streets and sidewalks—See Ch. 52.

§ 29-1. Notification required.

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

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

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

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

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

§ 29-4. When effective.

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

## Chapter 30

### DUMPING

- § 30-1. Legislative Intent and Title.
- § 30-2. Definitions.
- § 30-3. Prohibitions and Restrictions.
- § 30-3A. Garbage and Rubbish Removal.
- § 30-4. Enforcement and Penalties.
- § 30-5. Amendments.

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

§ 30-1. Legislative Intent and Title.

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

§ 30-2. Definitions.

- A. COMPOST — Means to heap or pile matter capable of decay, including but not limited to grass cuttings, leaves, brush, decaying foods, or paper products for use as fertilizer.
- B. Construction and demolition debris — Any matter which is defined as construction and demolition debris in 6 NYCRR Part 360.
- C. Garbage — Includes but is not limited to:
  - 1. Food waste of all kinds, whether for human or animal consumption.
  - 2. Used food containers or parts thereof, whether fabricated of metal, paper, wood, glass, plastic or synthetics.
  - 3. Paper materials used in food packaging.
  - 4. Dead animals or parts thereof.
  - 5. Any other matter which shall be capable of fermentation or decay, except:
    - a. Lumber as defined herein, and
    - b. Composted garbage used as fertilizer upon farms or gardens.
- D. Litter — Any matter capable or incapable of fermentation or decay.
- E. Lumber — Includes but is not limited to:
  - 1. Wood of growing trees sawed or split into boards or planks.
  - 2. Wood pallets.
  - 3. Wood used in packing and/or shipping.
  - 4. The term “lumber” does not include untreated wood products formerly used in construction or packing and/or shipping to be used as firewood pursuant to the provisions of Section 3(B)(2) herein.
- F. Rubbish — Includes but is not limited to:
  - 1. Waste material.
  - 2. Garden refuse, grass and leaves.
  - 3. Tires.
  - 4. Glass, metal, tins, cans, ashes, cinders, pottery, crockery, aluminum, plastics, styrofoam and synthetics, except matters defined herein as “garbage”.
- G. Sludge — Solids removed during the treatment of:
  - 1. Domestic or sanitary sewage.
  - 2. Stormwaters.
  - 3. Industrial wastewaters, or
  - 4. From any combination of these.
- H. Solid Waste — Any matter which is defined as solid waste in either of the following:
  - 1. Broome County Local Law No. 9, 1991, or
  - 2. 6 New York Code, Rules and Regulations, Part 360 (hereinafter “6 NYCRR Part 360”).
- I. Toxic materials — Material listed or defined as hazardous by either of the following:
  - 1. New York State Department of Environmental Conservation, or
  - 2. U.S. Environmental Protection Agency.
- J. Village — Means the Village of Port Dickinson.

§ 30-3. Prohibitions and Restrictions.

- A. Dumping, disposing, burying, burning, or littering of any of the following on any public or private lands in the Village of Port Dickinson is prohibited:
1. Garbage or rubbish, subject to the following:
    - a. The storage of garbage or rubbish which is awaiting collection and removal in a durable container in a manner which does not impair the public health or safety shall not be deemed to be prohibited by this section.
    - b. The owner of a single family residence may compost on the property comprising said residence matter capable of decay (as specified in Section 2(A) herein) generated from that residence or farm to be used as fertilizer so long as the disposal and composting is done in a nuisance-free manner which does not impair public health, safety or general welfare and is in conformity with the provisions of Code Section 45-3.1.
  2. Sludge. However, the disposal of sludge in accordance with the regulations and licensing requirements set forth in Broome County Local law No. 9, 1991, and by the Department of Environmental Conservation shall not be deemed to be prohibited by this section.
  3. Toxic material.
  4. Solid waste. However, the disposal of solid waste at a disposal facility authorized and licensed in accordance with the regulations set forth in Broome County Local Law No. 9, 1991 and 6 NYCRR Part 360 shall not be deemed to be prohibited by this section.
  5. Construction and demolition debris, subject to the following:

The storage of construction and demolition debris which is awaiting collection and removal in a manner which does not impair the public health or safety shall not be deemed to be prohibited by this section; provided, however, that said debris is removed from the site within sixty (60) days from the issuance of a building demolition permit pursuant to Code Chapter 26.
- B. Dumping, disposing or burying of lumber is prohibited, except:
1. Lumber awaiting use in any construction project stored in a manner which does not impair the public health or safety.
  2. This section shall not be deemed to prevent the storage of untreated lumber intended for use as firewood so long as the same shall not be stored in the following manner:
    - a. on any highway right-of-way, or
    - b. at or near any intersection in such a manner as to obstruct or impair the line of sight for vehicular or pedestrian traffic.

§ 30-3A. Garbage and Rubbish Removal.

- A. The person in control of any private lands in the Village shall arrange at his own cost and expense for the removal at least once per week of all garbage, and rubbish generated from said lands which shall be placed at the curb line not earlier than the evening preceding the collection day in suitable containers or securely stacked in bundles so as to prevent blowing and scattering.
- B. If the person in charge of said lands shall fail to comply with the provisions of this section, any accumulated garbage or rubbish the Village, after making a reasonable effort to notify the property owner to remove the same, shall have the power to have the same removed by the Village Department of Public Works. If in the judgment of the Commissioner of Public Works the employees of the Department of Public Works, by reason of their work schedule, will be unable to attend to such activities within forty-eight (48) hours from the time that the person in charge of said lands had failed to do so, the Commissioner of Public Works may direct a private contractor previously approved by the Board of Trustees to perform such service at the pay schedule previously approved. In either such event the expense thereof shall become a lien upon the real property involved and be added to and become a part of the tax next so assessed by including such



expense in the next annual tax levy against the property pursuant to the Village Law of New York. In addition to such billing, the Village is authorized to proceed for a violation of this section pursuant to S 30-4 of the Village Code. [Added 8-14-01 by L.L. No. 9-2001]

§ 30-4. Enforcement and Penalties.

- A. Conviction under this local law shall be a violation as defined by Section 55.10(3) of the Penal Law of the State of New York.
- B. Each day during which a violation continues may be deemed to be a separate violation.
- C. Conviction of an offense as provided by this local law shall be punishable by the following:
  - 1. Fine of not more than \$250 or in the case of a corporation an amount in accordance with Penal Law Section 80.10, and/or
  - 2. In the case of an individual(s), a term of imprisonment not to exceed fifteen (15) days, and/or
  - 3. Restitution based on avoided disposal fees and the costs of collection and hauling, and/or
  - 4. Community service.
- D. In addition to the above provided penalties and punishment, the Board of Trustees may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with this local law by injunction, abate or otherwise compel cessation of each violation, or obtain restitution to the Village for costs incurred by the Village in identifying and remedying each violation, including but not limited to reasonable attorney's fees and environmental testing.

§ 30-5. Amendments.

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

Chapter 31

ENVIRONMENTAL QUALITY REVIEW

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

Chapter 33

## FIREARMS

§ 33-1. Rules and regulations; exceptions.

§ 33-2. Penalties for offenses.

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

§ 33-1. Rules and regulations; exceptions.

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

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

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

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

## Chapter 34

### FIRE PREVENTION

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

Hereafter, the regulations set forth in 9 NYCRR Part 1191 implementing the provisions of the New York State Uniform Fire Prevention and Building Code and Part V of the Broome County Sanitary Code

shall provide the regulatory framework for and govern the prevention of fire and the safeguarding of human life and property from fire in the Village of Port Dickinson.

§ 34-5. Fireworks.

- A. No person shall fire or discharge, offer for sale or solicit orders for any fireworks or any other explosive combustible within the Village of Port Dickinson limits without a written permit from the Fire Marshal.
- B. Pursuant to § 405.00 of the Penal Law of the State of New York, any person desiring to procure a permit for a public display of fireworks in the Village of Port Dickinson shall make written application to the Fire Marshal of the Village of Port Dickinson, at least ten (10) days in advance of the date of the display, on an application form to be provided by the Fire Marshal, setting forth therein the information required by § 405.00 of the Penal Law of the State of New York.
- C. At the time of application evidence shall be submitted of a current insurance policy, with liability coverage and indemnity protection, or a bond with equivalent provisions conditioned for the payment of all damages which may be caused to a person or persons or to property by reason of the display so permitted and arising from any acts of the permittee, his agents, employees, contractors or subcontractors. The bond or policy shall not be in less sum than the following: liability for any one person, two hundred fifty thousand dollars (\$250,000.); limits for any one occurrence, five hundred thousand dollars (\$500,000.); and property damage with limits of three hundred thousand dollars (\$300,000.). The bond or policy shall name the Village of Port Dickinson as a named insured, shall conform with § 405.00 of the Penal Law of the State of New York and shall first be approved by the insurance agent designated by the Village Board.
- D. The Fire Marshal upon receipt of such application shall cause to be made an inspection of the premises named in the application as the place where it is proposed to give the public display of fireworks. If, in the judgment of the Fire Marshal, it would not be hazardous to surrounding property or dangerous to persons to permit such public display of fireworks at such location, he shall approve and return such application to the Village Clerk. Such application is then approved and the Village Clerk shall issue a permit in writing to the applicant upon the payment of the permit fee of twenty dollars (\$20.) and submission of evidence of insurance coverage required herein.
- E. No permit shall be granted by the Fire Marshal or Village Clerk for the use of floating or parachute fireworks or bombs.
- F. No permit shall license the use of fireworks beyond 12:00 p.m.
- G. The applicant for a permit shall, at his own expense, employ not less than two (2) police officers or special policemen of the Village of Port Dickinson to maintain traffic control, peace and good order in the area to be used by the applicant. The officers so hired shall have the authority to prevent the use of fireworks which do not conform to this chapter and/or § 405.00 of the Penal Law of the State of New York.

§ 34-6. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two

hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.

## Chapter 41

### PARKS

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

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

#### § 41-1. Purpose.

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

#### § 41-2. Definitions.

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

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

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

Village — Village of Port Dickinson.

#### § 41-3. Prohibited Activities.

The following activities are prohibited:

- a. Parking a motor vehicle in other than designated locations.
- b. Operating a motor vehicle in excess of ten (10) miles per hour or in any manner contrary to posted regulations.
- c. Operating a motor vehicle on other than the designated roads.

- d. Operating or parking a snowmobile.
- e. Horseback riding.
- f. Dogs.
- g. Sports other than in locations designated by the Village Board.
- h. Entering or using the parks during other than the designated hours posted by the Village Board.
- i. Refusing to comply with the time sharing plan posted by the Village Board or its designee for the use of any recreational facility.
- j. Operating or parking a motorcycle, minibike or other form of recreational vehicle except on designated roads.
- k. Overnight parking of motor vehicles.
- l. The sale of alcoholic beverages, as defined in Alcoholic Beverage Control Law, in any Village parks.
- m. The use of any alcoholic beverage in any Village park.
- n. The use of or being under the influence of any illegal drug or substance in any Village park.
- o. Possession or use of firearms, bow and arrow or other dangerous weapons within any Village park.
- p. Disturbing the peace and good order in the parks by fighting or arguing in loud voices or threatening violence to any person or the property of others.
- q. Begging, hawking, peddling or soliciting within the parks except as authorized by the Village Board.
- r. The use of profane or abusive language while in the parks.
- s. Injuring, defacing, destroying, disturbing, or removing any part of the parks.
- t. Loitering in or near park restroom buildings.
- u. Littering or leaving behind refuse and garbage. Park users must bring their own trash bags and remove their trash upon leaving the park.
- v. Starting a fire in a park except in park grills, fireplaces or designated areas.
- w. Failing to extinguish before leaving the park all fires started or used. The dumping of ashes or fire onto the ground is absolutely prohibited.
- x. Golf practice.
- y. Making noise of a type and volume that a reasonable person would not tolerate under the circumstances, which noise causes public annoyance.

§ 41-4. Reservations.

- a. Reservations are required for use of park pavilions and athletic facilities for organized events.
- b. No park or portion thereof will be reserved for any group whose size or activity will be detrimental to the park in the opinion of the Village Board.
- c. Reservations for organized events will be issued by the Village Board or its designee.
- d. Prior to April 1st of each year reservations will be made only for Village residents or Village organizations. After April 1st reservations may be made by either Village residents or Village organizations or non-residents or organizations.
- e. The use of Village park pavilions by groups is prohibited without first obtaining permission from the Village Board or its designee, to guarantee that the area has been properly cleaned up after such event and no damage has been caused thereto by the applicant.
- f. Park Fees for Group Reservations

Village Residents

- Free when available
- Free for the following churches:
  - Community Baptist
  - Saint Catherines
  - Ogden Methodist

Non-Village Residents

20 to 30 people	\$25.00
31 to 75 people	\$50.00
76 to 150 people	\$100.00
over 150	to be determined by Village Board

- g. Insurance. Organizations are required to provide a certificate of insurance naming the Village as an additional insured when making reservations to use athletic fields.
- h. Clean-up Deposits. Deposits to cover clean-up are not required. However, any group which does not properly clean up the area it has used prior to departing from the park will be billed at the rate of \$25.00 per reservation or the actual cost to the Village of cleaning up that area, whichever is greater, and/or may be denied use of the park in the future.

§ 41-5. Hours of Closing.

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

§ 41-6. Penalties for Offenses: Enforcement.

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

§ 41-7. Severability

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

§ 41-8. Repealer

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

§ 41.9. Effective Date

This local law shall take effect immediately.

Chapter 43

PEDDLING AND SOLICITING

- § 43-1. Registration; information required.
- § 43-2. Restrictions.
- § 43-3. Exceptions.
- § 43-4. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 7-9-74 as Local Law No. 1-1974. Amendments noted where applicable.]

- § 43-1. Registration; information required.

No person, firm or corporation shall hawk, vend, peddle, solicit or offer for sale, in or upon any street, park or other public place, or by going from house to house in the Village of Port Dickinson, any goods, wares or merchandise; no person shall solicit from place to place, house to house or on any street or public place in said village orders for the sale of goods, wares, merchandise, periodicals or other commodities or for services to be performed or for the making, manufacturing or repairing of any article or thing whatsoever for future delivery without having first registered his name, address, telephone number and company and filed a recent head and shoulders photograph two by three (2 x 3) inches with the Police Department of the Village of Port Dickinson.

§ 43-2. Restrictions.

- A. No registrant under this chapter shall solicit orders for, peddle, vend, hawk, offer for sale or engage in any manner of sales within the Village of Port Dickinson except during the hours of 9:00 a.m. through sunset on Monday through Saturday of each week, other than national legal holidays, without special written permission of the issuing officer. [Amended 12-8-92 by L.L. No. 5-1992]
- B. No registrant hereunder shall falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or service to be rendered.
- C. It shall be unlawful for any registrant to enter upon any premises or property or to ring the bell or knock upon or enter any building wherein there is painted or otherwise affixed or displayed to the public view any sign containing any of the following words: "no peddlers," "no solicitors," or "no agents," or other wording the purpose of which purports to prohibit peddling or soliciting upon the premises.
- D. No registrant shall stand or permit the vehicle used by him to stand in one (1) place in any public place or street for more than ten (10) minutes, or in front of any premises for any time if the owner or lessee of the ground floor thereof objects, or in any place if traffic is thereby obstructed.
- E. No registrant hereunder shall park or stand any vehicle used by him to engage in selling, vending, soliciting orders, hawking or other activities within five hundred (500) feet of the grounds of any place of worship, public school or municipal building.
- F. All persons, firms or corporations registering pursuant to the terms of Section 43-1 of this code shall be provided with a copy of restrictions set forth herein by the Police Department of the Village upon registration with the same. [Added 12-8-92 by L.L. No. 5-1992]

§ 43-3 Exceptions.

Registration pursuant to this chapter shall not be required:

- A. Of any holder of a license granted pursuant to § 32 of the General Business Law of the State of New York.
- B. For the soliciting of orders for or the peddling of, vending of or offering for sale of fresh farm produce, including but not limited to vegetables and dairy and poultry products.
- C. Of any honorably discharged soldier, airman, sailor or marine who is crippled as a result of injuries received while in the military or naval services of the United States.



- D. Of religious, civic, educational or philanthropic organizations which are resident or located in the County of Broome and State of New York.
- E. For the hand delivery of newspapers and periodicals.
- F. Of any person who is a resident of the Village of Port Dickinson and under the age of eighteen (18) years.
- G. Of any person, firm or corporation licensed by the State of New York to sell insurance or real estate.

§ 43-4. Penalties for offenses.

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

Chapter 44

PLANNING BOARD RULES AND REGULATIONS

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

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

- § 44-1. Authority

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

§ 44-2. Purpose

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

§ 44-3. General Governing Rules.

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

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

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

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

§ 44-4. Officers and Duties

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

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

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

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

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

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

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

#### § 44-5. Meetings

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

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

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

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

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

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

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

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

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

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

#### § 44-6. Voting

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

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

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

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

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

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

#### § 44-7. Referrals

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

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

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

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

#### § 44-8. Site Plan Review

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

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

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

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

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

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

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

#### § 44-11. Hearings

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

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

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

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

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

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

#### § 44-12. Determinations

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

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

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

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

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

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

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

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

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

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

- a. After the Village Board of Trustees shall designate the temporary ad hoc members to serve that year, the names of such temporary ad hoc members shall be placed in alphabetical order by the Secretary of the Planning Board.
- b. Thereafter should a situation arise when less than five members are present at any meeting of the Planning Board, the Chairperson of the Planning Board shall assign in alphabetic order one or

more temporary ad hoc members present at said meeting (but not more than two such temporary ad hoc members) when absence or conflict of regular members of the Planning Board shall occur.

- c. Should such situation arise at any further meeting of the Planning Board, the Chair person shall assign in alphabetic order commencing with the next name of such members in said such alphabetic order (but not more than two such members) who is present at said meeting when absence or conflict of regular members of the Planning Board shall occur.

§44-14

§44-14.2

§44-14. Training Requirements. [Added 6-12-01 by L.L. No. 6-2001]

§44-14.1 Purpose and Intent.

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

§44-14.2 Minimum Training Requirements.

- A. All members and alternate members (hereinafter individually or collectively referred to as “Member”) of the Planning Board shall be required to attend a minimum of six (6) hours in relevant training courses within the first year from the date of their initial appointment to such board; and thereafter, attend training sessions of not less than 3 hours every year thereafter.
- B. Non-compliance with these minimum requirements relating to training shall be deemed a proper cause from removal from office.
- C. The reasonable costs of such training courses, seminars, workshops or continuing education courses so designated shall be a Village charge. Members shall also be reimbursed for reasonable travel and meal expenses according to Village policies. Such training sessions shall be approved in advance by the Village Board.

## §44-14.3 Approved Training Courses.

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

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

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

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

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

- A. Notice. Such member shall be mailed a written notice specifying the nature of the failure of such member to meet the minimum requirements of Section 3 above.
- B. Public Hearing. Such notice shall specify a date, not less than ten (10) nor more than thirty (30) days from the date of mailing such notice, when the Village Board shall convene and hold a public hearing on whether or not such member should be removed from service on such board. Such notice shall also specify the time, date and place of such hearing.
- C. Public Notice. Public notice of such hearing shall be published in the official news paper of the time at least ten (10) days prior to the date of the public hearing.
- D. Conduct of Hearing. The public hearing on the charges shall be conducted before the Village Board. The member shall be given an opportunity to retain an attorney, present evidence, call witnesses to refute the charges, and cross-examine witnesses. A record of such hearing shall be made. The decision of the Village Board shall be reduced to writing together with specific findings of the Village Board with respect to each charge against such member. A copy of such decision and such findings shall be filed in the Office of the Village Clerk and mailed to the member.
- E. Action by the Village Board. Following the hearing and upon a finding that such member has not met the minimum training established by this local law the Village Board may:
  - i. Remove such member from the Planning Board; or



- ii. Issue a written reprimand to such member without removing such member from such board; or
- iii. If the Village Board shall find that the reasons for failing to meet the minimum training requirements are excusable because of illness, injury or other good and sufficient cause, the Village Board may elect to take no action.

#### §44-14.6 Removal for Cause.

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

## Chapter 45

### PROPERTY MAINTENANCE

- § 45-1. Purpose and application.
- § 45-2. Definitions.
- § 45-3. Regulations.
- § 45-4.1 Removal by Village.
- § 45-5. Penalties for offenses.

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

#### GENERAL REFERENCES

Building construction — See Ch. 26.  
Fire prevention — See Ch. 34.  
Abandoned vehicles — See Ch. 59.

#### § 45-1. Purpose and application.

- A. In order to prevent blight and the spread thereof it is hereby declared that all structures, including but not limited to one- and two-family and multiple-family dwellings, whether or not used for residential purposes; garden apartments; all other apartment complexes; all shopping centers; supermarkets; retail stores; discount houses; warehouses; storage plants; factories; gasoline service stations; public garages; or buildings used for other business purposes; and accessory structures of all of the foregoing, whether occupied or vacant; shall be maintained in conformity with the standards set out in this chapter so as to assure that none of these structures or properties will adversely affect their neighborhood or the village community.
- B. It is found and declared that, by reason of lack of maintenance and progressive deterioration, certain structures and properties have the further effect of creating blighting conditions and

initiating slums and that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same. By reason of timely regulations and restrictions as herein contained, the growth of slums and blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of residential and nonresidential uses and neighborhoods enhanced and the public health, safety and welfare protected and fostered.

#### § 45-2. Definitions.

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

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

#### § 45-3. Regulations.

##### A. Yards, lots and open areas.

- (1) No shopping baskets, carts or wagons shall be left unattended or standing, and such baskets, carts or wagons shall be collected as often as necessary and removed to the interior of the building or buildings from which they were taken by the person responsible for said building or buildings.
- (2) All fences shall be maintained by the person responsible for the property. Such maintenance shall include but not be limited to painting, as needed, and the replacement or repair of fences which may become in disrepair.
- (3) All landscaping shall be maintained so that the lawns, hedges, bushes and trees shall be kept neatly and free from becoming overgrown and unsightly where exposed to public view and where the same may constitute a blighting factor having a tendency to depreciate adjoining property. Such maintenance shall include, but not be limited to, the replacement of trees and shrubs which may die and or otherwise be destroyed.
- (4) Lawns exposed to public view shall be maintained in a safe condition, neatly mowed, as necessary, and free from litter, poison ivy, ragweed and other noxious plants.
- (5) Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled and necessary repairs or replacements accomplished.<sup>1</sup>
- (6) Yards, courts and vacant lots shall be kept clean and free of physical hazards, rodent harborage and infestation, and shall be maintained in a manner that will prevent rubbish from being blown about them.
- (7) All signs exposed to public view shall be maintained in good repair. Excessively weathered or faded signs shall be removed or put into good repair. Any nonoperative or broken electric or other sign shall be repaired or removed.

- (8) No lights, floodlights or spotlights shall be so situated that light from such lamp is directly cast upon the nearby residences.
- (9) No automobiles, motorized vehicles, boats, trailers or other large equipment or objects shall be parked on any open area in front of the dwelling unit or between such unit and the adjacent street. For purposes of this section the words "open area" shall include areas covered by grass, dirt, gravel or similar substance, but shall not include any paved driveway the width of which shall not exceed the total width of the door(s) of the garage to which the driveway leads, or in the event there is no garage on the premises, then a width of not more than ten (10) feet. In the event there is a circular drive leading to the garage, the width of the driveway shall not exceed fifty percent (50%) of the total width of the doors of the garage. For the purposes of this section the words "doors of the garage" refers to those doors allowing entry of the automobiles, etc being stored therein, and not doors intended for entry by occupants of the property. [Amended by LL No. 4-2004]
- (10) The purpose of this sub-section is to promote awareness of the potential for mosquito borne disease and the benefit of the general population in having breeding areas minimized to the extent such breeding areas are created unnecessarily, and are determined to be a nuisance by the Code Inspection Officer. It is not intended to regulate situations where such breeding areas are created by natural conditions such as standing water resulting from rain or melting snow or ice.

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

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

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

- B. Buildings and structures. All exterior exposed surfaces, not inherently resistant to deterioration, shall be repaired, coated, treated or sealed to protect them from deterioration. Exterior porch floors, walls, ceilings and stairs shall be maintained in a clean, safe, sanitary condition. Such areas which have been damaged or show evidence of rot or other deterioration shall be repaired or replaced and refinished in a workmanlike manner.

#### § 45-3.1 Home Composting

- A. Home Composting Permits. Home composting for non-commercial purposes is permitted for yard waste and other organic plant materials, including fruit and vegetable matter, grown or consumed

within the lot or parcel of land where the home are erected, home composting shall only be permitted in the rear yards of such lots or parcels.

- B. Volume. Regardless of the method of home-composting used, no home-composting process shall exceed a height of four (4) feet above ground and a total volume capacity of 200 cubic feet per lot or parcel of land under any circumstances.
- C. Non-Conforming Processes. Any home-composting process which is in use as of the effective date of this Local Law which does not conform to the restrictions imposed herein shall either be brought into compliance with this Local Law or be removed on or before September 1, 1993. [Added 12-8-92 by L.L. No. 7-1992]

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

§45-3.2 Definitions.

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

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

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

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

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

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

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

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

VILLAGE – The Village of Port Dickinson.

#### 45-3.2.1 License required; authority.

- (a) Required. It shall be unlawful for an alarm system user to operate, own or maintain an alarm system, as defined by the terms of this Local Law, without first obtaining a license as hereunder provided.
- (b) Authority to grant licenses.
  - (1) The licensing authority is hereby authorized to grant a revocable license to any alarm user to own, lease, operate, maintain, install or modify an alarm system.
- (c) Applications for licenses. Applications for licenses shall be made as follows:
  - (1) An alarm user in the Village utilizing an alarm system shall apply to the licensing authority for a license to own, lease, or otherwise have such device on his or its premises. The application shall contain provisions relating to the device or system of devices installed or to be installed on the premises. Application for licenses for alarm system devices existing in premises on the effective date of this Local Law must be made to the licensing authority within thirty (30) days of the effective date. No such device may be installed on the premises of the owner or lessee, and no presently existing alarm device complying with the provisions of this article shall be modified after the effective date of this Local Law prior to the licensing authority's having issued a license to such owner or lessee. Each license need not be obtained on an annual basis but shall be obtained each time a device or system is to be installed or modified.
- (d) Confidentiality. The information required on the license application shall be treated as confidential and shall not be made available to members of the general public. The Village finds that the release of such information would constitute an unwarranted invasion of personal privacy and could endanger the life or safety of persons at the premises where an alarm system is located. The information on a license application shall be used by the Village only for public safety purposes and shall not be available through the Freedom of Information law.

#### §45-3.2.2 License fees.

There shall be no annual license fees.

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

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

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

Each additional false alarm

\$50.00

- (b) The Chief of Police or his representative shall notify the alarm user of any avoidable alarm charges by mail. Within thirty (30) days of such notice the alarm user may appeal to the Mayor by showing proof to demonstrate that the alarm was not an avoidable alarm. The mayor shall have ten (10) business days to determine the appeal.
- (c) Should the alarm user fail to pay any and all alarm charges within thirty (30) days of receipt of notice or receipt of appeal denial, whichever is later, the Chief of Police shall certify to the Village Treasurer the amount of the penalties; and said penalties shall become a lien upon the property, shall be included in the next tax bill rendered to the owner unless paid before, and shall be collected in the same manner as other taxes against the property.
- (d) Additionally, should the alarm user fail to pay any and all charges within thirty (30) days of receipt of notice or receipt of appeal denied, whichever is later, the Chief of Police shall notify the Village Clerk to suspend the alarm user's license. Such license shall not be reinstated until all such charges are paid in full.
- (e) Further, should the alarm user accumulate more than five (5) avoidable alarms in any calendar year, the Chief of Police may notify the alarm user by mail that his license is terminated. Within thirty (30) days of such notice the alarm user may appeal to the Mayor by showing proof to demonstrate that the alarms were not avoidable alarms. The Mayor shall have ten (10) business days to determine the appeal.

§ 45-4. Enforcement. [Amended 11-20-84 by L.L. No. 5-1984 and 2-13-01 by L.L. No. 2-2001]

Upon his own investigation or receipt of information or complaint, the Enforcement Officer of the Village of Port Dickinson shall cause to be served upon the person responsible for any land or property upon which the violation has taken place or occurred, a written notice in the form approved by the Village Board directing removal or correction of such violation within fifteen (15) days after the service of such notice, except for violation of Section 45-3 (A) (1) and (9) where removal and correction shall be immediate upon notification by the Enforcement Officer and Section 45-3 (A) (10) where correction shall be within seventy-two (72) hours after such notification. In the event that such responsible person cannot reasonably be located, then notice shall be served by the posting of such notice in a prominent place upon the premises. If such violation is not corrected within such time periods, then the owner, occupant or person in control of said premises shall be deemed in violation of this chapter and subject to its penalties.

S 45-4.1 Removal by Village. [Added 8-14-01 by L.L. No. 10-2001]

If after the expiration of ten (10) days from the date of personal services or fifteen (15) days from the date of posting, the owner shall fail to comply with the requirements of Section 45-3A (3) or (4), the Enforcement Officer shall have the power to order the Village Department of Public Works to cut, trim or remove such hedges, brush, trees or lawns on any such yard, lot, or open area in the Village of Port Dickinson. If in the judgment of the Commissioner of Public Works the employees of the Department of Public Works, by reason of their work schedule, will be unable to attend to such activities within seven (7)

days from receipt of said order, the Enforcement Officer may direct a private contractor previously approved by the Board Trustees to perform such services at the pay schedule previously approved. In either such event the expense thereof shall become a lien upon the real property involved and be added to and become a part of the tax next so assessed by including such expense in the next annual tax levy against the property pursuant to the Village Law of New York.

§ 45-5. Penalties for offenses.

- A. Any person committing an offense against any provisions of this chapter shall, upon conviction, be guilty of violation of this chapter, punishable by a fine not to exceed one hundred dollars (\$100.).
- B. In addition to the above provided penalties, the Village Board of Trustees may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

Chapter 46

PROPERTY NUMBERING SYSTEM

[History: Adopted by the Board of Trustees of the Village of Port Dickinson 12-8-92 as Local Law 6-1992]

§ 46-1. Numbering Maps

The Broome County 911 Maps for the Village of Port Dickinson are hereby adopted as the official property-numbering maps of the Village of Port Dickinson, Broome County, New York, and all property numbers assigned shall be assigned in accordance with these numbering maps, and no other property numbers shall be used or displayed in the Village of Port Dickinson, except numbers assigned in accordance with the official numbering maps. A copy of the property-numbering maps shall be kept on file in the office of the Village Clerk when the same are made available by Broome County.

§ 46-2. Posting of Designated Street Address

- A. The owner or occupant or person in charge of any house or building to which a number has been assigned will be notified in writing by Broome County Real Property Tax Service of the number assigned to the same.
- B. Within sixty (60) days after the receipt of such written notification, the owner or occupant or person in charge of a house or building to which a number has been assigned shall affix the number in a conspicuous manner in a conspicuous place near the front entrance thereto.
- C. Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as to be legible and distinguishable from the street on which the property is located.

- D. It shall be the duty of such owner or occupant or person in charge thereof upon affixing the new number to remove any different number which might be mistaken for, or confused with, the number assigned to said structure.
- E. Each principal building shall display the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance may display a separate number.

§ 46-3. Numbers for Future Buildings

- A. All residence and business buildings erected after the adoption of this Local Law shall be assigned a number by Broome County Real Property Tax Service in accordance with the property-numbering maps and shall purchase and display such number as provided in Section 46-2 of this Local Law.
- B. Numbers will be assigned by Broome County Property Tax Service to each proposed lot or tract on the surveyors' copies of Final Subdivision Plats.
- C. No building permit shall be issued for any principal building until the owner or developer has procured from Broome County Real Property Tax Service the official number of the premises. Final approval for a certificate of occupancy of any principal building erected or repaired after the effective date of this ordinance shall be withheld until permanent and proper numbers have been displayed in accordance with the requirements of Section 46-2 above.

§ 46-4. Unlawful to Deface Number

It shall be unlawful for any person to alter, deface, or take down any number placed on any property in accordance with this Local Law, except for repair or replacement of such number.

§ 46-5. Penalties

Upon conviction, a violation of this Local Law shall be deemed an offense and shall be punishable by a fine not exceeding two hundred fifty dollars (\$250.00) for each and every such offense, or imprisonment for a period not to exceed fifteen (15) days, or both. Each day's violation shall constitute a separate and additional violation. In addition to the above-provided penalties and punishment, the Board of Trustees may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such Local Law.

Chapter 49

SEWERS

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Title; Definitions

§ 49-1. Title.

§ 49-2. Definitions; word usage.



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General Provisions and Regulations

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- § 49-4. Effect on Health Department requirements.
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- § 49-24. Private systems permitted under certain conditions.
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ARTICLE VI  
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- § 49-27. Discharge of certain waters prohibited.
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- § 49-32. Authority of Joint Sewage Board.
- § 49-33. Prohibited actions.
- § 49-34. Industrial waste surcharge.
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ARTICLE VIII  
Enforcement; Penalties for Offenses

- § 49-36. Enforcement by Village Engineer.
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ARTICLE IX  
Repealer; Severability; When Effective

- § 49-38. Repealer.
- § 49-39. Severability.
- § 49-40. When effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 8-6-85 as Local Law No. 1-1985.<sup>1</sup> Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 26.  
Street and sidewalk excavations — See Ch. 52, Art. I.  
Water — See Ch. 62,

<sup>1</sup> Editor's Note: This local law also repealed former Chapter 49. Sewers. Adopted 3-3-70, as amended.

ARTICLE I  
Title; Definitions

- § 49-1. Title.

This chapter shall be known as the “Village of Port Dickinson Sewer Use Law.”

- § 49-2. Definitions; word usage.

- A. Unless otherwise defined herein, technical terms shall be defined in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Health Association, the American Water Works Association and the Water Pollution Control Federation.

Whenever used in this chapter, unless otherwise expressly stated or required by subject matter or context, the following terms shall have the meanings indicated:

**BOARD or JOINT SEWAGE BOARD** — The Binghamton-Johnson City Joint Sewage Board, established under the agreement between the City of Binghamton and the Village of Johnson City for the operation of a joint wastewater treatment facility. The term includes any duly authorized designee, agent or representative of the Board.

**BOD<sub>5</sub>** (denoting “biochemical oxygen demand”) — The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20° C.), expressed in milligrams per liter.

**BUILDING DRAIN** — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer which begins five (5) feet [one and five-tenths (1.5) meters] outside the inner face of the building wall.

**BUILDING SEWER** — The extension from the building drain to the public sewer or other place of disposal and surface water as well as wastewater.

**COOLING WATER** — The water discharged from any system of condensation, air conditioning, cooling, refrigeration or other sources. It shall contain no polluting substances which would produce BOD<sub>5</sub> or suspended solids, each in excess of ten (10) milligrams per liter.

**DEC** — The New York State Department of Environmental Conservation.

**EASEMENT** — An acquired legal right for the specific use of land owned by others.

**EPA** — The United States Environmental Protection Agency.

**FEDERAL ACT or ACT** — The 1972 Federal Water Pollution Control Act Amendments, Public Law 92-500 and the 1977 Clean Water Act, Public Law 95-217, and any amendments thereto, as well as any guidelines, limitations and standards promulgated by the United States Environmental Protection Agency pursuant to the “Act.”

**FLOW RATE** — The quantity of waste or liquid that flows in a certain period of time.

**GARBAGE** — Animal and vegetable wastes from the preparation, cooking and disposing of food and from the handling, processing, storage and sale of food products and produce.

**HOLDING-TANK WASTE** — Any sanitary waste from holding tanks, such as marine vessels, chemical toilets, campers, trailers, septic tanks and vacuum pump tank trucks.

**INDUSTRIAL USER** — Any nonresidential user of the city public sewer system, which user is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one (1) of the following divisions:

- (1) Division A, Agriculture, Forestry and Fishing.
- (2) Division B, Mining.
- (3) Division D, Manufacturing.

(4) Division E, Transportation, Communications, Electrical, Gas and Sanitary Services.

(5) Division I, Services.

**INDUSTRIAL WASTE** — Any discarded matter, including any liquid, gaseous or solid substance, or a combination thereof, resulting from any process of industry, manufacturing, trade or business or from development or recovery of natural resources. The term shall not include garbage.

**INDUSTRIAL WASTEWATER DISCHARGE PERMIT** — A permit issued by the Board, authorizing the permittee to deposit or discharge industrial wastewater into the village public sewer system.

**INFLUENT** — Wastewater, raw or partly treated, flowing into any sewage treatment device or sewage treatment facilities.

**INTERFERENCE** — The inhibition or disruption of the treatment plant processes or operations or of its sludge processes, use or disposal. The term includes any action which contributes to a violation of any requirement of the Joint Sewage Board's SPDES permit or which results in the prevention of sewage sludge reuse, reclamation or disposal by the treatment plant in accordance with § 405 of the Act (33 U.S.C. § 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Resource Conservation and Recovery Act or any more stringent state criteria applicable to the method of disposal or use employed by the treatment plant.

**JOINT SEWAGE TREATMENT PLANT or TREATMENT PLANT** — The Binghamton-Johnson City Joint Sewage Treatment Plant. The term includes all devices or systems used in the storage, treatment, cycling or reclamation of municipal sewage or industrial wastes of a liquid nature by the Binghamton-Johnson City Joint Sewage Treatment Plant.

**NORMAL SEWAGE** — Sewage, industrial wastes or other wastes having pollutant concentrations which do not exceed two hundred forty (240) milligrams per liter of BOD<sub>5</sub>, three hundred (300) milligrams per liter of total suspended solids or fifty (50) milligrams per liter of oil and grease and which is otherwise acceptable for discharge into the treatment plant under the terms of this chapter. The numbers and values of characteristics are subject to revision by the Joint Sewage Board when, in the opinion of the Board, a revision is necessary in order to maintain the physical integrity of the treatment plant or maintain the treatment plant's capability of providing treatment in compliance with federal, state and local standards.

**PERSON** — Any individual, firm, company, partnership, association, private or public corporation, political subdivision, governmental agency, municipality, industry, trust, estate or any other legal entity whatsoever.

**PLUMBING CODE** — The Plumbing Code of the State of New York, presently a part of the New York State Uniform Fire Prevention and Building Code.

**PLUMBING INSPECTOR** — The Village Engineer of the Village of Port Dickinson or his authorized deputy.

**POLLUTANTS** — As may be defined now or hereafter by appropriate local, state or federal authorities or by the Board, substances which may be present in wastewater, whether gaseous, liquid or solid, the amount of which may contain soluble or insoluble solids of organic or inorganic nature which may deplete the dissolved oxygen content or natural waters, contribute solids, contain

oil, grease or floating solids which may cause unsightly appearance on the surface of such waters or contain materials detrimental to aquatic life.

**PREMISES** — Any parcel of real property, including land, improvements or appurtenances or buildings, grounds, etc.

**PRIVATE SEWER** — A sewer which is not owned or controlled by a public agency.

**PUBLIC SEWER** — A sewer which is owned or controlled by a governmental agency. This term includes any devices or systems used by the governmental agency in the storage, transmission, treatment or reclamation of municipal sewage or industrial wastes.

**RULES AND REGULATIONS OF THE BOARD** — The Rules and Regulations Relating to the Use of the Binghamton-Johnson City Joint Sewage Treatment Plant, promulgated by the Binghamton-Johnson City Joint Sewage Board.

**SANITARY SEWER** — A sewer intended to carry only sanitary or sanitary and industrial wastewater from residences, commercial buildings, industrial plants and institutions.

**SANITARY WASTE** — Wash water, culinary wastes and the liquid waste containing only human excreta and similar matter flowing in or from a building drainage system or sewer originating in a dwelling, business building, factory or institution.

**SEWAGE** — Wastewater, as hereinafter defined.

**SEWER** — A pipe or conduit for carrying wastewater; the term includes sanitary sewers and combined sewers.

**SHREDDED GARBAGE** — Garbage shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle having any dimension greater than one-half (1/2) inch.

**SPDES PERMIT** — A wastewater discharge permit issued by the DEC under the State Pollutant Discharge Elimination System.

**STORM SEWER** — A sewer intended to carry only stormwaters, surface runoff, street wash waters and/or drainage, exclusive of sanitary wastes.

**SUSPENDED SOLIDS** — The total suspended matter in water or wastewater as determined by standard methods.

**NORMAL SEWAGE** — Sewage, industrial wastes or other wastes having pollutant concentrations which do not exceed two hundred forty (240) milligrams per liter of BOD<sub>5</sub>, three hundred (300) milligrams per liter of total suspended solids or fifty (50) milligrams per liter of oil and grease and which is otherwise acceptable for discharge into the treatment plant under the terms of this chapter. The numbers and values of characteristics are subject to revision by the Joint Sewage Board when, in the opinion of the Board, a revision is necessary in order to maintain the physical integrity of the treatment plant or maintain the treatment plant's capability of providing treatment in compliance with federal, state and local standards.

PERSON — Any individual, firm, company, partnership, association, private or public corporation, political subdivision, governmental agency, municipality, industry, trust, estate or any other legal entity whatsoever.

PLUMBING CODE — The Plumbing Code of the State of New York, presently a part of the New York State Uniform Fire Prevention and Building Code.

PLUMBING INSPECTOR — The Village Engineer of the Village of Port Dickinson or his authorized deputy.

POLLUTANTS — As may be defined now or hereafter by appropriate local, state or federal authorities or by the Board, substances which may be present in wastewater, whether gaseous, liquid or solid, the amount of which may contain soluble or insoluble solids of organic or inorganic nature which may deplete the dissolved oxygen content or natural waters, contribute solids, contain oil, grease or floating solids which may cause unsightly appearance on the surface of such waters or contain materials detrimental to aquatic life.

PREMISES — Any parcel of real property, including land, improvements or appurtenances or buildings, grounds, etc.

PRIVATE SEWER — A sewer which is not owned or controlled by a public agency.

WATERCOURSE — A channel in which a flow of water occurs, either continuously or intermittently.

B. “Shall” is mandatory; “may” is permissive.

## ARTICLE II General Provisions and Regulations

### § 49-3. Purposes.

The purposes of this chapter are as follows:

- A. To control discharges into the public sewers of the Village of Port Dickinson public sewer system or tributaries thereto, including the Binghamton-Johnson City Joint Sewage Treatment Plant.
- B. To prohibit the discharge of:
  - (1) Excessive volumes and/or inordinate rates of flow into the City of Binghamton public sewer system.
  - (2) Sewage, industrial wastes or other wastes which may in any way create a poisonous, hazardous, explosive, flammable or toxic condition in the village public sewer system or otherwise impair the strength and/or durability of the system or the structures appurtenant to the system (including the Binghamton-Johnson City Joint Sewage Treatment Plant); or interfere with the normal treatment processes, including proper disposal of sludge; or pass through the Joint Sewage Treatment Plant into the receiving waters inadequately treated; or contain substances in such concentrations as may exceed established discharge limits.

- C. To prohibit and/or regulate the discharge of sewage, industrial wastes or other wastes which require greater expenditures for treatment than those required for equal volumes of normal sewage; to surcharge users for permitted contributions requiring treatment costs greater than normal sewage charges.
- D. To provide the authority for the Binghamton-Johnson City Joint Sewage Board to exercise regulatory control over users discharging industrial wastes into the village public sewer system.
- E. To provide cooperation with the Broome County Department of Health, the New York State Department of Environmental Conservation, the New York State Department of Health, the United States Environmental Protection Agency and any other agencies which have requirements or jurisdiction for the protection of the physical, chemical and biological quality of watercourses within or bounding the village.
- F. To protect the public health and to prevent nuisances.
- G. To enforce promulgated final standards and/or procedures set by the New York State Department of Environmental Conservation or the United States Environmental Protection Agency.

§ 49-4. Effect on Health Department requirements.

Nothing contained in this chapter shall be construed to interfere with or modify any requirements of design, inspection and approval which are imposed by the New York State Department of Health or the Broome County Health Department.

§ 49-5. Compliance with Plumbing Code required.

Nothing contained in this chapter shall be deemed to relieve any person of the duty and responsibility of complying with the Village Plumbing Code.

§ 49-6. Administration.

Except as otherwise provided herein, the Village Engineer shall administer, implement and enforce the provisions of this chapter.

§ 49-7. Fees and charges.

Except as otherwise provided herein, all fees and charges payable under the provisions of this chapter shall be paid to the village in accordance with the Village Sewer Rent Law. Such fees and charges are due and payable upon the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges and collection as provided for in the Village Sewer Rent Law.

§ 49-8. Basis of billings.

Sewer rents shall be based upon the metered consumption of water billed to the owner of the premises and shall be billed on the basis of the water consumption, per one hundred (100) cubic feet, at a rate to be

determined annually by resolution of the Board of Trustees, except that the Village Board, in its discretion, may make due allowances for commercial use of water, the number and kind of plumbing fixtures connected with the sewer system and for those premises having swimming pools.

§ 49-9. Payment procedures; penalties for late payment.

All sewer rents shall be due and payable at the office of the Village Tax Collector semiannually at the same time as the water rent for such period shall be due and payable, or on such other date or dates or for such other periods as may be determined from time to time by the Board of Trustees. In addition to the sewer rent provided for by this Article, a further charge of fifteen percent (15%) of the amount of rent due shall be added thereto in ease of failure to make payment on or before the date upon which the sewer rent for such period is due. The total of the sewer rent plus penalty shall be deemed the total sewer rent due in each such case.

§ 49-10. Responsibility of user for payment.

Sewer rent bills will be sent out to all users but the village will not employ a sewer rent collector. The failure of any user to receive a sewer rent bill promptly shall not excuse the nonpayment of the same, and in the event the user fails to receive a sewer rent bill, it shall be his obligation to demand the same from the Village Tax Collector.

§ 49-11. Unpaid charges to become lien on property.

Sewer rent bills, plus penalties thereon, remaining due and unpaid at the time of the annual village tax levy shall be levied against the real property liable therefor and become part of the annual village tax, pursuant to the provisions of Article 14-F, § 452, of the General Municipal Law of the State of New York.

§ 49-12. Right of entry for inspections.

- A. The Village Engineer, the Joint Sewage Board and other authorized representatives of the village and representatives of the EPA and DEC bearing proper credentials and identification shall be permitted to enter all properties at all reasonable time for the purpose of inspection, observation, sampling, flow measurement and testing to ascertain a user's compliance with applicable provisions of federal, state and local law governing use of the village public sewer system and with the provisions of the rules and regulations of the Board. Such representatives shall have the right to set up on the user's property such devices as are necessary to conduct sampling or flow measurement. Such representatives shall additionally have access to and may copy, any records the user is required to maintain under applicable law or the rules and regulations of the Board. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that, upon presentation of suitable identification, inspecting personnel will be permitted to enter without delay for the purpose of performing their specific responsibilities. Inspections will be accomplished during hours of operations or at periods of sewer use with or without notice to the user.
- B. The Village Engineer, bearing proper credentials and identification, shall be permitted to enter all private premises through which the village holds an easement for the purpose of inspection, observation, measurement, sampling, repair and maintenance of any portion of the village's public



sewer system lying within the easement. All entry and subsequent work on the easement shall be done in accordance with the terms of the easement pertaining to the private premises involved.

- C. During the performance, on private premises, of inspections, sampling or other similar operations referred to in Subsections A and B above, the Village Engineer shall observe all safety rules applicable to the premises as established by the owner or occupant of the premises.

§ 49-13. Tampering with equipment prohibited; violations and penalties.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the village public sewer system. No person shall tamper with or knowingly render inaccurate any measuring device or mechanism installed pursuant to any requirement under this chapter. Any person violating this provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.) nor more than five hundred dollars (\$500.) or imprisonment not exceeding one hundred fifty (150) days, or to both such fine and imprisonment.

§ 49-14. False statements on documents.

No person shall knowingly make any false statement in any application, report or other document required to be filed pursuant to any provision of this chapter.

ARTICLE III  
Use of Public Sewers

§ 49-15. Unlawful deposits on public and private property.

It shall be unlawful for any person to place or deposit or permit to be placed or deposited, in any unsanitary manner upon public or private property within the village or in any other area under the jurisdiction of the village any human or animal excrement or garbage or other objectionable waste.

§ 49-16. Discharges into natural watercourses.

It shall be unlawful to discharge any sewage or other polluted waters into any natural watercourse within the village or within any area under the jurisdiction of the village except where such discharge is in accordance with requirements of regulatory agencies having jurisdiction over wastewater discharges into the watercourse.

§ 49-17. Connection to sewer system required.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose situated within the village and abutting on any street or public right-of-way in which there is now located or may in the future be located a public sanitary sewer within one hundred (100) feet [thirty and five-tenths (80.5) meters] of the property line is hereby required to install, at his expense, suitable toilet facilities therein and to connect such facilities directly with the proper sanitary sewer line, in

accordance with the provisions of this chapter and with any applicable requirements of the Village Plumbing Code.

§ 49-18. Separate sewers required for each building; exception.

A separate and independent building sewer shall be provided for every building, with the exception that when one (1) building stands at the rear of another on an interior lot and no private sewer is available nor can be constructed to the rear building, the building sewer from the front building may be extended to the rear building. The whole shall be considered as one (1) building sewer. Old building sewers may be used in connection with new buildings only when they are found by the Village Engineer to meet all other requirements of this chapter.

#### ARTICLE IV Building Sewers and Connections

§ 49-19. Permit required.

No person shall uncover, make any connection with or opening into or use, alter or disturb any public sewer or appurtenance thereof without first obtaining a permit in accordance with all applicable requirements established by the village, including the Village Plumbing Code.

§ 49-20. New connections.

No new connections shall be made to the sewer system of the village without a written permit issued by the Village Engineer. Applications shall be made on a form supplied by the Village Clerk. No connection from a residential structure shall be granted without the approval of the Village Engineer. No connection from any building or structure discharging other than sanitary waste shall be granted without the approval of the Village Engineer and the Binghamton Johnson City Joint Sewage Board. All connections to a sewer shall be made under the direction of, and be subject to the approval of, the Village Engineer and shall conform in all respects to applicable requirements of the Village Plumbing Code.

§ 49-21. Cost of connections.

All cost and expense incident to the installation and connection of any building to the sewer system shall be borne by the property owner. The property owner shall indemnify the village from any loss or damage that may directly be occasioned by the installation of a connection to the sewer system.

§ 49-22. Excavations.

- A. All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard.
- B. Streets, sidewalks and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Village Engineer.

- C. All necessary permits for the opening of village and state streets shall be obtained from the Village Engineer prior to the issuance of any building sewer permit.

§ 49-23. Service and repair.

Building sewers shall be serviced and repaired by the owner of the premises being served to a point within one (1) foot of the pavement edge. Service and repair of building sewers within the paved areas of public rights-of-way shall be made by the village.

ARTICLE V  
Private Disposal Systems

§ 49-24. Private systems permitted under certain conditions.

Where a public sanitary sewer is not available under the provisions of Article III, § 49-17, a building sewer shall be connected to a private sewage disposal system in accordance with the subsequent provisions of this Article V and in accordance with applicable requirements of the New York State Department of Health and the Broome County Health Department.

§ 49-25. Permit required; inspections of connection.

Before the commencement of the construction of a private sewage disposal system, the owner shall obtain from the Village Engineer a written permit allowing such construction. which permit shall be given upon application in such form and content as may be required by the Village Engineer and the Department of Health. The type, location and layout of the private sewage disposal system shall comply with the specifications established by the Village Engineer and the Department of Health. The Village Engineer shall be allowed to inspect the work at any stage of the construction, and the applicant for the permit shall notify the Village Engineer when the work is ready for final inspection and before any underground portions thereof are covered.

§ 49-26. Conversion to public sewers.

The private sewage disposal facilities shall be operated and maintained in a sanitary manner at all times. When a public sanitary sewer becomes available under the provisions of Article III, § 49-17, the building sewer shall be connected to said sanitary sewer within sixty (60) days, and the private sewage disposal system shall be cleaned of sludge and filled with suitable material satisfactory to the Village Engineer.

ARTICLE VI  
Use Regulations

§ 49-27. Discharge of certain waters prohibited.

- A. No person shall discharge or cause to be discharged any stormwater, swimming pool water, surface water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary or combined sewer unless specifically authorized by the Village

Engineer. All stormwater, surface water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters shall be discharged to storm sewers or to any natural watercourse approved by the Village Engineer. All existing connections to a sanitary or combined sewer of any stormwater, swimming pool water, surface water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters shall be removed from the sewer within sixty (60) days from the service of a written notice by the Village Engineer to disconnect from the sewer.

- B. If the owner of any property receiving a notice to disconnect from the sanitary or combined sewer, pursuant to § 49-27A hereof, does not disconnect within sixty (60) days from the receipt of such notice, the village shall have the right and power and shall cause the same to be removed at the expense of the property owner and shall charge the total expense of such disconnection to the property so affected. The total expense incurred by the village to perform such work shall be paid by a special assessment upon the real estate so affected, which expense shall be a lien thereon, which lien shall be superior and have priority to any mortgage, judgment or other lien of any nature affecting said premises. The village shall also have the power to collect, by a civil action brought in the name of the village, any expense it may incur for making such removal; but any civil action so brought shall not impair or affect the lien created under this chapter for such expense or be held to constitute a bar to any proceedings for the sale of lands under which said lien exists.

#### § 49-28. Prohibited discharges.

- A. No person shall discharge directly or indirectly into the village public sewer system, or into any private sewer emptying into the village public sewer system, any substances, materials, waters or wastes in such quantities or concentrations which cause or are capable of causing, either alone or by interaction with other substances, interference with the operation or performance of the village public sewer system or the Joint Sewage Treatment Plant or which pass through the Joint Sewage Treatment Plant inadequately treated. These general prohibitions and the specific prohibitions of Subsection B of this section apply to all users of the village public sewer system, whether or not the user is subject to any other local, state or federal requirements governing use of the village public sewer system.
- B. No person shall discharge the following into the village public sewer system:
- (1) Any liquids, solids or gases which, by reason of their nature or quantity, are or may be, sufficient, either alone or by interaction with other substances, to create a fire or explosion hazard in, or be injurious in any other way to, the village public sewer system or the Joint Sewage Treatment Plant. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than five percent (5%), nor any single reading over ten percent (10%), of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, fuel, oil, benzene and any other substances which the Village Engineer, the Joint Sewage Board, the DEC or EPA has notified the user constitute a fire or explosion hazard to the system.
  - (2) Solid or viscous substances which may cause obstruction to flow in a sewer or other interference with the operation of the treatment plant, such as, but not limited to, grease, shredded garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepapers, wood, plastics, tar, asphalt residues, residues from the refining or processing of fuel or lubricating oil, mud or glass-grinding or polishing wastes, snow, ice and any other solid objects, materials, refuse and debris not normally contained in sanitary waste.

- (3) Any wastewater having a pH of less than six point zero (6.0) or higher than ten point zero (10.0) or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the village sewer works.
- (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the treatment plant or exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Federal Act.
- (5) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
- (6) Any substance which will cause the village to violate any State Pollutant Discharge Elimination System (SPDES) permit issued to the village or to violate the receiving water quality standards.
- (7) Any wastewater with objectionable color not removed in the treatment process.
- (8) Any wastewater having a temperature at the point of introduction into the village public sewer system in excess of one hundred fifty degrees Fahrenheit (150° F) [sixty-five and five-tenths degrees Celsius (65.5° C)], or in such quantities that cause the temperature of the wastewater at the Joint Sewage Treatment Plant to exceed one hundred four degrees Fahrenheit (104° F) [forty degrees Celsius (40° C)].
- (9) Any pollutants, including oxygen-demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference with the treatment plant.
- (10) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (11) Any radioactive wastes.
- (12) Any holding tank wastes.
- (13) Any substance, materials, waters or wastes of such nature or in such quantities or concentrations as are prohibited by the rules and regulations of the Joint Sewage Board.

§ 49-29. Discharges to be through sewers.

No person shall discharge substances directly into a manhole or other opening in a public sewer other than through an approved building sewer.

§ 49-30. Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the Village Engineer, they are necessary for the proper handling of liquid wastes containing grease or oil in excessive amounts or sand or other harmful ingredients, except that such interceptors shall not be required for private residences. All interceptors shall be of a type and capacity approved by the Village Engineer and shall be located as to be

readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes of temperature. They shall be of substantial construction, watertight and equipped with removable covers which when mounted in place shall be gas-tight and watertight.

§ 49-31. Dilution prohibited.

No discharge into the village sewer system shall augment his use of process water or otherwise intentionally dilute his discharge as a partial or complete substitute for adequate treatment to achieve compliance with this chapter.

ARTICLE VII  
Industrial Wastewater Discharges

§ 49-32. Authority of Joint Sewage Board.

- A. Notwithstanding any other provisions of law, the admission into the village public sewers of any industrial wastes shall be subject to the review and approval of the Joint Sewage Board. The Board is hereby granted authority, concurrent with that of the village, to enforce against any user within the village all requirements necessary to ensure compliance with the provisions of the rules and regulations of the Board. Nothing contained herein, however, shall be construed as precluding the village from seeking against any user such remedial action as it deems appropriate for correcting any violation of its local laws, ordinances or regulations governing use of the village public sewer system.
- B. In exercising its authority over users discharging industrial wastes into the village public sewer system, the Board may:
- (1) Require pretreatment of the user's wastewater to a condition acceptable for discharge to the public sewer.
  - (2) Require the user to apply for and obtain an industrial wastewater discharge permit as a means of controlling the quantities and rates of discharge.
  - (3) Require payment by the user to cover any added cost of handling and treating the wastewater not covered by existing fees or charges.
  - (4) Require the development of compliance schedules by the user to meet any applicable requirements prescribed by the Board's rules and regulations.
  - (5) Require the user to submit such reports and supplemental information which the Board deems necessary to assure compliance with any applicable requirements prescribed by the Board's rules and regulations.
  - (6) Carry out all inspection, surveillance and monitoring necessary to ascertain the user's compliance with any applicable requirements prescribed by the Board's rules and regulations.

- (7) Investigate or make inquiry, in a manner to be determined by it, as to any condition within the village affecting the operation of the Joint Sewage Treatment Plant and as to any alleged act or omission resulting in a user's failure to comply with the Board's rules and regulations.
- (8) Obtain remedies for noncompliance by any user as specified in § 49-37 of this chapter.
- (9) Reject the user's wastewater, where the Board determines that the wastewater contains substances or possesses characteristics which have a deleterious effect on the sewage treatment plant and its appurtenant structures and facilities or the processes, equipment or receiving waters of the treatment plant or which constitute a public nuisance or hazard.
- (10) Take such other measures as it deems necessary and proper to ensure compliance with this chapter, with applicable state and federal law and with the rules and regulations of the Board.

§ 49-33. Prohibited actions.

- A. No user discharging or proposing to discharge wastewater into the village public sewer system shall violate any of the provisions of, or fail to perform any duty imposed by, the rules and regulations of the Board or any order or determination of the Board promulgated thereunder or the terms and conditions of any permit issued by the Board.
- B. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is under the jurisdiction, ownership or control of the Joint Sewage Board.
- C. No person shall tamper with or knowingly render inaccurate any measuring device or mechanism installed pursuant to any requirement under the rules and regulations of the Joint Sewage Board.
- D. No person shall knowingly make any false statement in any application, report or other document to be filed pursuant to any provision of the rules and regulations of the Joint Sewage Board.

§ 49-34. Industrial waste surcharge.

In addition to any other fees, charges, sewer rents or sanitary district taxes provided by law, industrial users shall pay to the Joint Sewage Board an industrial waste surcharge for the privilege of using the Joint Sewage Treatment Plant for treating industrial wastes or other special wastes accepted for discharge into the village public sewer system. The industrial waste surcharge shall be computed and collected by the Board in accordance with its rules and regulations.

§ 49-35. Cooperation of village officials.

Village officers and employees shall cooperate fully with the Board in the Board's enforcement and administration of its rules and regulations within the village.

ARTICLE VIII  
Enforcement; Penalties for Offenses

§ 49-36. Enforcement by Village Engineer.

- A. Whenever it shall appear to the Village Engineer, after investigation, that any person has violated any provision of this chapter (other than a provision of § 49-33), the Village Engineer shall give written notice to the alleged violator or violators setting forth the nature of the violation and directing that the matters complained of be corrected within such reasonable time limit as may be set by the Village Engineer. Any such notice shall be served on the violator by personal service or by registered or certified mail, sent to the last address of the violator known to the Village Engineer. Where the address is unknown, service may be made upon the owner of record of the property involved. If satisfactory action is not taken within the time allotted by the notice, the violator shall be subject to the penalty provisions set forth in Subsection B below, in addition to any village code enforcement procedures otherwise authorized by law.
- B. Any person who willfully violates any provision of this chapter (other than a provision of § 49-33) or any order of the Village Engineer issued pursuant to Subsection A above shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.) nor more than five hundred dollars (\$500.). Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
- C. Any person violating any of the provisions of this chapter shall, in addition, be liable to the village for any expense, loss or damage occasioned to the village by reason of such violations and any expense incurred in correcting the violation.
- D. The Village Counsel, on his own initiative or at the request of the Village Engineer, shall have the right to seek equitable relief in the name of the village to restrain the violation of, or to compel compliance with, this chapter or any order or determination issued thereunder by the Village Engineer.
- E. Notwithstanding any inconsistent provisions of law, whenever the Village Engineer finds, after investigation, that any user is causing, engaging in or maintaining a condition or activity which, in his judgment, presents an imminent danger to the public health, safety or welfare or to the environment or is likely to result in irreversible or irreparable damage to the public sewer system, and it therefore appears to be prejudicial to the public interest to delay action until notice and an opportunity for a hearing can be provided, the Village Engineer may, without prior hearing, order such user by notice, in writing wherever practicable or in such other form as in his judgment will reasonably notify such person whose practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity. In the event of a user's failure to comply voluntarily with such emergency order or where the giving of a notice is impracticable the Village Engineer may take all appropriate action to abate the violating condition, including disconnecting the user's premises from the village public sewer system. As promptly as possible thereafter, not to exceed fifteen (15) days, the Village Engineer shall provide the user with the written notice required by Subsection A of this section.

§ 49-37. Enforcement by Joint Sewage Board.

- A. Any person who violates any provision of § 49-33 of this chapter shall be liable to the Board for a civil penalty of not less than one hundred dollars (\$100.) nor more than five hundred dollars (\$500.) for each violation, to be assessed by the Board after a hearing or opportunity to be heard in accordance with the procedures set forth in the Board's rules and regulations. Each violation shall be a separate and distinct violation, and, in the case of a continuing violation, each day's



continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the Board's attorney in any court of competent jurisdiction.

- B. In addition to the power to assess penalties as set forth in Subsection A above, the Board is hereby empowered, following a hearing or opportunity to be heard in accordance with the provisions of its rules and regulations, to issue an order in the name of the Board and of the village, enjoining the violator from continuing the violation. Any such order of the Board shall be enforceable in an action brought by the Board's attorney in any court of competent jurisdiction.
- C. Any civil penalty or final order issued by the Board pursuant to Subsection B may be reviewed in a proceeding brought pursuant to Article 78 of the New York Civil Practice Law and Rules. Application for such review must be made within thirty (30) days after service, in person or by mail, of a copy of the determination or order upon the attorney of record for the applicant, or upon the applicant in person if not represented by an attorney.
- D. Any person who willfully violates any provision of § 49-33 above shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than three hundred dollars (\$300.) nor more than one thousand dollars (\$1,000.) or by imprisonment for a term of not more than six (6) months, or by both such fine and imprisonment. Each offense shall be a separate and distinct offense, and in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
- E. Any person violating any provision of § 49-33 above shall, in addition, be liable to the Joint Sewage Board for any expense, loss or damage occasioned to the Board by reason of such violation and any expense incurred in correcting the violation.
- F. The Board's attorney, or the Village Counsel at the request of the Joint Sewage Board, shall have the right to seek equitable relief in the name of the village to restrain the violation of, or to compel compliance with, any provision of § 49-33 of this chapter.
- G. Notwithstanding any inconsistent provisions of law, whenever the Board finds, after investigation, that any user within the village is causing, engaging in or maintaining a condition or activity which, in its judgment, presents an imminent danger to the public health, safety or welfare or to the environment or is likely to result in irrevocable or irreparable damage to the Joint Sewage Treatment Plant and it therefore appears to be prejudicial to the public interest to delay action until notice and an opportunity for a hearing can be provided, the Board may, without prior hearing, order such user by notice, in writing wherever practicable or in such other form as in the Board's judgment will reasonably notify such person whose practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity. In the event of a user's failure to comply voluntarily with such emergency order, or where the giving of a notice is impracticable, the Board may take all appropriate action to abate the violating condition, including disconnecting the user's premises from the village public sewer system. As promptly as possible thereafter, not to exceed fifteen (15) days, the Board shall provide the user an opportunity to be heard in accordance with the provisions of its rules and regulations.

## ARTICLE IX

Repealer; Severability; When Effective

§ 49-38. Repealer.

The provisions of any local law or local laws in conflict with any provision of this chapter are hereby repealed.

§ 49-39. Severability.

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

§ 49-40. When effective.

This chapter shall take effect immediately subject to provisions of the Municipal Home Rule Law.

## Chapter 51

### STREET CONSTRUCTION

#### ARTICLE I

##### Scope

§ 51-1 Purpose.

§ 51-2. Application of provisions.

§ 51-3. Extent of provisions.

#### ARTICLE II

##### Procedure

§ 51-4. Tender of proposed highway; submission of detailed map.

§ 51-5. Deeds and releases of affected property required.

§ 51-6. Referral to Engineer.

§ 51-7. Policy.

#### ARTICLE III

##### Design Regulations

§ 51-8. Drainage easements.

§ 51-9. Drainage design.

§ 51-10. Rights-of-way; alignment; grades.

#### ARTICLE IV

##### Construction

- § 51-11. Gutters.
- § 51-12. Excavation and grading.
- § 51-13. Foundation course.
- § 51-14. Pavements.
- § 51-15. Materials.
- § 51-16. Installation.
- § 51-17. Concrete sidewalk.
- § 51-18. Concrete curb.
- § 51-19. Concrete curb and gutter.
- § 51-20. Catch basins.
- § 51-21. Culvert pipe.
- § 51-22. Structures.
- § 51-23. Guide posts.
- § 51-24. Headwalls and gutters.
- § 51-25. Topsoil and seeding.
- § 51-26. General.

## ARTICLE V Penalties

- § 51-27. Penalties for offenses.

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

### GENERAL REFERENCES

Sewers — See Ch. 49.  
Streets and sidewalks — See Ch. 52.  
Subdivision of land — See Ch. 53.

## ARTICLE I Scope

- § 51-1. Purpose.

In order to provide adequate and uniform construction and to secure permanence of all village streets within the village, the Village Board of Trustees of the Village of Port Dickinson does hereby make and adopt the rules and regulations hereinafter set forth for new street construction as the street standards of said village. Plans entitled “Minimum Construction Standards for Streets Offered for Dedication” and duly adopted are a part of these street standards.

- § 51-2. Application of provisions.

These street standards shall apply to all streets hereafter tendered to the village for dedication as public highways. These street standards shall be considered as the minimum requirements. Materials, workmanship and/or other standards of equal or better merits, after written approval thereof by the Village Board, may be accepted.

§ 51-3. Extent of provisions.

These street standards are not intended to cover every detail of construction, but are adopted to indicate acceptable standards of materials, workmanship and construction in a general way.

ARTICLE II  
Procedure

§ 51-4. Tender of proposed highway; submission of detailed map.

Every tender of a street as a proposed highway shall be by written application to the Village Board, duly verified by such applicant. The application shall be accompanied by a detailed map or survey, at a scale of not smaller than one (1) inch equals one hundred (100) feet, and profiles, both prepared and signed by an engineer licensed to practice in the State of New York, showing all property which is or may be affected thereby, all proposed roads and all connecting private and public streets, highways and/or other means of travel, the location of poles and other obstructions within the right-of-way, the edges of the traveled way, all culverts, together with the location and width of easements to be granted for the discharge of drainage water, profiles taken along the center line of each road and plotted at a scale of one (1) inch equals fifty (50) feet horizontal and one (1) inch equals ten (10) feet vertical; the approximate size of each plot or lot adjacent to said proposed highway; street frontage; and if in a development, it shall indicate which lots or plots have been sold, the name of the owner and the approximate date of any such sale. Any such application shall be made by the party or parties legally entitled to make such an application and shall state their respective interests and places of residence.

§ 51-5. Deeds and releases of affected property required.

If the Village Board shall approve of the construction of any proposed street, the Village Clerk shall so notify the applicant. Within thirty (30) days thereafter, such applicant shall deliver to the Village Clerk good and sufficient deeds (full covenant and warranty) and releases of any and all parcels and plots affected or interested, together with perpetual easements and maintenance rights for the discharge of water. The deeds and releases shall be accompanied by a letter from an attorney practicing in New York State stating that they are in proper form, they convey the land which they are purported to convey and title conveyed is adequate. The Village Board shall not give its consent to the laying out of any such street except upon approval thereof by the Village Attorney or other duly authorized attorney at law.

§ 51-6. Referral to Engineer.

Before the Village Board shall give its consent to the taking over of any such proposed highway, it shall refer the matter to the Village Engineer and receive his report thereon.

§ 51-7. Policy.

- A. In general, no tender of a highway will be accepted unless there is a minimum of one ( 1 ) residence or, in commercial or business areas, a minimum of one (1) commercial or business building, having

such highway as its sole means of ingress or egress to an established public highway for each five hundred (500) feet of highway tendered.

- B. Where a tendered highway is paved with an acceptable bituminous macadam or concrete pavement, an additional length up to five hundred (500) feet beyond the last building may be accepted if recommended by the Village Engineer.
- C. Where a tendered highway has previously been approved in writing by the Village Board of Trustees of the Village of Port Dickinson as having been constructed to the minimum construction standards of that body and where a residence or substantial commercial building using such highway as a means of ingress and egress has been erected for each five hundred (500) feet of length thereof, said highway may be accepted on recommendation of the Village Engineer even though said highway may not meet all of the requirements of these standards.
- D. No highway will be considered for acceptance as a public highway unless it has a paved surface equal to the double bituminous surface treatment hereinafter specified.

### ARTICLE III Design Regulations

#### § 51-8. Drainage easements.

- A. Permanent drainage easements not less than fifteen (15) feet in width and free from all encumbrances will be required at every point where water from the highway leaves the right-of-way and discharges onto private property. Such easements shall convey the perpetual right to discharge stormwater runoff from the highway and from the surrounding area onto and over the affected premises by means of pipes, culverts or ditches, or a combination thereof, together with the right to enter said premises for purposes of making such installations and doing such maintenance work as the village may deem necessary to adequately drain the highway and surrounding area.
- B. Where a drainage easement discharges onto or terminates at property of a third party, the consent of such third party must be obtained by the applicant.

#### § 51-9. Drainage design.

Local drainage with small watersheds may be designed for a storm with an intensity likely to occur once in ten (10) years. For larger watersheds where flowing streams are involved, structures shall be designed for a storm with an intensity likely to occur once in a period of fifty (50) years.

#### § 51-10. Rights-of-way; alignment; grades.

- A. The minimum right-of-way which can be accepted by the village is forty-nine and fifty-hundredths (49.50) feet, as prescribed by statute. For the sake of regularity, the standard width of the roads of the Village of Port Dickinson will henceforth be a minimum of fifty (50) feet, except that under special circumstances such additional width as deemed necessary or desirable shall be required. In commercial and industrial areas, this minimum width shall be sixty (60) feet. Additional right-of-way width may be required.
- B. The right-of-way lines shall be continuous lines of tangents and curves. A tangent not less than one hundred (100) feet long shall be provided between any two (2) curves which reverse directions except at intersections. The minimum center line radius, except at intersections, shall be two

hundred (200) feet and the minimum visibility measuring along the gutter on the inside of the curve shall be one hundred fifty (150) feet. Radii of less than two hundred (200) feet may be accepted under extremely unusual topographic conditions if the minimum visibility is provided. Returns having a minimum radius of ten (10) feet shall be provided in the right-of-way lines at all intersections, except that if the acute angle formed at any intersection is less than seventy degrees (70°), the return radius at such acute corner shall be not less than twenty (20) feet. At all intersections affecting property in the residential zones, the minimum return radius shall be twenty-five (25) feet. At intersections, except in business zones, visibility shall be provided along a line between points on the respective gutters seventy-five (75) feet distant from their intersection and three (3) feet above the respective gutter grades.

- C. Street grades shall be a series of straight lines connected by vertical curves. The maximum acceptable straight grade is twelve and zero-hundredths percent (12.00%). All changes in grade must be constructed with vertical curves of not less than one hundred (100) feet of horizontal length and not less than twenty (20) feet of horizontal length for each one percent (1%) of algebraic difference in the grades. Visibility at vertical curves must be at least two hundred (200) feet measured at points three (3) feet above the finished street grade.

#### ARTICLE IV Construction

##### § 51-11. Gutters.

A separate concrete gutter or a stone gutter shall be provided where the quantity of surface water to be carried within the right-of-way lines appears sufficient to cause serious erosion, both as hereinafter specified.

##### § 51-12. Excavation and grading.

- A. All excavating and filling required for construction of pavements, curbs, gutters, headwalls, drainage structures and installation of pipe drains shall be as specified herein and shown on the construction standards.
- B. The entire area of work shall be brought to the required lines and grades by excavation or filling. Excavated material, if suitable, shall be used in making embankments and filling the low areas of the work and at such other places as required.
- C. All muck, soft clay, spongy material and any other objectionable materials below the proposed subgrade shall be removed and the area filled with acceptable materials well tamped.
- D. All roots and stumps within the limits of area to be graded shall be grubbed and excavated to a depth of two (2) feet below the final finished grade, except in fills greater than two (2) feet, where they shall be cut flush with the ground surface.
- E. Walls, footings, etc., shall be removed to a depth at least two (2) feet below the proposed finished grades. Such areas shall be backfilled and graded over.
- F. All excavations for head walls shall be cut accurately to the required lines and grades and shall be large enough to provide adequate clearance for the proper execution of the work.

- G. Trenches for pipes shall be excavated to the required lines and grades and shall be of sufficient width to lay pipe and to permit thorough tamping of backfill under haunches and around pipe.
- H. Before any pipe is lowered into place, the finished bottom of all trenches shall be firm and unyielding, having a smooth, even surface, having the required grade and the same curvature as the pipe to be placed, and having necessary recess for hubs, bells, branches or other appurtenances as required by the Engineer to enable caulking and jointing to be done advantageously.
- I. Rock, where encountered in trenches, shall be removed below grade and replaced with suitable materials in such a manner as to provide a compacted earth cushion of minimum allowable thickness of eight (8) inches under the pipe.
- J. Backfill shall be made with selected materials free from large lumps, clods, stone or rock and placed in layers not exceeding six (6) inches in depth, and each layer shall be thoroughly compacted with heavy rammers.
- K. Embankments shall be formed of suitable and acceptable excavated materials and brought to the required lines and grades. The materials for embankments shall be placed in successive horizontal layers, not exceeding twelve (12) inches in depth, extending across the entire fill area. They shall be spread by a bulldozer or other acceptable methods and shall be thoroughly compacted by rolling with approved rollers to the satisfaction of the Engineer. Successive layers shall not be placed until the layer under construction has been thoroughly compacted. In places where the use of roller is impractical, the contractor shall use other means satisfactory to the village, for compacting the material.
- L. All hollows and depressions which develop during the process of rolling and compacting shall be filled with acceptable materials, and the subgrade shall again be compacted. This process of filling and compacting shall be repeated until no depressions result.
- M. Fill within eighteen (18) inches of finished grade shall be free of stone larger than six (6) inches in greatest dimension.
- N. If there is not sufficient excavated material of a suitable quality within limits of work to complete embankments grading and backfilling to required lines and grades, the material may be brought in from outside sources. The quality of the borrowed material shall be subject to the approval of the village.
- O. All suitable and acceptable materials from excavation shall be used for making embankments and backfilling, surplus and unsuitable materials shall be removed and shall be legally disposed of.
- P. All blasting work shall be done by persons skilled in such work. All blasts shall be properly covered and every precaution shall be taken to ensure the safety of persons and property. Explosives shall be stored and used as prescribed by state laws and local laws.

§ 51-13. Foundation course.

- A. Foundation course for all roads shall be of run-of-bank gravel placed on a properly prepared subgrade to the compacted thickness shown on the standard sections.

- B. All gravel shall be of hard, durable stones and well graded. The particles shall be of such size as will pass through a four-inch-square hole, with not more than ten percent (10%) passing a two-hundred-mesh sieve and shall be satisfactorily graded. All gravel shall be subject to the approval of the Village Engineer or his duly authorized representative.
- C. After the subgrade has been properly prepared, the gravel shall be spread evenly so that it will have, after rolling, the proper thickness. No segregation of large or fine particles will be allowed, but the gravel as spread shall be well graded with no pockets of fine material.
- D. When the finished thickness of the foundation course is more than six (6) inches, the gravel shall be spread, rolled and filled in separate layers, each not exceeding six (6) inches.
- E. After the gravel has been spread, it shall be thoroughly rolled with an approved roller weighing not less than ten (10) tons. All holes or depressions found in rolling shall be filled with gravel and the surface rerolled until it conforms to the lines and grades shown on the approved standards.
- F. In all cases, the foundation course shall be true to grade and section and so thoroughly compacted that it will not weave under a roller.

#### § 51-14. Pavements.

The surface for all streets shall have, as a minimum finish, a double bituminous surface treatment or asphaltic concrete, of the compacted thickness shown on the standard section.

#### § 51-15. Materials.

- A. Subbase for all village streets shall be a minimum of eight (8) inches thick, of concrete as approved by the Engineer, Item 503.01 of the New York State Department of Transportation Specifications. [Amended by Local Law 1-2002 on January 8, 2002]
- B. Binder course shall be New York State Department of Transportation Specification, Item 403.05, asphaltic concrete. Binder course thickness shall be a minimum of one and one-half (1½) inches.
- C. Top course shall be New York State Department of Transportation Specification, Item 403.3, asphaltic concrete. Top course thickness shall be a minimum of one (1) inch.

#### § 51-16. Installation.

Installation shall be as per New York State Department of Transportation Specifications, latest edition.

#### § 51-17. Concrete sidewalk.

- A. Concrete sidewalk shall be of the width shown on the standard section and shall be laid on a foundation four (4) inches thick.
- B. Sidewalk shall consist of a single course of concrete four (4) inches thick, except in driveways where it shall be six inches thick and reinforced.
- C. Material for foundation shall consist of run-of-bank gravel as specified under § 51-13, Foundation course. of specifications.



- D. Concrete shall have a minimum twenty-eight-day compressive strength of four thousand five hundred (4,500) pounds per square inch, as per New York State Department of Transportation Specifications, Item 608.01.
- E. Excavation shall be made to dimensions sufficient to permit the setting of forms. The earth subgrade, immediately before the foundation material is placed on it, shall be compacted, smooth and parallel to and the required depth below the finished sidewalk surface. The subgrade shall not be in a muddy or frozen condition, and unsuitable material shall be removed and replaced with acceptable material thoroughly compacted.
- F. Foundation material shall be placed on the prepared subgrade and thoroughly compacted into a course not less than five (5) inches thick. The top surface shall be parallel to the finished grade and at a distance below grade equal to the specified thickness of concrete.
- G. Forms shall be of substantial materials with suitable metal dividing plates and of sufficient strength to satisfactorily resist distortion when fastened together and secured in place. Forms and dividing plates shall be of a depth not less than that of concrete sidewalk, shall be properly located with tops set to the designated sidewalk surface and shall be left in place until concrete has hardened.
- H. Concrete sidewalk shall be built in independent rectangular slabs, approximately five (5) feet long and separated by joints approximately one-fourth (1/4) inch wide. Sidewalk at a driveway shall be of a length to suit the width of the driveway, as determined in the field, with the top surface scored at approximately five-foot intervals.
- I. The concrete shall be placed within the forms and thoroughly tamped until the surface is at the finished grade. At driveways, steel fabric reinforcement shall be placed midway between upper and lower surfaces. Steel fabric shall be No. 6 gauge wire at six-inch centers transversely and longitudinally and meeting the requirements of A.S.T.M. Specification A185.
- J. One-half-inch premoulded bituminous joints shall be placed at the ends of a driveway sidewalk.
- K. The top surface shall be finished to true smooth planes by troweling and finally by wooden floats. Each rectangular slab shall have edges neatly rounded with proper tools and bounded on all sides by a troweled border about one (1) inch wide.
- L. Concrete shall be cured by quilted covers. Quilted covers shall be held securely in place and weighted down to completely cover the edges, as well as top of the sidewalk. Adjoining quilts shall be lapped at least twelve (12) inches. These quilted covers shall be laid directly on the sidewalk as soon as it is completed. They shall be thoroughly wetted and kept wet for at least five (5) days.
- M. Concrete sidewalks shall be protected and kept in first-class condition until accepted by the village. Any sidewalk damaged at any time previous to final acceptance by the village shall be removed and replaced with satisfactory sidewalk.

§ 51-18. Concrete curb.

- A. Concrete curb shall be of the cross section as shown on the standard section.

- B. Concrete shall have a minimum twenty-eight-day compressive strength of four thousand five hundred (4,500) pounds per square inch, as per New York State Department of Transportation Specifications, Item 609.04.
- C. Excavation shall be made to dimensions sufficient to permit the setting of forms. The materials underlying concrete curbs shall be satisfactory and thoroughly compacted. If unsatisfactory, the unsuitable materials shall be removed and replaced with acceptable materials and be thoroughly compacted.
- D. Curbs shall be moulded in place in sections ten (10) feet long and provisions made at each joint for expansion of three-sixteenths ( $3/16$ ) of an inch. Curbs shall be set across driveways with the top two (2) inches above the gutter line for the width of the driveway and the ends of the sections adjacent to a drop curb rounded or splayed as required. On curbs, the curb shall be constructed to true arcs with joints radial.
- E. All forms shall be set true to line and grade and held rigidly in position. They shall be either of metal or of planed and matched lumber and of such construction that a smooth surface will be provided.
- F. The forms shall be left in place until concrete has set sufficiently and they can be removed without injury to the curb. Upon removal of the forms, the curb shall be immediately rubbed down to a smooth and uniform surface, but no plastering will be allowed. For this work, competent and skillful finishes shall be employed.
- G. Concrete curb shall be cured by use of quilted covers. Quilted covers shall be held securely in place and weighted down to completely cover the curb. Adjoining quilts shall be lapped at least twelve (12) inches. These quilted covers shall be laid directly on the curb as soon as it is completed. They shall be thoroughly wetted and kept wet for at least five (5) days.
- H. Concrete curb shall be protected and kept in first-class condition until accepted by the village. Any concrete curb which is damaged at any time previous to the final acceptance by the village shall be removed and replaced with satisfactory curb.

§ 51-19. Concrete curb and gutter.

- A. Concrete curb and gutter shall be constructed of the cross section shown on the standard section.
- B. Concrete shall have a minimum twenty-eight-day compressive strength of four thousand five hundred (4,500) pounds per square inch, as per New York State Department of Transportation Specifications, Item 609.05.
- C. Concrete gutters shall be constructed in eight-foot sections of the shape shown on the standard section to the required line and grade. A steel separating plate one-eighth inch thick and cut to fit the section, shall be used in each joint and removed when concrete hardens; or the gutter may be constructed in alternate sections, twenty-four (24) hours to elapse before the construction of the intermediate sections. A straight edge shall be laid parallel to the line of the gutter to strike off the surface to conform accurately to the gutter section.
- D. Concrete gutters shall be cured by use of quilted covers. Quilted covers shall be held securely in place and weighted down to completely cover the gutter. Adjoining quilts shall be lapped twelve

(12) inches. These quilted covers shall be laid directly on the gutter as soon as it is completed. They shall be thoroughly wetted and kept wet for at least five (5) days.

- E. Concrete gutters shall be protected and kept in first-class condition until accepted by the village. Any gutter damaged at any time previous to final acceptance by the village shall be removed and replaced with satisfactory gutter.

§ 51-20. Catch basins.

- A. Catch basins shall be constructed in accordance with the details shown on the standard sections.
- B. Concrete for base shall have a minimum twenty-eight-day compressive strength of four thousand five hundred (4,500) pounds per square inch, as per New York State Department of Transportation Standard Specification for catch basins.
- C. Walls shall be constructed of concrete or brick. Concrete shall be as specified for base.
- D. Brick shall conform to A.S.T.M. Specification C-32-Grade NA.
- E. Brick shall be laid by a competent mason in a workmanlike manner in mortar composed of one (1) part portland cement and two (2) parts mortar sand.
- F. Frames, covers and gratings shall be of cast iron of the type shown on the standard section. Iron castings shall conform to the requirements of A.S.T.M. Specifications A48, Class 20.
- G. Catch basins shall be protected and kept in first-class condition until accepted by the village. Any catch basin damaged at any time previous to final acceptance by the village shall be removed and replaced with satisfactory catch basin.

§ 51-21. Culvert pipe.

- A. Reinforced concrete pipes of necessary sizes shall be placed where required in accordance with the details as shown on the standard section.
- B. Trench excavation and refill shall be done in accordance with the requirements as given under § 51-12, Excavation and grading.
- C. Pipe under twenty-four (24) inches in diameter shall be standard strength reinforced concrete culvert pipe conforming to the requirements of the standard specifications for reinforced concrete culvert pipe, designation C76, Table I, latest edition of American Society for Testing Materials.
- D. Pipe twenty-four (24) inches and above in diameter shall be extra-strength reinforced concrete culvert pipe conforming to the requirements of A.S.T.M. Specification, C-76, Table II.
- E. The pipe shall be bedded in an earth foundation of uniform density, carefully shaped by means of a template supported at the desired grade to fit the lower part of the pipe for at least ten percent (10%) of its overall height.
- F. Each pipe shall be laid with the bell facing upgrade in full conformity with lines and grades as shown on the plans.

- G. Joints shall be formed by caulking the hubs with a gasket of jute or oakum and then filling with mortar composed of equal parts portland cement and clean sharp sand.
- H. After a pipe has been laid in place and outside of the joint has been caulked and sealed with mortar, all surplus mortar and debris shall be removed from inside of the pipe.
- I. All pipe shall be clean and left in satisfactory working condition.

§ 51-22. Structures.

Structures and retaining walls shall be designed in accordance with the current issue of the specifications of the American Association of State Highway Officials. The minimum design load for bridge structures shall be H-10. Bridges on important streets or connecting highways shall be designed for heavier loads as required by the village. Existing structures for which plans are not available will not be accepted unless the safe load carrying capacity can be demonstrated to be H-10 or greater.

§ 51-23. Guide posts.

Guide posts shall conform to the latest edition of Department of Transportation Specifications.

§ 51-24. Headwalls and gutters.

- A. Rubble stone masonry headwalls and stone gutters, as necessary, shall be constructed in the manner shown on the standard section and as specified herein.
- B. All excavation and backfill shall conform to the requirements under § 51-12, Excavation and grading.
- C. Stone masonry for headwalls shall be built of clean stone, free from structural defects, laid in full cement mortar beds of one (1) part portland cement and three (3) parts mortar sand. Vertical joints shall be flushed with mortar. Selected stone, roughly squared and pitched to line, shall be used for the coping and ends of walls.
- D. The stone shall be laid on its natural bed to form substantial masonry presenting a neat and finished appearance. Spalls and panners shall not be allowed to show on the face of the wall and shall be used only where necessary. All stones shall be laid to break joints six (6) inches or more and to thoroughly bond the work.
- E. Flat stones shall be selected for the gutter and embedded in mortar composed of one (1) part of portland cement and three (3) parts fine aggregate. The stones shall be laid to line and grade with close joints by skilled workmen using regular paving tools. The whole shall then be thoroughly rammed in place and brought to a uniform surface.
- F. Stone gutter shall be laid on a six-inch bed of sand.

§ 51-25. Topsoil and seeding.

- A. All slopes and disturbed areas related in any way to roads being constructed shall be covered with topsoil to a depth of four (4) inches. Topsoil shall be stripped from road area for this purpose and shall be stockpiled in appropriate locations until needed. If there is not sufficient topsoil available from the road area, good quality topsoil shall be imported. Any topsoil to be removed from the property or any topsoil imported must be handled in accordance with all regulations and ordinances relating thereto.
- B. All topsoiled areas shall be seeded. The work shall be carried out in accordance with the requirements of the New York State Department of Transportation Specifications, latest edition.
- C. No tests or certified reports will be required unless the materials to be used appear to be of inferior quality.
- D. The seed used shall be fresh recleaned seed of the latest drop, mixed in the following proportions by weight and meeting the following standards of pure live seed content. The tolerance for P.L.S. (purity x germination) shall be those called official and tabulated on page 5, U.S. Department of Agriculture, Bulletin No. 480.

Grass	Maximum Weed Seed	P.L.S.
50% Creeping red rescue (Illahee strain)	0.50%	90%
30% Kentucky bluegrass	0.50%	85%
10% Redtop (fancy recleaned)	1.00%	85%
10% English perennial rye	0.50%	88%

- E. Seed shall bear the label of a responsible seed company with the mixture indicated thereon.
- F. The rate of seeding shall be one hundred fifty (150) pounds per acre. Seed shall be sown by hand or by approved machine in such a manner that a uniform stand will result. After seeding, the surface shall be evenly raked with a fine-toothed rake and rolled with an approved roller weighing at least three hundred (300) pounds.

§ 51-26. General.

All materials and/or methods of construction not described in these standards shall meet the requirements of the latest edition of the New York State Department of Transportation Specifications.

ARTICLE V  
Penalties

§ 51-27. Penalties for offenses.

- A. Any person deviating from the standards set forth in this chapter or in any manner violating its provisions shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York and be punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.

- B. In addition to the above provided penalties, the Village Board of Trustees may also maintain an action in the name of the village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

## Chapter 52

### STREETS AND SIDEWALKS

#### ARTICLE I Excavations

- § 52-1. Permit required.
- § 52-2. Applications.
- § 52-3. Fees.
- § 52-4. Liability insurance.
- § 52-5. Notice of excavation.
- § 52-6. Safety requirements.
- § 52-7. Regulations and specifications.

#### ARTICLE II Curbs and Sidewalks

- § 52-8. Construction according to grade.
- § 52-9. Construction requirements.
- § 52-10. Safety requirements.
- § 52-11. Sidewalk maintenance; violations,
- § 52-12. Installations between curb and property lines.
- § 52-13. Use of sidewalks.
- § 52-13A. Depositing snow onto streets or highways within the Village.
- § 52-13B. Replacement of sidewalks.

#### ARTICLE III Violations

- § 52-14. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 9-10-74 as Local Law No. 6-1974. Amendments noted where applicable.]

#### GENERAL REFERENCES

Vehicles and traffic — See Ch. 60.

#### ARTICLE I

## Excavations

### § 52-1. Permit required.

No person, firm or corporation, including public service companies and municipalities other than the Village of Port Dickinson, shall make any excavation in any street or highway in the Village of Port Dickinson for any purpose without first obtaining a permit therefor from the Code Enforcement Officer, as hereinafter provided.

### § 52-2. Applications.

- A. Application for permits shall be filed in writing with the Code Enforcement Officer upon application blanks which he shall provide or in such other manner as he shall from time to time prescribe. Applications shall state the nature, location, extent and purpose of the proposed excavation.
- B. Applications by public service companies must be accompanied by a general undertaking in such form as may be approved by the Board of Trustees. The said general undertaking is tendered to assure that after completing the excavation said applicant shall leave the street, highway, sidewalk, pavement, curb or gutter in the same condition as it was prior to the excavation.
- C. Applications by persons, firms or corporations other than public service companies for excavations in the street or highway must be accompanied by a minimum cash deposit of five hundred dollars (\$500.) with the Village Clerk to assure that after completing the excavation said applicant shall leave the street, highway, pavement and curb or gutter in the same condition as it was prior to excavation. In the event the applicant fails to repair or replace such pavement, curb or gutter in the time provided in the permit, the deposit of five hundred dollars (\$500.) shall be forfeited to the extent necessary to repair such surface as left undone by the applicant.

### § 52-3. Fees.

Each applicant must pay a permit fee of fifteen dollars (\$15.) to the Village Clerk for each excavation, except those for utility poles.

### § 52-4. Liability insurance.

- A. The applicant shall file with the Code Enforcement Officer a general liability insurance policy or certificate of insurance naming the Village of Port Dickinson as an additional insured at the same time he files his application for the permit. The Board of Trustees shall approve the policy as to form.
- B. The policy shall insure the Village of Port Dickinson and the applicant and shall cover all operations relative to the excavation and reconstruction thereof. Said policy shall have limits of liability of one hundred thousand dollars (\$100,000.) for bodily injury to each person and aggregate liability of three hundred thousand dollars (\$300,000.) for each accident, and property damage liability of five thousand dollars (\$5,000.) for each accident and aggregate property damage liability of twenty-five thousand dollars (\$25,000.).

- C. In lieu of the aforesaid liability insurance, public service companies may submit a general undertaking in such form as shall be approved by the Board of Trustees.

§ 52-5. Notice of excavation.

The Code Enforcement Officer may require any person making a highway excavation pursuant to a permit granted hereunder to give notice of such excavation to public service companies or municipal districts having lines, mains or other property in the streets, and when such notice shall have been required, no work shall be commenced or done under such permit until such required notice has been fully complied with to the satisfaction of the Code Enforcement Officer.

§ 52-6. Safety requirements.

Any person making an excavation covered by this chapter shall erect suitable barriers or guards for the protection of persons using the streets or sidewalks and, in addition thereto, shall set up and maintain during the hours of darkness sufficient lights or flares to properly illuminate the area. He shall also take all necessary precautions for the protection of the property of the village, of public service companies or municipal districts and of others which may be endangered by such excavation or the work incident thereto, and shall comply with all directions given by the Code Enforcement Officer with respect to such barriers, lights, flares and protective measures.

§ 52-7. Regulations and specifications.

- A. Work under the permit shall be commenced within thirty (30) days from the date of the issuance of the permit and continued in an expeditious manner unless extension of this period is approved by the Code Enforcement Officer.
- B. Construction.
  - (1) When work is being performed on any village street, no pavement cuts or trenches are to be left unfilled overnight except in emergencies and in such cases adequate precautions must be exercised to protect traffic. When working on any village street or road, contractors must complete final backfilling of any trench within eighteen (18) days from the time of its opening.
  - (2) All pipes or mains crossing highway pavement shall, whenever possible, be driven beneath the roadway without disturbance from the edge of the pavement. Such crossover pipes shall, whenever possible, be enclosed in sleeves or larger pipes so that repairs or replacements may be made in the future without future disturbance of the roadway pavement.
  - (3) In the event that a trench is opened, the trench will be compacted to within four (4) inches of the road surface after completion of the necessary work and construction. The existing asphalt surface shall then be cut back at least twelve (12) inches on either side of the undisturbed subgrade.
  - (4) At the discretion of the Code Enforcement Officer, the contact surfaces, the packed surfaces and/or adjacent pavement edges shall be painted and sealed with approved bituminous and/or bluestone material before or after placing the course of asphalt, which shall be four (4) inches of New York State Specifications 1-A hot plant mix. This course shall be rolled with an eight-



to-ten-ton roller and surface variations in excess of one-four (1/4) of an inch shall be eliminated or the pavement relaid.

(5) If the trench work is in the earthen shoulder of the roadway, the proper compaction, as outlined above, shall apply with the addition of a covering of sod or grass seeding as specified by the highway department of the Village of Port Dickinson.

- C. Traffic control. Traffic is to be maintained at all times during the progress of work. Adequate signs, barricades and lights necessary to protect the public shall be provided. Flagmen to direct traffic shall be employed continuously during periods when only one-way traffic can be maintained or when equipment is operated back and forth across the pavement area. No construction equipment or materials shall be left on the pavement after working hours nor shall any construction equipment or materials be placed in any way, manner or location that will obstruct the highway or railroad warning signs. Barricades, whether in sidewalk or roadway areas, shall have prominently displayed for police convenience the address and telephone number of someone available twenty-four (24) hours a day who shall reestablish the same in an emergency. Access to adjacent property shall be maintained.
- D. Notification. The applicant will be responsible for notifying the Highway Department twenty-four (24) hours prior to street opening and street closing.

## ARTICLE II Curbs and Sidewalks

§ 52-8. Construction according to grade.

No person shall construct or cause or permit to be constructed a curb or sidewalk unless the same shall be constructed in accordance with the grade which shall have been obtained from the village Code Enforcement Officer.

§ 52-9. Construction requirements.

- A. All sidewalks shall be concrete or macadam and shall be four (4) feet wide in residential areas. In business areas, including nonconforming business use areas, sidewalks shall be constructed so as to cover the full area between the curb and property line unless otherwise directed by the Code Enforcement Officer. Sidewalks shall not be less than four (4) inches thick in areas zoned for residential use and not less than five (5) inches thick in areas zoned for business use.<sup>1</sup> Where crossed by driveways, all sidewalks shall not be less than six (6) inches thick through the width of the driveway.
- B. All curbs shall be concrete, eighteen (18) inches in depth, and not less than six (6) inches thick in residential areas and not less than eight (8) inches thick in business areas and shall be built in one (1) course. Concrete gutter shall not be less than eighteen (18) inches high and six (6) inches thick and shall be built in one (1) course.

§ 52-10. Safety requirements.

Every person who constructs a sidewalk or curb shall guard any excavation or work by guardrails, red signal lights or any other means as may be necessary to warn pedestrians and others of the danger to be approached.

**§ 52-11. Sidewalk maintenance; violations.**

- A. The owner or occupant of every property shall pave, keep and maintain the existing sidewalks adjoining his property in a safe, passable condition and the sidewalk free from snow, ice, dirt, filth, weeds and other obstructions.
- B. In the event that a property owner or occupant fails to maintain said sidewalks as required in subsection A hereof (except in regard to snow and ice as provided in subsection D hereof) the Enforcement Officer shall serve a notice of the same in the following manner:
- (1) by personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in said property as shown by the records of the Town of Dickinson Tax Collector or of the Broome County Clerk; or if no such person can reasonably be found, by mailing such owner by registered mail a copy of such notice directed to his/her last known address as shown by the above records; and
  - (2) by personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found; and
  - (3) by securely affixing a copy of such notice upon any residence or other structure located on the property. **[Amended 2-14-06 by L.L. No. 1-2006]**
- C. The notice shall contain the following:
- (1) a description of the condition of the property needing correction
  - (2) an order outlining the manner in which the property is to be made compliant with this section of the Village Code **[Amended 2-14-06 by L.L. No. 1-2006]**
  - (3) a statement that the correction of the sidewalk condition shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter, unless, for good cause shown, such time shall be extended. **[Amended 2-14-06 by L.L. No. 1-2006]**
  - (4) a statement that in the event of neglect or refusal to comply with the order:
    - a. The Village is authorized to direct a private contractor previously approved by the Board of Trustees to correct the prohibited condition, and
    - b. The total cost thereof shall be assessed against the real property on which said sidewalk is located and shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged to be collected in the same manner and at the same time as other Village charges. **[Amended 2-14-06 by L.L. No. 1-2006]**
- D. In the case of snow and ice, no such sixty-day notice is required and if, within twenty-four (24) hours after the cessation of every fall of snow or the formation of any ice, the owner or occupant of any premises shall fail to clear such sidewalk of snow and ice, he shall be in violation of this

section unless such time period be extended by the Code Enforcement Officer of the Village by reason of the fact that such ice is too thick to be removed within such twenty-four (24) hour period, in which event such ice must be removed within such reasonable time as determined by the Code Enforcement Officer. In addition, the village may clear such sidewalks of snow and ice if they are not cleared by the owner or occupant within the said twenty-four (24) hours and assess the cost thereof against the owner of the adjacent property. Such cost, if not paid, shall be assessable against the property as a tax thereon. If in judgement of the Commissioner of Public Works the employees of the Department of Public Works, by reason of their work schedule, will be unable to attend to such clearing activities within twenty-four (24) hours of receipt of said order, then the Enforcement Officer may direct a private contractor previously approved by the Board of Trustees to perform such services at the pay schedule previously approved. **[Amended 8-8-00 by L.L. No. 5-2000 and 12-12.00 by L.L. No. 7-2000]**

- E. In the event that personal injury or property damage shall result from the failure of the owner or occupant to comply with the provisions of this section, the owner and occupant shall be liable to all persons injured , or where property is damaged directly or indirectly thereby, and shall be liable to the Village to the extent that the Village is required by law or by and Court to respond in damages to any injured party. **[Amended 2-14-06 by L.L. No. 1-2006]**

#### **§ 52-12. Installations between curb and property lines.**

No person shall install, construct, place, maintain or permit to be installed, constructed, placed or maintained in the area between curb and property line of premises adjoining any street, parking field or parking field walk owned or occupied by him any structure, masonry, stone, sprinkler pipes, sprinkler heads, garbage receptacles or any similar devices or fixtures.

#### **§ 52-13. Use of sidewalks.**

No person shall ride, drive, operate or park any motor driven vehicle, including snowmobiles and minibikes, along or upon any public sidewalk or path intended for use by pedestrians within the Village of Port Dickinson.

#### **§ 52-13A. Depositing snow onto streets or highways within the village.**

No person shall cast, shovel, dump, plow, push or in any other way cause to be placed any snow upon the streets or highways within the Village.

#### **§ 52-13B. Replacement of sidewalks. [Added 9-11-01 by L.L. No. 12-2001]**

If in the judgment of the Board of Trustees upon recommendation of the Commissioner of Public Works pursuant to Section 57-11 of the Village Code it is necessary to remove trees planted between the public sidewalk and street curb and such removal requires the removal and replacement of the adjoining sidewalk, the Village shall cause such removal and replacement and shall pay 50% of the cost thereof, with the remaining 50% to be paid by the adjacent property owner. If such property owner shall fail to pay said 50% within thirty (30) days from receipt of notice thereof, the Village shall assess said cost against the owner of the adjacent property as a tax thereon.

## ARTICLE III

### Violations

#### § 52-14. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment. In addition to the above provided penalty the Village Board of Trustees may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

<sup>1</sup>Editor's Note: See Ch. 65, Zoning, for provisions pertaining to designation of zones.

## Chapter 53

### SUBDIVISION OF LAND

#### ARTICLE I

##### Preamble and Title

§ 53-1. Preamble.

§ 53-2. Title.

#### ARTICLE II

##### Definitions

§ 53-3. Definitions and word usage.

#### ARTICLE III

##### Procedure

§ 53-4. Basic requirements.

§ 53-5. Preapplication procedure.

§ 53-6. Preliminary layout.

§ 53-7. Final subdivision plat.

§ 53-8. Acceptance of improvements for public use and maintenance.

#### ARTICLE IV

##### Subdivision Standards

§ 53-9. Standards and requirements.

## ARTICLE V Variances and Modifications

§ 53-10. Variance of regulations due to hardship.

§ 53-11. Waiver of requirements.

§ 53-12. Modifications of zoning regulations.

## ARTICLE VI Enforcement

§ 53-13. Penalties for offenses.

§ 53-14. Complaints of violation.

## ARTICLE VII Amendments

§ 53-15. Amendment of regulations.

[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 6-10-75 as Local Law No. 5-1975. Amendments noted where applicable.]

### GENERAL REFERENCES

Sewers — See Ch. 49.  
Street construction — See Ch. 51.  
Streets and sidewalks — See Ch. 52.  
Water — See Ch. 62.  
Zoning — See Ch.

## ARTICLE I Preamble and Title

§ 53-1. Preamble.

Whereas it is deemed necessary to promulgate certain regulations in order to improve, maintain and protect the interests of the Village of Port Dickinson, New York, in its public health, safety and general welfare and in order to provide for the future growth and development of the village, and

Whereas the Village Planning Board of the Village of Port Dickinson, New York, being duly convened in regular session and by authority of the resolution adopted by the Village Board on May 6, 1975, pursuant to the provisions of § 7-728 of the Village Law authorizing and empowering the Planning Board to approve subdivision plats within the limits of the incorporated village hereby ordains and enacts these rules and regulations being in addition to any applicable rules, regulations, ordinances and laws of the State of New York and for the County of Broome and for the Village of Port Dickinson, New York.

§ 53-2. Title.

This chapter may be known and cited as the “Village of Port Dickinson Subdivision Regulations.”

ARTICLE II  
Definitions

§ 53-3. Definitions and word usage.

- A. Word usage. For the purpose of the Subdivision Regulations, words used in the present tense include the future, the plural includes the singular, the word “lot” includes the word “plot,” the word “building” includes the word “structure,” the word “shall” is intended to be mandatory, and the word “occupied” includes the words “designed for occupancy” or “intended to be occupied.”
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

BUILDING — Any structure other than a boundary wall or fence.

CLERK or MUNICIPAL CLERK — The duly designated Clerk of the municipality concerned.

COMPREHENSIVE PLAN — A Master Plan for the future growth and development of the municipality to ensure adequate housing, transportation, recreation, public health, safety and the general welfare of the population.

CROSSWALK or WALKWAY — An access through a subdivision dedicated to public use, to facilitate pedestrian traffic.

CUL-DE-SAC — A designed turnaround area for vehicles at the dead end of a street.

EASEMENT — A legal access stipulated in a recorded acquisition in the County Clerk’s office for a specific use of the designated area by public, corporate or specified persons.

ENFORCEMENT OFFICER — The administrative officer or his representative, duly appointed by the empowered authorities of the municipality, who shall be authorized to administer and enforce these subdivision rules and regulations.

ENGINEER or MUNICIPAL ENGINEER — The Engineer duly designated by the Village of Port Dickinson.

HIGHWAY — A public right-of-way generally designed to carry high volumes of traffic between major centers of development.

- (1) PRIMARY HIGHWAY — A highway usually under state or county jurisdiction, principally designed for high-speed through traffic between centers of development such as commercial centers, industrial areas and concentrated residential communities, both within and outside the county or state boundaries.

(2) SECONDARY HIGHWAY — Similar to a primary highway, generally under local jurisdiction, designed for traffic between important centers of development within municipal limits and as a highway link to primary highway systems.

LOT — An area of land occupied or capable of being occupied by a structure or structures and/or uses, such as open spaces. “Lot” shall also mean parcel, plot, site or any similar term.

LOT DEPTH — The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT WIDTH — The mean width measured at right angles to its depth.

MASTER PLAN — A comprehensive plan prepared by the Planning Board, which plan shows general locations desirable for various functional classes of public works, places, structures and other general physical developments, and any amendment to such plan or part thereof.

MUNICIPAL BOARD — The legislative body of the municipality.

OFFICIAL MAP — The map established by the Village Board, pursuant to appropriate sections of the Village Law, showing streets, highways, parks and drainage theretofore laid out, adopted and established by law, and any amendments thereto adopted by the Village Board.

PLANNING BOARD — The Board created as such by the Municipal Board or the body of the duly appointed members of this Board.

RESUBDIVISION — Replacement of an existing filed plat with a changed or improved plat. “Resubdivision” shall be considered as a subdivision.

STREET — Any public or private right-of-way which affords the primary means of access to abutting properties.

(1) ARTERIAL STREET — A street or highway which is designated and constructed primarily to carry large volumes of traffic through and between communities.

(2) COLLECTOR STREET — A street or highway which is designed and constructed primarily to carry traffic from the service streets to the major arterial and highway. Also identified at times as a major street.

(3) MARGINAL ACCESS STREET — A street located on a separate right-of-way; a street parallel to and in the vicinity of a primary or secondary highway, designed to provide access to abutting properties without interrupting highway traffic except at designated intersections or access points.

(4) MINOR STREET — A street with limited capacity, designed to provide access to abutting properties within an area such as a neighborhood.

SUBDIVIDER — Any person, firm, corporation or agent thereof who shall file a subdivision submission.

SUBDIVISION — Land divided into two (2) or more lots, blocks or sites, with or without streets or highways, and including resubdivisions.

TIME OF SUBMISSION OF SUBDIVISION PLAT — The date of the regularly scheduled monthly meeting of the Planning Board following the date when the subdivider submits the final subdivision plat of all or a portion of the subdivision.

### ARTICLE III Procedure

#### § 53-4. Basic requirements.

Whenever any subdivision of land, as hereinbefore defined, is proposed to be made and before any contract for the sale of or any offer to sell such subdivision or any part thereof is made, the subdivider shall apply in writing to the Planning Board for the approval of such subdivision. The application of the subdivider shall conform to the specifications in §§ 53-5, 53-6 and 53-7 of these Subdivision Regulations as well as with the requirements of Article IV.

#### § 53-5. Preapplication procedure.

- A. The subdivider shall file a preapplication sketch plan of the proposed subdivision with the Planning Board for its review and recommendation prior to the submission of the preliminary layout. There shall also be filed with the preliminary application sketch plan a key map (location map) which shows the location of the proposed subdivision within the municipality.
- B. The lot layout sketch plan, drawn on a topography survey, shall show in general form the proposed layout of streets, their relationship to existing traffic arteries, the general layout of lots and other site conditions and facilities which will serve or influence the proposed subdivision.
- C. The Planning Board shall study the sketch plan and any accompanying information and shall notify the subdivider that the sketch plan does or does not meet the objectives of these Subdivision Regulations.
- D. The subdivider shall prepare the preliminary layout of the subdivision in accordance with § 53-6 of these Subdivision Regulations and the recommendations of the Planning Board in regard to the preapplication subdivision sketch.

#### § 53-6. Preliminary layout.

- A. Step I. In order to afford the subdivider an opportunity for receiving preliminary review of his plat and to prevent the unnecessary expenditure of time and money which would be incurred if major changes were required by the Planning Board in case a final plat was submitted directly to the Planning Board, the subdivider shall submit two (2) copies of a preliminary layout of the proposed subdivision to the Planning Board. These preliminary layouts shall be submitted at a regularly scheduled meeting of the Planning Board. They shall be drawn at a scale of not more than forty (40) feet to the inch, shall be clearly marked "preliminary layout" and shall show or be accompanied by the following information:
  - (1) The proposed subdivision name and/or identifying title and the name and address of the owner of record, the subdivider and the designer of the preliminary subdivision layout, date, scale and true North direction.



- (2) The deed description and a map or survey of the tract boundary made and certified by a licensed surveyor and, where practicable, tied into established reference points such as existing street corners, highways or permanent boundary monuments.
- (3) A topographic map of the parcel of land to be subdivided, at the same scale as the preliminary layout, showing a contour interval of not more than five (5) feet.
- (4) The name, location and dimensions of existing or proposed streets, highways, alleys, parks and other public open spaces or uses of adjacent properties.
- (5) The location and dimensions of any street or other public way or place, platted upon the Official Map or the Master Plan of the village if such exists, for the property to be subdivided.
- (6) The location of existing sewer, water or other utility lines including culverts, drains and easements on the property to be subdivided and plans to connect thereto.
- (7) The location, dimensions, grades and profiles of all streets or other existing site conditions, including easements, rights-of-way, structures, trees and ponds, streams and marshes or public areas and other public ways proposed by the subdivider shall comply as a minimal with regulations and specifications promulgated by the Village Engineer.
- (8) Typical cross sections of proposed roadways, sidewalks and grades drawn at an appropriate scale.
- (9) The proposed layout of lots, showing lot lines, dimensions and area of lots and any areas to be dedicated or reserved for parks or other public uses.
- (10) The proposed sanitary sewerage and water supply plan, showing methods for obtaining and furnishing adequate and satisfactory water supply and sewerage facilities in accordance with Broome County health regulations and in conformance with all local laws and ordinances of the Village of Port Dickinson.
- (11) The proposed plan for collecting and discharging surface water drainage.
- (12) Proposed utilities.
- (13) If, in conjunction with the preparation of the site in the manner and for the use specified in the plat and its accompanying information, the subdivider intends to excavate or have excavated gravel, sand, rock, topsoil or other similar materials for sale or for use or reuse at another site other than the original location of the excavation, such intention shall be so stated on the plat or its accompanying information. This statement shall include an estimate of the amount in volume measurement units for such materials to be excavated. Also stated shall be the methods which the subdivider will use to control surface drainage and, or erosion and the final treatment of the borrow area, i.e., backfill, planting, etc.
- (14) Where the preliminary layout submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future street system of the unsubmitted part will be considered in the light of adjustments and connections with the street system of the part submitted.
- (15) A statement as to the land use permitted by the Village Zoning Ordinance as to the premises involved and a further statement as to whether any request for rezoning is contemplated in the development.

- (16) A long form Environmental Assessment Form or Environmental Impact Statement as required by the Board at the sketch plan discussion.

B. Step II.

- (1) The Planning Board shall study the preliminary layout and accompanying information in connection with the topography of the area, the existing requirements of the Zoning Ordinance, the Master Plan and the Official Map, if such exists, and the other local laws of the village and shall take into consideration the general requirements of the community and the best use of the land to be subdivided. Particular attention shall be given to matters enumerated in § 7-730 of the Village Law as well as in specific requirements for parks, playgrounds, school sites, highways and streets, the adequacy of street connections and the suitability of the land for development.
- (2) The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations.
- (3) Date of Official Submission.

The date of submission of the Preliminary Plat shall be the date it is received complete and accompanied by the required fee and all data required by these regulations and the Planning Board Rules and Regulations. A Preliminary Plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft Environmental Impact Statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of a Preliminary Plat shall begin upon filing of such negative declaration or such notice of completion.

- (4) Subdivider to Attend Planning Board Meeting.

The subdivider or his duly authorized representatives shall attend the next meeting of the Planning Board after such receipt to discuss the Plat with the Planning Board.

C. Step III.

- (1) Public Hearing.

- I. Planning Board as lead agency under the State Environmental Quality Review Act.

The time within which the Planning Board shall hold a public hearing on the Preliminary Plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act, as follows:

- (1) If the Planning Board determines that the preparation of an Environmental Impact Statement on the Preliminary Plat is not required, the public hearing on such Plat shall be held within sixty-two days after the receipt of a complete Preliminary Plat by the clerk of the Planning Board; or
- (2) If the Planning Board determines that an Environmental Impact Statement is required, and a public hearing on the draft Environmental Impact Statement is held, the public hearing on the Preliminary Plat and the draft Environmental Impact Statement shall be

held jointly within sixty-two days after the filing of the notice of completion of such draft Environmental Impact Statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft Environmental Impact Statement, the public hearing on the Preliminary Plat shall be held within sixty-two days of filing the notice of completion.

- (3) The hearing on the Preliminary Plat shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing if no hearing is held on the draft Environmental Impact Statement, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such Preliminary Plat. The hearing on the Preliminary Plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.
- (4) The Planning Board shall approve, with or without modification, or disapprove such Preliminary Plat as follows:
  - (a) If the Planning Board determines that the preparation of an Environmental Impact Statement on the Preliminary Plat is not required, such Board shall make its decision within sixty-two days after the close of the public hearing; or
  - (b) If the Planning Board determines that an Environmental Impact Statement is required, and a public hearing is held on the draft Environmental Impact Statement, the final environmental impact statement shall be filed within forty-five days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft Environmental Impact Statement, the final Environmental Impact Statement shall be filed within forty-five days following the close of the public hearing on the Preliminary Plat. Within thirty days of the filing of such final Environmental Impact Statement, the Planning Board shall issue findings on the final Environmental Impact Statement and make its decision on the Preliminary Plat.
  - (c) The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a Preliminary Plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the Plat in final form.

## II. Planning Board not as lead agency under the State Environmental Quality Review Act.

- (1) The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the Preliminary Plat jointly with the lead agency's hearing on the draft Environmental Impact Statement. Failing such agreement or if no public hearing is held on the draft Environmental Impact Statement, the Planning Board shall hold the public hearing on the Preliminary Plat within sixty-two days after the receipt of a complete Preliminary Plat by the clerk of the Planning Board. (Amended Feb. 11, 1997 by Local Law 2-1997).
- (2) The hearing on the Preliminary Plat shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing if held independently of the hearing on the draft Environmental impact Statement, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such Preliminary Plat. The hearing on the Preliminary Plat shall be

closed upon motion of the Planning Board within one hundred twenty days after it has been opened.

- (3) The Planning Board shall by resolution approve with or without modification or disapprove the Preliminary Plat as follows:
  - (a) If the preparation of an Environmental Impact Statement on the Preliminary Plat is not required, the Planning Board shall make its decision within sixty-two days after the close of the public hearing on the Preliminary Plat. (Amended Feb. 11, 1997 by Local Law 2-1997).
  - (b) If an Environmental Impact Statement is required, the Planning Board shall make its own findings and its decision on the Preliminary Plat within sixty-two days after the close of the public hearing on such Preliminary Plat or within thirty days of the adoption of findings by the lead agency, whichever period is longer. (Amended Feb. 11, 1997 by Local Law 2-1997).
- (4) The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a Preliminary Plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the Plat in final form.

#### D. Step IV.

- (1) Certification and filing of Preliminary Plat.

Within five business days of the adoption of the resolution granting approval of such Preliminary Plat, such Plat shall be certified by the clerk of the Planning Board as having been granted preliminary approval, and a copy of the Plat and resolution shall be filed in such clerk's office. A copy of the resolution shall be mailed to the owner.

- (2) Filing of decision on Preliminary Plat.

Within five business days from the date of the adoption of the resolution approving the Preliminary Plat, the chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Village Clerk.

- (3) Revocation of approval of Preliminary Plat.

Within six months of the approval of the Preliminary Plat, the owner must submit the Plat in final form. If the Final Plat is not submitted within six months, approval of the Preliminary Plat may be revoked by the Planning Board.

### § 53-7. Final subdivision plat.

#### A. Step I.

##### Application for approval.

- (1) The subdivider, after official written notification by the Planning Board with respect to the preliminary layout and the changes to be made thereon, if any, shall within six (6) months thereafter file with the Planning Board original drawings of the subdivision plat. These shall be clearly and legibly drawn in ink upon permanent material. The size of the sheets shall be twenty by twenty-two (20x22) inches and shall include a margin of one (1) inch outside ruled border line on three (3) sides and two (2) inches along the left twenty-inch side for binding.

The drawings shall be at a scale of not more than forty (40) feet to the inch. When more than one (1) sheet is required, an additional index sheet, at an appropriate scale, shall show the entire subdivision on one (1) sheet with lot and block numbers.

- (2) If the Final Plat is not submitted within six months after the approval of the Preliminary Plat, the Planning Board may refuse to approve the Final Plat and require resubmission of the Preliminary Plat.

Number of Copies.

- (3) A subdivider intending to submit a proposed Subdivision Plat for the approval of the Planning Board shall provide the Board with a copy of the Application and three copies (one copy in form required for filing with the Broome County Clerk) of the Plat, the original and one true copy of all offers of cession, covenants and agreements, and two prints of all construction drawings.
- (4) The subdivision plat shall show or be accompanied by the following information:
  - (a) Proposed subdivision name or identifying title and Tax Map number of the properties forming a part of the subdivision, the name and address record owner and subdivider; name, license number and seal of the professional engineer and/or land surveyor responsible for the design, survey of the subdivision and/or the preparation of the plats; date, scale and true North direction.
  - (b) Lines and widths of streets, pedestrian ways, lots, reservations, easements and all other areas to be dedicated to public use or to be held in reserve.
  - (c) The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street and the dimensions and angles of the boundary lines of each lot. All dimensions shall be shown in feet and decimals of a foot.
  - (d) Sufficient data acceptable to the Enforcement Officer or designated official in order that he might readily determine the location, bearing and length of every street line, lot line and boundary line and reproduce such lines upon the ground. Where practicable, these shall be referenced to monuments included in the state system of plane coordinates and, in any event, should be tied to reference points previously established by a public authority.
  - (e) Typical cross sections of streets and roads including drive-strip, curbs, walks and/or shoulders drawn to scale.
  - (f) The layout of all permanent improvements such as sanitary sewers, storm sewers, water mains, curbs, gutters and culverts, showing sizes, grades and elevations, the location of basins, manholes and other underground conduits or appurtenances where such items are an integral part of the subdivision.
  - (g) Lots and blocks within the subdivision numbered and lettered in alphabetical order in accordance with the prevailing village practice.
  - (h) Soil tests.

- (i) Permanent reference monuments shall be shown thus: “X”.
  - (j) Lot corner markers shall be shown thus: “O”.
  - (k) By proper designation, all public open spaces, other than streets, for which deeds of cession are submitted and those spaces to which title is reserved by the subdivider. Copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made thereto. Offers of cession, deeds and covenants governing the maintenance of conceded open spaces shall be approved by the Village Attorney as to their legal sufficiency.
- (3) The Village Clerk, as representative of the Village Board, shall deliver to the subdivider a certificate of submission which shall certify the date on which the subdivider submitted his subdivision plat.

B. Step II.

- (1) Environmental Review.

Final Plats may require further review under the State Environmental Quality Review Act.

- (2) Final Plats which are in substantial agreement with approved Preliminary Plats. When a Final Plat is submitted which the Planning Board deems to be in substantial agreement with a Preliminary Plat approved pursuant to this section, the Planning Board shall by resolution conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such Plat, within sixty-two days of its receipt by the clerk of the Planning Board.
- (3) Endorsement of the State and County Agencies.

Water and sewer facility proposals contained in the Subdivision Plat shall be properly endorsed and approved by the Broome County Department of Health. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Village, County and State agencies. Endorsement and approval by the Broome County Department of Health shall be secured by the subdivider before official submission of Subdivision Plat. If the Health Department requires Village approval before its consideration of the Plat, the Planning Board may approve subject to Health Department approval and subject to consideration of any such changes required by such Department.

C. Step III.

- (1) Final Plats when no Preliminary Plat is required to be submitted; receipt of complete Final Plat.

When no Preliminary Plat is required to be submitted, a Final Plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of such Plat shall begin upon filing of such negative declaration or such notice of completion.

- (2) Final Plats; not in substantial agreement with approved Preliminary Plats, or when no Preliminary Plat is required to be submitted.

When a Final Plat is submitted which the Planning Board deems not to be in substantial agreement with a Preliminary Plat approved pursuant to this section, or when no Preliminary Plat is required to be submitted and a Final Plat clearly marked "Final Plat" is submitted conforming to the definition provided by this section the following shall apply:

I. Planning Board as lead agency; public hearing; notice; decision.

- (1) Public hearing on Final Plats. The time within which the Planning Board shall hold a public hearing on such Final Plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act, as follows:
  - (a) if such Board determines that the preparation of an Environmental Impact Statement is not required, the public hearing on a Final Plat not in substantial agreement with a Preliminary Plat, or on a Final Plat when no Preliminary Plat is required to be submitted, shall be held within sixty-two days after the receipt of a complete Final Plat by the clerk of the Planning Board; or
  - (b) if such board determines that an Environmental Impact Statement is required, and a public hearing on the draft Environmental Impact Statement is held, the public hearing on the Final Plat and the draft Environmental Impact Statement shall be held jointly within sixty-two days after the filing of the notice of completion of such draft Environmental Impact Statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft Environmental Impact Statement, the public hearing on the Final Plat shall be held within sixty-two days following filing of the notice of completion.
- (2) Public hearing; notice, length. The hearing on the Final Plat shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing if no hearing is held on the draft Environmental Impact Statement, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such Final Plat. The hearing on the Final Plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.
- (3) Decision. The Planning Board shall make its decision on the Final Plat as follows:
  - (a) if such Board determines that the preparation of an Environmental Impact Statement on the Final Plat is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such Plat, within sixty-two days after the date of the public hearing; or
  - (b) if such Board determines that an Environmental Impact Statement is required, and a public hearing is held on the draft Environmental Impact Statement, the final Environmental Impact Statement shall be filed within forty-five days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft Environmental Impact Statement, the final Environmental Impact

Statement shall be filed within forty-five days following the close of the public hearing on the Final Plat. Within thirty days of the filing of the final Environmental Impact Statement, the Planning Board shall issue findings on such final Environmental Impact Statement and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such Plat.

- (4) Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

## II. Planning Board not as lead agency; public hearing; notice; decision.

- (1) Public hearing. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the Final Plat jointly with the lead agency's hearing on the draft Environmental Impact Statement. Failing such agreement or if no public hearing is held on the draft Environmental Impact Statement, the Planning Board shall hold the public hearing on the Final Plat within sixty-two days after the receipt of a complete Final Plat by the clerk of the Planning Board. (Amended Feb. 11, 1997 by Local Law 2-1997).
- (2) Public hearing; notice, length. The hearing on the Final Plat shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing if held independently of the hearing on the draft Environmental Impact Statement, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such Final Plat. The hearing on the Final Plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.
- (3) Decision. The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such Plat as follows:
  - (a) If the preparation of an Environmental Impact Statement on the Final Plat is not required, the Planning Board shall make its decision within sixty-two days after the close of the public hearing on the Final Plat. (Amended Feb. 11, 1997 by Local Law 2-1997).
  - (b) If an Environmental Impact Statement is required, the Planning Board shall make its own findings and its decision on the Final Plat within sixty-two days after the close of the public hearing on such Final Plat or within thirty days of the adoption of findings by the lead agency, whichever period is longer. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. (Amended Feb. 11, 1997 by Local Law 2-1997).

## D. Step IV.

- (1) Approval and certification of Final Plats.

Certification of Plat. Within five business days of the adoption of the resolution granting conditional or final approval of the Final Plat, such Plat shall be certified by the clerk of the



Planning Board as having been granted conditional or final approval and a copy of such resolution and Plat shall be filed in such clerk's office. A copy of the resolution shall be mailed to the owner. In the case of a conditionally approved Plat, such resolution shall include a statement of the requirements which when completed will authorize the signing thereof. Upon completion of such requirements the Plat shall be signed by said duly authorized officer of the Planning Board and a copy of such signed Plat shall be filed in the office of the clerk of the Planning Board or filed with the Village Clerk as determined by the Village Board of Trustees.

(2) Duration of conditional approval of Final Plat.

Conditional approval of the Final Plat shall expire within one hundred eighty days after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed. The Planning Board may extend by not more than two additional periods of ninety days each, the time in which a conditionally approved Plat must be submitted for signature if, in the Planning Board's opinion, such extension is warranted by the particular circumstances.

(3) Default approval of Preliminary or Final Plat.

The time periods prescribed herein within which a Planning Board must take action on a Preliminary Plat or a Final Plat may be extended only by mutual consent of the owner and the Planning Board. In the event the Planning Board fails to take action on a Preliminary Plat or a Final Plat within the time prescribed therefor after completion of all requirements under the State Environmental Quality Review Act, or within such extended period as may have been established by the mutual consent of the owner and the Planning Board, such Preliminary or Final Plat shall be deemed granted approval. The certificate of the Village Clerk as to the date of submission of the Preliminary or Final Plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required. (Amended Feb. 11, 1997 by Local Law 2-1997).

(4) Filing of decision on Final Plat.

Within five business days from the date of the adoption of the resolution approving the Final Plat, the chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Village Clerk.

E. Step V. Approval of the subdivision plat shall, however, not be deemed final until the subdivider has complied with the following:

- (1) The subdivider shall complete, in accordance with the Planning Board's decision, to the satisfaction of the Village Engineer and/or any other official or body authorized by the Village Board of Trustees to act, all the street and other improvements specified in § 7-730 of the Village Law and not specifically waived by the Board and/or shall file with the Board a performance bond or other security sufficient to cover the full cost of the same as estimated by the Village Board, complying with § 7-730 of the Village Law and satisfactory to the Village Board of Trustees as to form, sufficiency, manner of execution and surety, for the completion of such improvements as are not to be constructed and/or may not be approved by the Enforcement officer. (Amended Feb. 11, 1997 by Local Law 2-1997).

- (2) The subdivider shall tender offers of cession, in a form certified as satisfactory by the Village Board of Trustees, of all lands included in streets, highways or parks not specifically reserved by him, but approval of the plat by the Planning Board shall not constitute an acceptance by the village of the dedication of any street, highway, park or other public open spaces.
  - (3) The subdivider shall obtain the approval of the Broome County Health Department.
- F. Step VI. Within ninety (90) days of the final approval of the subdivision plat by the Planning Board, the subdivider shall file a copy of the subdivision plat in the office of the County Clerk. Said subdivision plat shall be endorsed in writing on the plat in such a manner as the Planning Board may designate. Such endorsement shall stipulate that the plat does not conflict with the County Official Map, if one exists or, in cases where plats do front on or have access to or are otherwise related to roads or drainage systems shown on the County Map, that such plat has been approved in the manner specified by Section 239-K of the General Municipal Law. Such final approval shall have been deemed to expire if the plat is not so filed within the said sixty-two (62) days. (Amended Feb. 11, 1997 by Local Law 2-1997).
- G. Step VII. The subdivider shall within ten (10) days after filing the subdivision plat with the County Clerk, file a copy of the same plat with the Village Board of Trustees.
- H. Step VIII. After such plat has been filed with the County Clerk and the Village Board, the subdivider shall be granted permission to proceed with the work necessary to construct and install the proposed streets and other improvements in accordance with the approved subdivision plat. Such construction and installations shall be in accordance with all applicable local laws, rules, regulations and ordinances as established by the Village or its Enforcement Officer and/or any other official so designated by the Village Board of Trustees.
- (1) Once subdivision site work is underway, the subdivider shall cooperate with the Enforcement Officer or any other duly designated official who shall be responsible for inspections necessary to ensure that all work is in accordance with the approved subdivision plat and in conformity with the applicable standards set forth in Article IV of these Subdivision Regulations.
  - (2) Permanent reference monuments of a type approved by the Enforcement Officer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Enforcement Officer. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the New York State Department of Transportation.
  - (3) All lot corner markers shall be permanently satisfactory to the Enforcement Officer, at least three-fourths (3/4) inch (if metal) in diameter and at least twenty-four (24) inches in length and located in the ground to existing grade.

§ 53-8. Acceptance of improvements for public use and maintenance.

- A. Upon completion of the acceptable construction and installation of streets and other improvements in accordance with the approved subdivision plat and upon submission to the Village Board of Trustees of satisfactory deeds, abstracts of title and easements for streets, storm sewers, sanitary sewers, water lines and other utilities as required, the Village Board of Trustees shall take all

necessary steps to accept these improvements for public use and permanent maintenance, in accordance with the provision of the Village Law and any other applicable law, and the subdivider shall thereupon be released from any performance bonds posted and filed with the village to guarantee any of the aforesaid proposed construction and installation. The subdivider shall also provide to the municipality as-built plans indicating the exact location of below-ground utilities.

- B. Notwithstanding any of the foregoing, the Village Board of Trustees shall require from the subdivider an affidavit stating that all bills and accounts for materials and labor used in the construction of improvements have been paid before said improvements will be accepted by the Village Board of Trustees for public use and maintenance.

#### ARTICLE IV Subdivision Standards

##### § 53-9. Standards and requirements.

- A. General standards. The subdivider shall observe the following general land subdivision standards:
  - (1) The proposed subdivision shall conform to the Official Map, Zoning Ordinance, Master Plan and all other local laws and regulations of the Village of Port Dickinson.
  - (2) The arrangement of streets in the subdivision shall provide for the continuation of collector streets in adjoining subdivisions or for their proper projection when adjoining property is not subdivided and shall be of a width at least as great as that of such existing connecting streets. When streets are completed for only a portion of an approved subdivision, the extension of which are to be completed at a later date, the subdivider shall provide a turnaround roadway as specified for dead-end or cul-de-sac streets.
  - (3) Dead-end or cul-de-sac streets shall not in general exceed five hundred (500) feet in length and shall be equipped with a turnaround roadway with a minimum radius of forty (40) feet for the outside curb at the closed end. The turnaround, where the end of the street abuts adjoining property of other owners, shall have the perimeter of the one-hundred-foot diameter circle touch but not intersect such property line. Where a plat submitted shows a turnaround at the end of a street and such turnaround does not touch the property line of adjoining property, the Village Engineer may, when in his judgment the terrain is suitable for an extension of such dead-end street, at some future date require that a strip of land of the same width as the proposed street and extending from the dead-end of the proposed street to the property line of adjoining property be dedicated to the village as a right-of-way for future extension of such dead-end street. No reserve strips shall be retained by the owner of any plat or map submitted to the Village Board of Trustees.
  - (4) Block lengths generally shall not exceed one thousand two hundred (1,200) feet in length, nor shall they be less than three hundred (300) feet unless unusual topographic limitations make this impractical.
  - (5) Each normal block shall be planned to provide two (2) rows of lots, but irregularly shaped blocks indented by cul-de-sac streets and containing interior parks will be acceptable when properly designed and covered by agreements as to maintenance of interior parks.

- (6) Curb radii at intersections shall not be less than twenty (20) feet. Property lines shall be adjusted accordingly.
- (7) Side lines of lots, so far as practicable, shall be at right angles or radial to street lines.
- (8) Reversed frontage of lots at street intersections shall be avoided where possible, and a series of narrow lots shall not be encouraged.
- (9) Comer lots shall be increased in size whenever necessary so as to provide that any structure to be placed thereon shall conform to the building line of each street.
- (10) Land subject to flooding and deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other use as may increase danger to health, life or property or aggravate the flood hazard. Such uses as shall be endangered by periodic or occasional inundation shall be permitted.
- (11) In case a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical further subdivisions.
- (12) No reserve strips controlling access to land dedicated or to be dedicated to public use shall be permitted.
- (13) In general, street lines with a block deflecting from each other at any one (1) point more than ten degrees ( $10^{\circ}$ ) shall be connected with a curve, the radius of which, for the inner street lines, shall not be less than three hundred fifty (350) feet on main thoroughfares, two hundred fifty (250) feet on secondary thoroughfares and one hundred (100) feet on local streets. The outer street line in each case shall be parallel to such inner street lines.
- (14) Areas of reasonable size shall be set aside for neighborhood parks or other recreation uses. In lieu thereof, the Planning Board may require payment by the subdivider to the village of an amount to be determined by the Village Board of Trustees. Such amount shall be available for use by the village for park and playground purposes. In general the location, size and type of park or other recreation facility shall be determined by the Planning Board. Recreation space shall be provided by the subdivider on the basis of six hundred (600) square feet of usable land for each lot shown on the final plat drawing. In cases where the Planning Board deems it impractical or undesirable for the subdivider to meet these requirements, he will be required to make a payment equivalent to the value of land which would otherwise be donated, prior to approval of the final plat. The amount of payment will be determined by the Village Board of Trustees pursuant to § 7-730 of the Village Law.
- (15) Adequate storm drainage systems shall be required in all new subdivisions. In lieu thereof, the Planning Board may require the subdivider to contribute a lawful and reasonable sum for placement in a fund to be used by the village for the construction of storm drainage systems in the subdivision at some future date when the Planning Board and/or the Village Board of Trustees deems them to be necessary.
- (16) The subdivision design shall encourage the preservation of existing trees.
- (17) All street, sidewalk and appurtenant construction shall be pursuant to the street standards of the Village of Port Dickinson (Local Law No. 6-1975).<sup>1</sup>

ARTICLE V  
Variances and Modifications

§ 53-10. Variance of regulations due to hardship.

When the Planning Board finds that extraordinary and unreasonable hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done.

§ 53-11. Waiver of requirements.

When the Planning Board finds that, due to the special circumstances of a particular area, the provision of certain required improvements is not necessary in the interest of public health, safety and general welfare or is inappropriate due to the inadequacy or lack of existing or proposed connecting facilities in the area of a proposed subdivision, it may waive such requirements subject to appropriate conditions it may wish to impose.

§ 53-12. Modification of zoning regulations.

In the review and approval of subdivision plats, the Planning Board shall have the authority to modify applicable provisions of the Zoning Ordinance, as long as modifications are in accordance with § 7-738 of the Village Law.

ARTICLE VI  
Enforcement

§ 53-13. Penalties for offenses.

Any violation of this chapter is an offense punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment not exceeding sixty (60) days, or by both such fine and imprisonment. Each day's continued violation shall constitute a separate additional violation. A first violation shall be deemed to have occurred from the date of written notification of violation issued by the Enforcement Officer or from such date as may be designated in such written notice.

§ 53-14. Complaints of violation.

Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Enforcement Officer who shall properly record such complaint and immediately investigate any report thereon.

ARTICLE VII  
Amendments

§ 53-15. Amendment of regulations.

These regulations may, from time to time, be revised, modified or amended as prescribed by local law.

## Chapter 54

### SWIMMING POOLS, PRIVATE

- § 54-1. Legislative intent.
- § 54-2. Definitions.
- § 54-3. Applicability.
- § 54-4. Permit required.
- § 54-5. Application for permit.
- § 54-6. Regulations.
- § 54-7. Use standards.
- § 54-8. Fees.
- § 54-9. Preexisting conditions.
- § 54-10. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 7-9-74 as Local Law No. 4-1974. Amendments noted where applicable.]

#### GENERAL REFERENCES

Building construction — See Ch. 26.  
Sewers — See Ch. 49.  
Water — See Ch. 62.  
Zoning — See Ch. 65.

- § 54-1. Legislative intent.

By enactment of this chapter of the Village Code, the Board of Trustees finds as a matter of legislative intent and public policy that the installation, construction and maintenance of private swimming pools present problems which directly affect the health, safety and welfare of residents of the village and others and, therefore, should be subject to certain regulations and controls.

- § 54-2. Definitions.

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

**PERSON** — Any owner, lessee or occupant of any land or property within the Village of Port Dickinson, whether an individual, corporation, partnership, club, group or other association.

**SWIMMING POOL** — Any enclosure or container, whether prefabricated or individually constructed above or beneath the surface of the ground, which is designed, intended or used for swimming or bathing and which has a capacity in excess of three thousand seven hundred sixty (3,760) gallons of water.

§ 54-3. Applicability.

Nothing in this chapter shall be construed to apply to any public swimming pool facility which would be subject to regulation and control by the New York State Department of Health or any similar public authority.

§ 54-4. Permit required.

No person shall install, construct or enlarge a private swimming pool within the Village of Port Dickinson without first having obtained a building permit to do so.

§ 54-5. Application for permit.

Each application for a permit pursuant to this chapter shall be made to the Village Building Inspector in writing on forms to be provided by the village and shall be accompanied in duplicate by a set of the following:

- A. A plot plan showing:
  - (1) The boundary lines of the property or land upon which the proposed pool is to be constructed, installed or located.
  - (2) All existing buildings and other structures.
  - (3) The exact location and dimensions of the proposed pool and all auxiliary structures.
  - (4) The distance from the pool to any residence building as well as from the pool to the various boundary lines of the property on which it is to be located.
- B. A detailed description of the fence or other enclosure proposed to surround the pool, including the type of material, height of the enclosure and number and location of gates and doors.
- C. A statement of the method proposed for disposing of waste water from the pool.

§ 54-6. Regulations.

The following regulations shall govern the construction, installation, location and maintenance of private swimming pools:

- A. No pool may be constructed, installed or located on any front or side lawn or yard, within five (5) feet of the rear lot line, within five (5) feet of any side lot line nor within ten (10) feet of any residence, except the residence of the owner.
- B. A swimming pool shall be provided with adequate drainage. Drainage shall be into the storm sewer system. Upon inspection of the property by the Code Enforcement Officer, approval may be issued by him to discharge the pool water into a lawn, in fields or woods, or to a dry well or to a series of dry wells, provided water does not overflow into adjoining property.

- C. Lighting of swimming pools and any electrical installations in connection therewith shall be approved by the New York State Fire Underwriters Board.
- D. There shall be erected around all swimming pools a fence designed to prevent small children from wandering into said pool and so constructed as will not shut off light or air to any building. An above-ground pool will not require separate fencing. Such fencing required by this sub section shall completely surround the area of the swimming pool but shall not be less than three (3) feet from the edge of the swimming pool except where an integral part of the pool. Any and all gates shall have locking devices and shall be locked while the premises are not under the supervision of an adult or experienced swimmer. Any structure adjacent to the pool may serve as a portion of the fence.
- E. Any access ladder or steps used to enter or leave an above surface pool which is not entirely fenced by separate fencing shall be removed from the pool when the same is not in use.

§ 54-7. Use standards.

Use of the swimming pool shall be in a reasonable manner and at reasonable times so as not to cause undo discomfort, noise and/or annoyance to adjacent residents.

§ 54-8. Fees.

Each application for a permit to construct or install a swimming pool or enlarge an existing pool shall be accompanied by a fee of five dollars (\$5).

§ 54-9. Preexisting conditions.

Any swimming pool and its appurtenant structures, including fencing, already constructed on the date of the enactment of this chapter shall not be subject to the requirements hereof relating to location of the pool, distance from boundary lines and other structures, location or type of fence, so long as there is in existence a fence surrounding the pool, unless an enlargement of the existing facilities is applied for. Neither shall the owner, lessee or the operator of the pool be required to secure a permit or pay a fee therefor, except in the event of an enlargement. Notwithstanding the foregoing, however, every pool whether heretofore or hereafter constructed or installed shall be subject to all other provisions of this chapter.

§ 54-10. Penalties for offenses.

- A. Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.
- B. In addition to the above provided penalties the Village Board of Trustees may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this chapter.



## Chapter 56

### TAXATION

#### ARTICLE I

##### Senior Citizens' Tax Exemption

- § 56-1. Title.
- § 56-2. Exemption provided.
- § 56-3. Application for exemption.
- § 56-4. Penalties.

#### ARTICLE II

##### Utilities

- § 56-5. Imposition of tax.
- § 56-6. Definitions.
- § 56-7. Application of provisions.
- § 56-8. Disposition of revenues.
- § 56-9. Collection and enforcement; rules and regulations.
- § 56-10. Filing of returns; contents.
- § 56-11. Payment of tax.
- § 56-12. Penalty for noncompliance.
- § 56-13. Tax part of operating costs.
- § 56-14. Failure to file or insufficient return.
- § 56-15. Review of final determination.
- § 56-16. Notices.
- § 56-17. Refunds.
- § 56-18. Review of proceedings for refund.
- § 56-19. Additional tax limitations; exceptions.
- § 56-20. Village Treasurer; powers and duties.
- § 56-21. Action to enforce payment of tax.

#### ARTICLE III

##### Alternative Veterans Exemption

- § 56-22. Purpose.
- § 56-23. Exemption granted.

[HISTORY: Adopted by The Board of Trustees of the Village of Port Dickinson: Article I, 9-13-66 as Local Law No. 1-1966; Repealed 9-14-93; Reenacted 9-14-93 as Local Law No. 4-1993; Article II, 12-17-68 as Local Law No. 1-1968; Article III, 11-20-84 as Local Law No. 6-1984; Repealed 8-10-93; Reenacted 8-10-93 as Local Law No. 3-1993. Amendments noted where applicable. ]

#### ARTICLE I

##### Senior Citizens' Tax Exemption

[Adopted 9-13-66 as Local Law No. 1-1966;  
Repealed 9-14-93; Reenacted 9-14-93 as Local Law No. 4-1993]

§ 56-1. Title

This Local Law shall be known and cited as “A Local Law Providing a Partial Exemption from Village Taxation to Persons Sixty-Five Years of Age or Older Pursuant to the Provisions of Section 467 of the Real Property Tax Law of the State of New York.”

§ 56-2. Exemption Provided

- A. Real property situate within the bounds of the Village of Port Dickinson, Broome County, New York, owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife or siblings, i.e., a brother or sister whether related through half blood, whole blood or adoption, one of whom is 65 years of age or over, shall be exempt from taxation for real estate taxes to be levied by the Village of Port Dickinson for the year 1996 and thereafter by the percentage of exemption specified for the annual income ranges listed below. Such exemption shall be based upon the assessed valuation of the exempt real property and shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed.

	Annual Income Ranges	Exemption Percentage
1)	\$13,000 or less	50%
2)	More than \$13,000 but less than \$14,000	45%
3)	\$14,000 or more but less than \$15,000	40%
4)	\$15,000 or more but less than \$16,000	35%
5)	\$16,000 or more but less than \$16,900	30%
6)	\$16,900 or more but less than \$17,800	25%
7)	\$17,800 or more but less than \$18,700	20%
8)	\$18,700 or more but less than \$19,600	15%
9)	\$19,600 or more but less than \$20,500	10%

[Revised 1-14-97 by Local Law 1-1997.]

- B. Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property as provided in subparagraph (3) of paragraph (c) of the subdivision, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts or inheritances. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income;

- C. No exemption shall be granted:

- (1) unless the title of the property shall have been vested in the owner or one of the owners of the property for at least twelve consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months. In the event of a transfer

by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twelve consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation. Where the owner or owners transfer title to property which as of the date of transfer was exempt from taxation under the provisions of this section, the reacquisition of title by such owner or owners within nine months of the date of transfer shall be deemed to satisfy the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation under such provisions, becomes vested, by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means within nine months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve consecutive months shall be deemed satisfied; [Amended 2-13-96 by Local Law 1-1996]

- (2) unless the property is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section;
  - (3) unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property: except where, (i) an owner is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in section twenty-eight hundred one of the public health law, provided that any income accruing to that person shall only be income only to the extent that it exceeds the amount paid by such owner, spouse, or co-owner for care in the facility, and provided further, that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or (ii) the real property is owned by a husband and/or wife, or an ex-husband and/or ex-wife, and either is absent from the residence due to divorce, legal separation or abandonment and all other provisions of this section are met provided that where an exemption was previously granted when both resided on the property, then the person remaining on the real property shall be sixty-two years of age or over.
- D. The real property tax exemption on real property owned by husband and wife, one of whom is sixty-five years of age or over, once granted, shall not be rescinded solely because of the death of the older spouse so long as the surviving spouse is at least sixty-two years of age.
- E. Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply to any real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to subdivision one, two or three of

paragraph c, were such person or persons the owner or owners of such real property. [Added 2-13-96 by Local Law 1-1996]

§ 56-3. Application for Exemption

- A. Application for such exemption must be made by the owner or all of the owners of the property on forms to be furnished by the Town of Dickinson Assessor's Office; such applications shall furnish the information and the forms are to be executed in the manner required or prescribed in such forms and shall be filed in such Assessor's Office by taxable status date. However, such form may be filed with the assessor after the appropriate taxable status date but not later than the last date on which a petition with respect to complaints of assessment may be filed, where failure to file a timely application resulted from: (a) a death of the applicant's spouse, child, parent, brother or sister; or (b) an illness of the applicant or of the applicant's spouse, child, parent, brother or sister, which actually prevents the applicant from filing on a timely basis, as certified by a licensed physician. The assessor shall approve or deny such application as if it had been filed on or before the taxable status date. Any person otherwise qualifying under the section shall not be denied the exemption under this section if he becomes sixty-five years of age after the appropriate taxable status date on or before December thirty-first of the same year.
- B. At least sixty days prior to the appropriate taxable status date, the assessor shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before taxable status date and be approved in order for the exemption to be granted. The assessors shall, within three days of the completion and filing of the tentative assessment roll, notify by mail any applicant who has included with this application at least one self-addressed, prepaid envelope, of the approval or denial of the application; provided, however, that the assessors shall, upon the receipt and filing of the application, send by mail notification of receipt to any applicant who has included town such envelopes with the application. Where an applicant is entitled to a notice of denial pursuant to this subdivision, such notice shall be on a form prescribed by the state board and shall state the reasons for such denial and shall further state that the applicant may have such determination reviewed in the manner provided by law. Failure to mail any such application form or notices or the failure of such person to receive any of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.
- C. Any person who has been granted exemption pursuant hereto on five (5) consecutive completed assessment rolls, including any years when the exemption was granted to a property owned by a husband and/or wife while both resided in such property, shall not be subject to the requirements set forth in paragraph (b) of this Section, however said person shall be mailed an application form and a notice informing him of his rights. Such exemption shall be automatically granted on each subsequent assessment roll. Provided, however, that when tax payment is made by such person a sworn affidavit must be included with such payment which shall state that such person continues to be eligible for such exemption. Such affidavit shall be on a form prescribed by the State Board of Equalization and Assessment. If such affidavit is not included with the tax payment, the collecting officer shall proceed pursuant to section five hundred fifty-one—a of this chapter.
- D. (1) Notwithstanding the provisions of subparagraph A of this section, where a person who meets the requirements for an exemption pursuant to this ordinance, purchases property after the levy of taxes, such person may file an application for exemption to the assessor within thirty days of the transfer of title to such person. The assessor shall make a determination of whether the parcel would have qualified for exempt status on the tax roll on which the taxes were levied, had title to the parcel been in the name of the applicant on the taxable status date applicable to the tax roll. The application shall be on a form prescribed by the state board. The assessor, no

later than thirty days after receipt of such application, shall notify both the applicant and the board of assessment review, by first class mail, of the exempt amount, if any, and the right of the owner to a review of the exempt amount upon the filing of a written complaint. Such complaint shall be on a form prescribed by the state board and shall be filed with the board of assessment review within twenty days of the mailing of this notice. If no complaint is received, the board of assessment review shall so notify the assessor and the exempt amount determined by the assessor shall be final. If the applicant files a complaint, the board of assessment review shall schedule a time and place for a hearing with respect thereto no later than thirty days after the mailing of the notice by the assessor. The board of assessment review shall meet and determine the exempt amount, and shall immediately notify the assessor and the applicant, by first class mail, of its determination. The amount of exemption determined pursuant to this paragraph shall be subject to review as provided in article seven of the Real Property Tax Law of the State of New York. Such a proceeding shall be commenced within thirty days of the mailing of the notice of the board of assessment review to the new owner as provided in this paragraph. [Added 2-13-96 by Local Law 1-1996]

- (2) Upon receipt of a determination of exempt amount as provided in subparagraph (1) of this paragraph, the assessor shall determine the pro rata exemption to be credited toward such property by multiplying the tax rate or tax rates for each municipal corporation which levied taxes, or for which taxes were levied, on the appropriate tax roll used for the fiscal year or years during which the transfer occurred times the exempt amount, as determined in subparagraph (1) of this paragraph, times the fraction of each fiscal year or years remaining subsequent to the transfer of title. The assessor shall immediately transmit a statement of the pro rata exemption credit due to each municipal corporation which levied taxes or for which taxes were levied on the tax roll used for the fiscal year or years during which the transfer occurred and to the applicant. [Added 2-13-96 by Local Law 1-1996]
- (3) Each municipal corporation which receives notice of pro rata exemption credits pursuant to this subdivision shall include an appropriation in its budget for the next fiscal year equal to the aggregate amount of such credits to be applied in that fiscal year. Where a parcel, the owner of which is entitled to a pro rata exemption credit, is subject to taxation in said next fiscal year, the receiver or collector shall apply the credit to reduce the amount of taxes owed for the parcel in such fiscal year. Pro rata exemption credits in excess of the amount of taxes, if any, owed for the parcel shall be paid by the treasurer of a municipal corporation which levies such taxes for or on behalf of the municipal corporation to all owners of property entitled to such credits within thirty days of the expiration of the warrant to collect taxes in said next fiscal year. [Added 2-13-96 by Local Law 1-1996]

E. (1) Notwithstanding the provisions of paragraph A of this section, where a person who meets the requirements for an exemption pursuant to this ordinance, purchases property after the taxable status date but prior to the levy of taxes, such person may file an application for an exemption to the assessor within thirty days of the transfer of title to such person. The assessor shall make a determination within thirty days after receipt of such application of whether the applicant would qualify for an exemption pursuant to this section on the assessment roll if title had been in the name of the applicant on the taxable status date applicable to such assessment roll. The application shall be made on a form prescribed by the state board. [Added 2-13-96 by Local Law 1-1996]

- (2) If the assessor's determination is made prior to the filing of the tentative assessment roll, the assessor shall enter the exempt amount, if any, on the tentative assessment roll and, within ten days after filing such roll, notify the applicant of the approval or denial of such exemption, the

exempt amount, if any, and the applicant's right to review by the board of assessment review.  
[Added 2-13-96 by Local Law 1-1996]

(3) If the assessor's determination is made after the filing of the tentative assessment roll, the assessor shall petition the board of assessment review to correct the tentative or final assessment roll in the manner provided in title three of article five of the Real Property Tax Law, with respect to unlawful entries, in the case of wholly exempt parcels, and with respect of clerical errors, in the case of partially exempt parcels, if the assessor determines that an exemption should be granted and, within ten days of petitioning the board of assessment review, notify the applicant of the approval or denial of such exemption, the amount of such exemption, if any, and the applicant's right to administrative or judicial review of such determination pursuant to article five or seven of the Real Property Tax Law, respectively.  
[Added 2-13-96 by Local Law 1-1996]

F. If, for any reason, a determination to exempt property from taxation is provided in paragraph e of this section is not entered on the final assessment roll, the assessor shall petition the board of assessment review to correct the final assessment roll. [Added 2-13-96 by Local Law 1-1996]

G. If, for any reason, the pro rata tax credit as provided in paragraph d of this section is not extended against the tax roll immediately succeeding the fiscal year during which the transfer occurred, the assessor shall immediately notify the municipal corporation which levied the tax or for which the taxes were levied of the amount of pro rata exemption credits for the year in which such transfer occurred. Such municipal corporation shall proceed as provided in subparagraph (3) of paragraph D of this section. [Added 2-13-96 by Local Law 1-1996]

H. If, for any reason, a determination to exempt property from taxation as provided in paragraph e of this section is not entered on the tax roll for the year immediately succeeding the fiscal year during which the transfer occurred, the assessor shall determine the pro rata tax exemption credit for such tax roll by multiplying the tax rate or tax rates for each municipal corporation which levied taxes or for which taxes were levied times the exempt amount and shall immediately notify such municipal corporation or corporations of the pro rata exemption credits for such tax roll. Such municipal corporation shall add such pro rata exemption credits for such property to any outstanding pro rata exemption amounts and proceed as provided in subparagraph (3) of paragraph D of this section.  
[Added 2-13-96 by Local Law 1-1996]

#### § 56-4. Penalties

The making of any willful false statement in the application for an exemption under this ordinance shall be a violation thereof and a conviction for any such violation shall be punishable by a fine of not more than \$100.00 and shall disqualify the applicant or applicants from further exemption for a period of five years.

#### ARTICLE II

Utilities? [Adopted 12-17-68 as Local Law No. 1-1968]

#### § 56-5. Imposition of tax.

Pursuant to the authority granted by Article 6, § 6-640 of the Village Law of the State of New York,<sup>1</sup> from, on and after April 1, 1968, there is hereby imposed:

- A. A tax equal to one percent (1%) of the gross income of every utility doing business in the Incorporated Village of Port Dickinson which is subject to the supervision of the New York State Department of Public Service and which has an annual gross income in excess of five hundred dollars (\$500.), except motor carriers or brokers subject to such supervision under Article 3-B of the Public Service Law.
- B. A tax equal to one percent (1%) of the gross income of every other utility doing business in the Incorporated Village of Port Dickinson which has an annual gross operating income in excess of five hundred dollars (\$500.).

§ 56-6. Definitions.

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

GROSS INCOME –

- A. In the case of a utility engaged in selling telephony or telephone service, only receipts from local exchange service wholly consummated within the village.
- B. In the case of a utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated with the village.
- C. In the case of any utility other than described in Subsections A and B above:
  - (1) Receipts received in or by reason of any sale, conditional or otherwise, except sales hereinafter referred to with respect to which it is provided that profits from the sale shall be included in gross income, made or service rendered for ultimate consumption or use by the purchaser in the village, including cash, credits and property of any kind or nature; whether or not such sale is made or such service is rendered for profit, without any deductions therefrom on account of the cost of the property sold, the cost of the materials used, labor services or other costs, interest or discount paid or any other expense whatsoever.
  - (2) Profits from the sale of securities.
  - (3) Profits from the sale of real property growing out of the ownership or use of or interest in such property.
  - (4) Profits from the sale of personal property other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the period for which a return is made.
  - (5) Receipts from interest, dividends and royalties derived from sources within the village (other than such as are received from a corporation, a majority of whose voting stock is owned by the taxing utility) without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof.
  - (6) Profits from any transaction, except sales for resale and rentals with the village whatsoever.

GROSS OPERATING INCOME – Receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water, refrigeration, telephone or telegraphy, or in or by

reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigerator, telephone or telegraph service in the village, account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid or any other expense whatsoever.

PERSON – Persons, corporations, companies, associations, joint-stock associations, copartnerships, estates, assignee of rents, any person acting in a fiduciary capacity or any other entity; and persons, their assignees, lessees, trustees or receivers appointed by any court whatsoever, or by any other means; and excepting the state, municipality, public districts, and corporations and associations organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

UTILITY –

- A. Every person subject to the supervision of the State Department of Public Service, except:
  - (1) Persons engaged in the business of operating or leasing sleeping and parlor railroad cars.
  - (2) Persons engaged in the business of operating or leasing railroads other than street surface, rapid transit, subway and elevated railroads.
  - (3) Omnibus corporations subject to supervision under Article 3-A of the Public Service Law.
- B. Every person who sells gas, electricity, steam, water, refrigeration, telephony or telegraphy delivered through mains, pipes or wires, whether or not such person is subject to the supervision of the State Department of Public Service.
- C. Every person who furnishes gas, electric, steam, water, refrigerator, telephone or telegraph service by means of mains, pipes or wires, regardless of whether such activities are the main business of such person or are only incidental thereto, or of whether use is made of the public streets.

§ 56-7. Application of provisions.

This Article and the tax imposed thereby shall:

- A. Apply only within the territorial limits of the Village of Port Dickinson.
- B. Not apply and the tax shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of Port Dickinson, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.
- C. Be in addition to any and all other taxes and fees imposed by any other provisions of law.
- D. Apply to all subject income received on and after July 1, 1968.

§ 56-8. Disposition of revenues.

All revenues resulting from the imposition of the tax imposed by this Article shall be paid into the treasury of the village and shall be credited to and deposited in the general fund of the village.

§ 56-9. Collection and enforcement; rules and regulations.



The Village Treasurer shall be the chief enforcement officer of this Article and shall make and be responsible for all collections hereunder. He shall also have the power and authority to make any rules or regulations or directives, not inconsistent with law, which, in his discretion, are reasonably necessary to facilitate the administration of this Article and the collection of the taxes imposed hereby. Copies of all such rules and regulations and directives, as may from time to time be promulgated, shall be sent by registered mail to all utilities subject to this Article which register as such with the Village Treasurer. All such rules, regulations and directives shall be deemed a portion of this Article.

§ 56-10. Filing of returns; contents.

- A. Time of filing. Every utility subject to a tax hereunder shall file on or before July 1 and January 1 a return for the six (6) calendar months preceding each return date, including any period for which the tax imposed hereby or any amendment hereof is effective. However, any utility whose average gross income or gross operating income for the aforesaid six-months period is less than three thousand dollars (\$3,000.) may file a return annually on October 1 for the twelve (12) calendar months preceding each return date, including any period for which the tax imposed hereby or any amendment thereof is effective. Any utility, whether subject to tax under this Article or not, may be required by the Village Treasurer to file an annual return.
- B. Contents. Returns shall be filed with the Village Treasurer on a form to be furnished by him for such purpose and shall show thereon the gross income or gross operating income for the period covered by the return and such other information, data or matter as the Village Treasurer may require to be included therein. Every return shall have annexed thereto a certification by the head of the utility making the same or of the owner or of a copartner thereof, or of a principal corporate officer, to the effect that the statements contained therein are true.

§ 56-11. Payment of tax.

At the time of filing a return as required by this Article, each utility shall pay to the Village Treasurer the tax imposed hereby for the period covered by such return. Such tax shall be due and payable at the time of the filing of the return or if a return is not filed when due, on the last day on which the return is required to be filed.

§ 56-12. Penalty for noncompliance.

Any utility failing to file a return or a corrected return, or failing to pay any tax or any portion thereof within the time required by this Article shall be subject to a penalty of five percent (5%) of the amount of tax due, plus one percent (1%) of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed or such tax became due; but the Village Treasurer, if satisfied that the delay was excusable, may remit all or any portion of such penalty.

§ 56-13. Tax part of operating costs.

The tax imposed by this Article shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others but shall constitute a part of the operating costs of such utility.

§ 56-14. Failure to file or insufficient return.

In case any return filed pursuant to this Article shall be insufficient or unsatisfactory to the Village Treasurer, he may require at any time a further or supplemental return, which shall contain any data that may be specified by him, and, if a corrected or sufficient return is not filed within twenty (20) days after

the same is required by notice from him, or, if no return is made for any period, the Village Treasurer shall determine the amount due from such information as he is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. He shall give notice of such determination to the utility liable for such tax. Such determination shall finally and irrevocably fix such tax unless the utility against which it is assessed shall, within one (1) year after the giving of notice of such determination, apply to him for a hearing or unless the Village Treasurer, of his own motion, shall reduce the same. After such hearing he shall give notice of his decision to the utility liable for such tax.

#### § 56-15. Review of final determination.

Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or for any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if the proceeding is commenced within ninety (90) days after the giving of notice of such final determination; provided, however, that any such proceeding under said Article 78 shall not be instituted unless the amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law, ordinance or resolution, shall be first deposited and an undertaking filed, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

#### § 56-16. Notices.

Any notice authorized or required under the provisions of this Article may be given by mailing the same to the utility for which it is intended, in a postpaid envelope, addressed to such utility at the address given by it in the last return filed by it under this Article, or if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the utility to which addressed. Any period of time which is determined according to the provisions of this section by the giving of notice shall commence to run from the date of mailing of such notice.

#### § 56-17. Refunds.

If within one (1) year from the giving of notice of any determination or assessment of any tax or penalty, the person liable for the tax shall make application for a refund thereof and the Village Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Village Treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Village Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Village Treasurer as hereinbefore provided unless the Village Treasurer, after a hearing as hereinbefore provided, or of his own motion, shall have reduced the tax or penalty or it shall have been established in a proceeding in the manner provided in the Civil Practice Law and Rules that such determination was erroneous or illegal. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of and the Village Treasurer may receive additional evidence with regard thereto. After making his determination the Village Treasurer shall give notice thereof to the person interested and he shall be entitled to commence a proceeding to review such determination in accordance with the provisions of the following section hereof.

#### § 56-18. Review of proceedings for refund.

Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the Village Treasurer, and he shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that such proceeding is instituted within ninety

(90) days after the giving of the notice of such denial that a final determination of tax due was not previously made and that an undertaking is filed with the Village Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

§ 56-19. Additional tax limitations; exceptions.

Except in the case of a willfully false or fraudulent return with the intent to evade the tax, no assessment or additional tax shall be made with respect to taxes imposed under this Article after the expiration of more than three (3) years from the date of filing of a return; provided, however, that where no return has been filed as required hereby, the tax may be assessed at any time.

§ 56-20. Village Treasurer; powers and duties.

In addition to any other powers herein given the Village Treasurer and in order to further insure payment of the tax imposed hereby, he shall have the power to:

- A. Prescribe the form of all reports and returns required to be made.
- B. Take testimony and proofs, under oath, with reference to any matter hereby entrusted to him.
- C. Subpoena and require the attendance of witnesses and the production of books, papers, records and documents.

§ 56-21. Action to enforce payment of tax.

Whenever any person shall fail to pay any tax or penalty imposed by this Article, the Village Attorney shall, upon the request of the Village Treasurer, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Village Treasurer. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by § 186-a of the Tax Law is made a lien.

### ARTICLE III

#### Alternative Veterans Exemption

[Adopted 11-20-84 as L.L. No. 6-1984; Repealed 8-10-93;  
Reenacted 8-10-93 as L.L. No. 3-1993]

§ 56-22. Purpose.

The purpose of this law is to reduce the maximum veterans exemption allowable pursuant to Section 458-a of the Real Property Tax Law of the State of New York.

§ 56-23. Exemption granted.

Pursuant to the provisions of subdivision 2(d) of Section 458-a of the Real Property Tax Law of the State of New York, the maximum veterans exemption from real property taxes allowable pursuant to Section 458-a of the Real Property Tax Law is established as follows:

- A. Qualifying residential real property shall be exempt from taxation to the extent of fifteen percent of the assessed value of such property, provided, however, that such exemption shall not exceed the lesser of nine thousand dollars or the product of nine thousand dollars multiplied by the latest state

equalization rate, or in the case of a special assessing unit, the latest class ratio for the Village of Port Dickinson.

- B. In addition to the exemption provided by paragraph (a) of the subdivision, where the veteran served in a combat theatre or combat zone of operations, as documented by the award of a United States campaign ribbon or service medal, qualifying residential real property also shall be exempt from taxation to the extent of ten percent of the assessed value of such property, provided, however, that such exemption shall not exceed the lesser of six thousand dollars or the product of six thousand dollars multiplied by the latest state equalization rate or in the case of a special assessing unit, the latest class ratio for the Village of Port Dickinson.
- C. In addition to the exemptions provided by paragraphs (a) and (b) of this subdivision, where the veteran received a compensation rating from the United States Veteran's Administration because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by fifty percent of the veteran's disability rating, provided, however, that such exemption shall not exceed the lesser of thirty thousand dollars or the product of thirty thousand dollars multiplied by the latest state equalization rate or in the case of a special assessing unit, the latest class ratio for the Village of Port Dickinson.

<sup>1</sup>Editor's Note: For current provisions regarding village authorization to impose taxes on utilities, see § 5-530 of the Village Law of the State of New York.

## CHAPTER 57

### STANDARDS FOR THE PLANTING, MAINTENANCE AND REMOVAL OF TREES ALONG STREETS AND PUBLIC AREAS

- § 57-1. Purpose.
- § 57-2. Definitions.
- § 57-3. Street Tree Species to be Planted.
- § 57-4. Spacing.
- § 57-5. Distance from Curb and Sidewalk.
- § 57-6. Distance from Street Corners, Driveways, Fire Hydrants, Stop Signs or Traffic Markers, Utility Poles, Street Lights, Underground Utility Lines.
- § 57-7. Overhead Primary Electric Power Lines.
- § 57-8. Public Tree Care.
- § 57-9. Tree Topping.
- § 57-10. Pruning; Clearance.
- § 57-11. Dead or Diseased Street Tree Removal.
- § 57-12. Penalty.

[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson November 13,2001 as Local Law 16-2001.]

§ 57-1. Purpose.?

The purpose of this local law is to enhance the safety, health and welfare of the people of the Village of Port Dickinson by establishing standards for tree planting, maintenance and removal in the area between the public sidewalk and highway curb.

§ 57-2. Definitions.?

BOARD OF TRUSTEES — The duly elected Mayor and Trustees of the Village of Port Dickinson.

PROGRAM TREES — Trees planted by the Village as part of an official improvement or renovation project or program.

PUBLIC TREES — Trees, shrubs, bushes and all other woody vegetation on lands belonging to the Village other than street lawns.

STREET TREES — Trees, shrubs, bushes and all other woody vegetation on land lying between the curb line and the sidewalks on either side of the streets within the Village.

VILLAGE — The Village of Port Dickinson, Broome County, New York.

§ 57-3. Street Tree Species to be Planted.

The following list constitutes the initial official Street Tree species for the Village of Port Dickinson. The tree list may be updated by the Board of Trustees in compliance with responsible urban forestry. No species other than those included in the Street Tree list may be planted by property owners as Street Trees without written permission of the Board of Trustees:

INITIAL STREET TREE LIST

Small Trees:

*Carpinus caroliniana* - “American Hornbeam”

*Koelreuteria paniculata* - “Goldenrain Tree”

*Malus* (sp.) - “Flowering Crabapple”

*Syringa reticulata* - “Japanese Tree Lilac”

Medium Trees:

*Gleditsia triacanthos* - “Honeylocust” (thornless)

*Prunus serrulata* - “Kwanzan Oriental Cherry”

*Pyrus calleryana* - “Callery Pear”

§ 57-4. Spacing.

The spacing of Street Trees will be in accordance with the tree species size classes listed in Section 57-3, and no trees may be planted closer together than the following: Small Trees, 25 feet; and Medium Trees, 35 feet; except in special planting approved by the Board of Trustees.

§ 57-5. Distance from Curb and Sidewalk.

The distance trees may be planted from curbs or curblines, and sidewalks will be in accordance with the tree species size classes listed in Section 57-3 and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 1 and one-half (1.5) feet; and Medium Trees, 3 feet.

§ 57-6. Distance from Street Corners, Driveways, Fire Hydrants, Stop Signs or Traffic Markers, Utility Poles, Street Lights, Underground Utility Lines.

No Street Tree shall be planted closer than: 30 feet from any street corner, measured from the point of nearest intersecting curbs or curblines; 10 feet from any driveway; 10 feet from any fire hydrant; 20 feet from any stop sign or traffic marker; 10 feet from a utility pole; 20 feet from a street light; and five feet from any underground utility line, except in exceptional circumstances, with the written permission of the Board of Trustees.

§ 57-7. Overhead Primary Electric Power Lines.

No Street Trees, other than those species listed as Small Trees in Section 57-3, may be planted under or within 10 lateral feet of any overhead primary electric power line.

§ 57-8. Public Tree Care.

The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and other public grounds, as may be necessary to insure public safety, or to preserve or enhance the symmetry and beauty of such public grounds. The Board of Trustees may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature, is injurious to utility lines or other public improvements. This section does not prohibit the planting of Street Trees by adjacent property owners provided that the selection and location of said trees is in accordance with Sections 57-3 through 57-7.

§ 57-9. Tree Topping.

It shall be unlawful, as a normal practice, for any person or firm to “top” any tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged or certain trees under obstructions where other pruning practices are impractical may be exempted from this limitation by the Board of Trustees.

§ 57-10. Pruning; Clearance.

Every owner of any tree on private property overhanging any street or right-of-way or sidewalk within the Village shall prune the branches so that they do not obstruct the light from any street lamp or obstruct the view of any street intersection or obstruct persons using public sidewalk and so that there shall be a clear space of seven feet (7') above the surface of the street or sidewalk. Property owners shall remove all dead, diseased or dangerous trees on private property or broken or decayed limbs which constitute a menace to the safety of the public. The Village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light from a street light or interferes with visibility of any traffic control device or obstructs the view of any intersection.

§ 57-11. Dead or Diseased Street Tree Removal.

On the recommendation of the Commissioner of Public Works, the Village shall have the right to cause the removal of any dead or diseased Street Trees within the Village, when such trees constitute a hazard to life and property or have caused the upheaval of public sidewalks. All stumps of Street Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

§ 57-12. Penalty.

Any person violating any provisions of this Local Law shall be, on conviction or a plea of guilty, subject to a fine not to exceed \$200.00.

## Chapter 58

### UNSAFE BUILDINGS AND COLLAPSED STRUCTURES

- § 58-1. Purpose.
- § 58-2. Title.
- § 58-3. Definitions.
- § 58-4. Investigation and Report.
- § 58-5. Board of Trustees Order.
- § 58-6. Notice; Contents.
- § 58-7. Service of Notice.
- § 58-8. Filing of Notice.
- § 58-9. Refusal to Comply.
- § 58-10. Assessment of Expenses.
- § 58-11. Emergency Cases.

[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson ?August 11, 1998 as Local Law 3-1998.]

#### § 58-1. Purpose.

Unsafe buildings pose a threat to life and property in the Village of Port Dickinson. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for young children who may be injured therein, as well as point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation thereby creating a health menace to the community. It is the purpose of this local law to provide for the safety, health protection and general welfare of persons and property in the Village of Port Dickinson by requiring such unsafe buildings be repaired or demolished and removed.

#### § 58-2. Title.

This local law shall be known as “Unsafe Buildings Law” of the Village of Port Dickinson.

#### § 58-3. Definitions.

- (1) “Building” means any building, structure or portion thereof used for residential, business or industrial purpose.
- (2) “Building Inspector” means the building inspector of the Village of Port Dickinson or such other person appointed by the Village Board of Trustees to enforce the provisions of this local law.

#### § 58-4. Investigation and Report.

When in his own opinion or upon receipt of information that a building:

- (1) Is or may become dangerous or unsafe to the general public,
- (2) Is open at the doorways and windows making it accessible to and an object of attraction to minors under eighteen years of age, as well as vagrants and other trespassers,
- (3) Is or may become a place of rodent infestation;
- (4) Presents any other danger to the health, safety, morals and general welfare of the public; or
- (5) Is unfit for the purposes for which it may lawfully be used, the Building Inspector shall cause or make an inspection thereof and report in writing to the Board of Trustees his findings and recommendations in regard to its repair or demolition and removal.

§ 58-5. Board of Trustees Order.

The Board of Trustees shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building is unsafe and dangerous and order its repair if the same can be safely repaired or its demolition and removal, and further order that a notice be served upon the persons and in the manner provided herein.

§ 58-6. Notice; Contents.

The notice shall contain the following:

- (1) a description of the premises,
- (2) a statement of the particulars in which the building is unsafe or dangerous,
- (3) an order outlining the manner in which the building is to be made safe and secure, or demolished and removed,
- (4) a statement that the securing or removal of such building shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter, unless for good cause shown such time shall be extended,
- (5) a date, time and place for a hearing before the Board of Trustees in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than five business days from the date of service of the notice, and
- (6) a statement that in the event of neglect or refusal to comply with the order to secure or demolish and remove the building, the Board of Trustees is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of demolition, including legal expenses.

§ 58-7. Service of Notice.

The said notice shall be served:



- (1) By personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in such unsafe building as shown by the records of the receiver of taxes (or tax collector) or of the county clerk; or if no such person can be reasonably found by mailing such owner by registered mail a copy of such notice directed to his last known address as shown by the above records,
- (2) By personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found, and
- (3) By securely affixing a copy of such notice upon the unsafe building.

§ 58-8. Filing of Notice.

A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Broome.

§ 58-9. Refusal to Comply.

In the event of the refusal or neglect of the person so notified to comply with said order of the Board of Trustees and after the hearing, the Board of Trustees shall provide for the demolition and removal of such building or structure either by Village employees or by contract. Except in emergency as provided in Section 11 hereof, any contract for demolition and removal of a building in excess of \$20,000.00 shall be awarded through competitive bidding.

§ 58-10. Assessment of Expenses.

All expenses incurred by the Village in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, and all reasonable and necessary legal expenses incidental thereto, shall, at the option of the Board of Trustees, either:

- (1) Be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in the Village Law for the levy and collection of Village taxes, or
- (2) Be collected by commencement of a special proceeding against the owner of said unsafe or dangerous building or structure pursuant to General Municipal Law Section 78-b.

§ 58-11. Emergency Cases.

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building is immediately repaired and secured or demolished, the Board of Trustees by resolution authorize the building inspector to immediately cause the repair or demolition of such unsafe building. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in Section 10 hereof.

## Chapter 59

### VEHICLES, ABANDONED

- § 59-1. Purpose.
- § 59-2. Definitions.
- § 59-3. Prohibitions.
- § 59-4. Notice of violation; abatement by village.
- § 59-5. Restoration permits.
- § 59-6. Amnesty period.
- § 59-7. Additional rules and regulations.
- § 59-8. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson ?6-15-65 as Local Law No. 1-1965; amended in its entirety 7-11-72 as Local Law ?No. 1-1972. Section 59-8 amended during codification. Other amendments noted where applicable.]

#### GENERAL REFERENCES

Property maintenance — See Ch. 45. Vehicles and traffic — See Ch. 60.

#### § 59-1. Purpose.

The seriousness of the matter of the outdoor storage of abandoned, junked, discarded or inoperative motor vehicles upon privately owned properties within the village increases with the passage of time. It is a source of vexation and annoyance, not only to the members of the traveling public, but to the owners and occupants of adjoining lands. The outdoor storage of such vehicles upon private lands is unsightly. It constitutes an attractive nuisance to children and a peril to their safety in case of fire or explosion whenever gasoline is left in the fuel tanks of such vehicles. It depreciates the values of neighboring properties. The preservation of peace and good order, the suppression of vice, the benefit of trade, the preservation of public health, the protection of property and the prevention and extinguishment of fires and explosions compel the Board of Trustees of the Village of Port Dickinson to legislate upon this subject matter. It is hereby declared that the adoption of this chapter has for its purpose the effective termination of such obnoxious practice.

#### § 59-2. Definitions.

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

**MOTOR VEHICLE** — All vehicles propelled or drawn by power, other than muscular power, originally intended for use on public highways, private roads or trails, or across open terrain, which said definition shall include but not be limited to: trailers, detachable truck bodies and campers, pumps, tanks or any other device used in connection with a motor vehicle as hereinbefore defined.

**OPENLY STORED** — Storage other than in a completely enclosed structure such as a garage, which such structure shall be constructed completely of wood, brick, masonry blocks or metal.

§ 59-3. Prohibitions.

It shall be unlawful and a violation of this chapter for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise, to openly store or deposit, or cause or permit to be stored or deposited, any old, unregistered or secondhand motor vehicle no longer intended or in condition for legal use on the public highway, or parts or waste material from such motor vehicles, upon any private or public land or premises within the corporate limits of the Village of Port Dickinson.

§ 59-4. Notice of violation; abatement by village.

In the event of a violation of the provisions of § 59-3 of this chapter, the Village Clerk shall serve or cause to be served, either personally or by mail, a written notice upon the owner, occupant, lessee, agent, tenant or person having charge of the land where such violation occurs to comply with the provisions of this chapter. If the person so served fails or refuses to comply with the provisions of this chapter within ten (10) days after the service of such notice, the Village of Port Dickinson shall cause such motor vehicle or parts thereof prohibited by § 59-3 of this chapter to be removed and destroyed and such nuisance to be suppressed. The cost incurred by the village in causing the removal and destruction of any such motor vehicle, motor vehicles or parts thereof shall be assessed against the land where the violation occurs, shall constitute a lien thereon and shall be collected as provided by law.

§ 59-5. Restoration permits.

- A. Upon written application and the deposit of thirty dollars (\$30.), the village Enforcement Officer may, in his discretion, issue a permit for the open storage of one (1) motor vehicle otherwise prohibited by this chapter, pending the making of such repairs as are necessary to place this vehicle in condition for legal operation for use on the public highway or for such use as it was originally intended.
- B. The application shall:
  - (1) Include a representation and agreement by the applicant that the applicant intends within the permit period to make all such necessary repairs and that if such repairs have not been made by the end of the permit period that the applicant will terminate the open storage of such motor vehicle within the Village of Port Dickinson.
  - (2) State whether the applicant is the owner of said vehicle or, if not, the name and address of the owner, together with a complete description of the vehicle, the repairs to be effected and whether the applicant will make the repairs himself or, if not, the person or persons who will make such repairs.
  - (3) Set forth the place where the vehicle is presently stored, the place where the repairs will be made and the name and address of the owner of such property or the tenant in possession.
  - (4) Contain a license to the village to enter the premises where the vehicle is stored for the purpose of inspecting the same, for removing the vehicle from said premises and for destroying the same following the expiration of the permit. Such license shall be irrevocable for a period of ninety (90) days from the expiration of the permit.
- C. A five dollar (\$5.) fee shall be charged for the permit and the applicant shall deposit with the village thirty dollars (\$30.), which deposit shall be refunded if within the period the vehicle shall

cease to be a motor vehicle prohibited by the provisions of this chapter or shall cease to be openly stored within the Village of Port Dickinson at the owner's expense, but if neither condition is complied with, such thirty dollar (\$30.) deposit shall be forfeited to the Village of Port Dickinson.

- D. A separate permit shall be required for each vehicle and shall only be valid as to that vehicle and as to that particular place of storage designated in the application. All permits shall be issued for not in excess of sixty (60) days and may be extended only once up to fifteen (15) days.
- E. Vehicles in violation of this chapter after the expiration of the permit herein provided for shall be removed and destroyed by the village pursuant to the provisions of § 59-4 of this chapter.

#### § 59-6. Amnesty period.

- A. No legal action shall be taken against any person, firm or corporation with regard to any violation of this chapter prior to this amendment, which violation exists on the date of the enactment of this amendment to this chapter; provided, however, that such person, firm, or corporation terminates all violations either by removal, repair or permit, as herein provided, within thirty (30) days of the effective date of this amendment.
- B. The provisions of this amnesty clause shall not be interpreted as making legal for any other purpose the storage of any vehicle or to create any nonconforming use or to create any break in time with regard to the length of time that the storage of any vehicle has been illegally stored.

#### § 59-7. Additional rules and regulations.

An enforcement officer and or the Village Board of Trustees may make reasonable rulings and may issue reasonable regulations for the furtherance of this chapter.

#### § 59-8. Penalties for offenses.<sup>1</sup>

- A. Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.
- B. In addition to the above provided penalties, the Village Board of Trustees may also maintain an action or proceeding, in the name of the village, in a court of competent jurisdiction, to compel compliance with or to restrain by injunction the violation of this chapter.

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

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**§ 60-39. Schedule XII: No Parking Certain Hours.**

**§ 60-40. Schedule XIII: Limited-Time Parking.**

**§ 60-41. Schedule XIV: Bus Stops.**

**§ 60-42. Schedule XV: No Standing Certain Hours.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 2-10-76 as Local Law No. 1-1976.1 Amendments noted where applicable.]**

#### GENERAL REFERENCES

Vehicles on sidewalks — See Ch. 52, § 52-13. Abandoned vehicles — See Ch. 59.

### ARTICLE I

#### General Provisions

##### **§ 60-1. Definitions and word usage.**

- A. The words and phrases used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them by Article I of the Vehicle and Traffic Law of the State of New York.
- B. The following words and phrases, which are not defined by Article I of the Vehicle and Traffic Law of the State of New York, shall have the meanings respectively ascribed to them in this section for the purposes of this chapter:

**CURBLINE** — The prolongation of the lateral line of a curb or, in the absence of a curb, the lateral boundary line of the roadway.

**HOLIDAYS** — New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

**OFFICIAL TIME STANDARD** — Whenever certain hours are named herein or on traffic control devices, they shall mean the time standard which is in current use in this state.

##### **§ 60-2. Authority to install traffic control devices.**

The Highway Department shall install and maintain traffic control devices, when and as required under the provisions of this chapter, to make effective the provisions of this chapter and may install and maintain such additional traffic control devices as the Board of Trustees may deem necessary to regulate, warn or

guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provisions of §§ 1682 and 1684 of that law.

**§ 60-3. Implementation of provisions.**

The provisions of this chapter shall be implemented by the adoption of regulations by the Board of Trustees or an officer or agency authorized by it pursuant to § 1603 of the Vehicle and Traffic Law. Such regulations shall designate the specific area within which the provisions of this chapter shall be in effect by reference to the appropriate schedule established by this chapter for the recording of such regulations. Such schedules shall be attached to and form a part of this chapter, and the violation of any regulation contained in said schedules shall be deemed a violation of this chapter.

ARTICLE II  
**Traffic Regulations**

**§ 60-4. Traffic control signals.**

Traffic control signals shall be installed, maintained and operated at the intersections and locations described in Schedule I (§ 60-28), subject to the provisions of §§ 1682 and 1684 of the Vehicle and Traffic Law of the State of New York.

**§ 60-5. Prohibited turns at intersections.**

No person shall make a turn of the kind designated (left, right, all) at any of the locations described in Schedule II (§ 60-29).

**§ 60-6. Lanes reserved.**

The street lanes described in Schedule III (§ 60-30) are hereby reserved for the turn or purpose designated in said Schedule III.

**§ 60-7. Through streets.**

The streets or parts of streets described in Schedule IV (§ 60-31) are hereby designated as main arteries of travel, and all vehicles approaching these main arteries shall, before entering the main artery, come to a full stop unless otherwise directed by a peace officer or signal.



**§ 60-8. Stop intersections.**

The intersections described in Schedule V (§ 60-32) are hereby designated as stop intersections, and stop signs shall be erected as indicated.

**§ 60-9. Yield intersections.**

The intersections described in Schedule VI (§ 60-33) are hereby designated as yield intersections, and yield signs shall be erected as indicated.

**§ 60-10. One-way streets.**

The streets or parts of streets described in Schedule VII (§ 60-34) are hereby designated as one-way streets, and vehicles shall proceed in the direction indicated.

**§ 60-11. Speed regulations.**

The maximum speed at which vehicles may proceed on or along any street or highway within the village is hereby established at thirty (30) miles per hour, except that the speed limit for vehicles proceeding on or along those streets or parts of streets described in Schedule VIII (§ 60-35) shall be as indicated in said schedule.

ARTICLE III

**Street Closings for Certain Purposes**

**§ 60-12. Weight exclusions.**

- A. All vehicles used for commercial purposes in excess of the indicated maximum weight are hereby excluded from the streets or parts of streets described in Schedule IX (§ 60-36).
- B. The regulations established in this section shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles are otherwise excluded.

ARTICLE IV

**Parking, Standing and Stopping**

**§ 60-13. Application of Article.**

The provisions of this Article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

**§ 60-14. No parking at any time.**

The parking of vehicles is prohibited at all times in those streets or parts of streets described in Schedule X (§ 60-37).

**§ 60-15. Seasonal parking restriction.**

Alternate side of the street parking of all vehicles is hereby established, with parking on odd-numbered side of the streets on odd-numbered calendar days and even-numbered side of the streets on even-numbered calendar days on all streets and high-ways within the Village of Port Dickinson between the hours of Midnight and 7:00 a.m. the following morning from November 1 to April 1 of each year.  
[Amended by L.L. 4-1997]

**§ 60-16. Parking for repairs.**

The parking or standing of any motor vehicle for the purpose of repair on any street within the Village of Port Dickinson is hereby prohibited, except that the operator of such vehicle may make emergency repairs, provided that such repairs are completed and the vehicle removed within one (1) hour.

**§ 60-17. Standing prohibited.**

The standing of vehicles is hereby prohibited in the locations described in Schedule XI (§ 60-38), except that alternate side of the street parking and standing shall be permitted and enforced as provided in § 60-15.

**§ 60-17.1. No standing certain hours. [Added 12-6-77 by L.L. No. 6-1977]**

The standing of vehicles is hereby prohibited in the locations described in Schedule XV (§ 60-42) during the times indicated.

**§ 60-18. Parking prohibited certain hours.**

The parking of vehicles is hereby prohibited in the locations described in Schedule XII (§ 60-39) during the times indicated.

**§ 60-19. Limited-time parking.**

The parking of vehicles is hereby prohibited in the locations described in Schedule XIII (§ 60-40) for a longer period of time than that designated, during the hours indicated.

**§ 60-20. Bus stops.**

The locations described in Schedule XIV (§ 60-41) are hereby designated as bus stops, and parking of vehicles is hereby prohibited in such locations.

ARTICLE V  
**Removal and Storage of Vehicles**

**§ 60-21. Authority to impound vehicles.**

- A. When any vehicle is parked or abandoned on any highway within this village during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway upon which said vehicle is parked or abandoned, said vehicle may be removed by the Highway or Police Department.
- B. When any vehicle is found unattended on any highway or street within this village where said vehicle constitutes an obstruction of traffic, said vehicle may be removed by the Highway or Police Department.
- C. When any vehicle is parked or abandoned on any highway within this village where stopping, standing or parking is prohibited, said vehicle may be removed by the Highway or Police Department.
- D. When any vehicle is parked or remains standing on streets and highways within the Village for a period of more than forty-eight (48) hours exclusive of holidays in the same location and the Enforcement Officer has given written notice to the owner of said vehicle to remove the same within twenty-four (24) hours of receipt of said notice, the vehicle may be removed by the highway or police department. In the event the owner of the vehicle cannot reasonably be located, said notice shall be served by certified mail, and return receipt requested to the owner's last known address. **[Added by L.L. 3-1997]**

**§ 60-22. Storage and charges.**

After removal of any vehicle as provided in this Article, the Highway Department may store such

vehicle in a suitable place at the expense of the owner. Such owner, or the person in charge of the vehicle, may redeem the same upon payment to the Police Department of the amount of all reasonable expenses actually and necessarily incurred in effecting such removal, together with any reasonable charges for storage. [Amended by L.L. 5-1997]

**§ 60-23. Notice of removal.**

It shall be the duty of the Police Department to ascertain the name of the owner of such vehicle or person having charge of the same, and to notify him of the removal and disposition of such vehicle and of the amount which will be required to redeem the same.

ARTICLE VI

**Penalties; Miscellaneous Provisions**

**§ 60-24. Penalties for offenses.**

Each person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than fifty dollars (\$50.) or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment; for a second conviction within eighteen (18) months thereafter, such person shall be punished by a fine of not more than one hundred dollars (\$100.) or by imprisonment for not more than forty-five (45) days, or by both such fine and imprisonment; and upon a third or subsequent conviction within eighteen (18) months after the first conviction, such person shall be punished by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

**§ 60-25. When effective.**

- A. Except those parts, if any, which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York and § 46 of the Highway Law of the State of New York, this chapter and any regulations adopted hereunder shall take effect as provided by law.
- B. Any part or parts of this chapter and any regulations adopted hereunder which are subject to approval under § 1684 of the Vehicle and Traffic Law and § 46 of the Highway Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Department of Transportation.

**§ 60-26. Severability.**

If any Article, section, subsection, paragraph, sentence, clause or provision of this chapter shall be

adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the Article, section, subsection, paragraph, sentence, clause or provision thereof directly involved in the controversy in which such judgment shall have been rendered.

**§ 60-27. Repealer.**

All prior ordinances, regulations and rules, or parts of such, of this village regulating traffic and parking are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance, regulation or rule hereby repealed prior to the taking effect of this chapter.

**ARTICLE VII  
Schedules**

**§ 60-28. Schedule I: Traffic Control Signals.**

In accordance with the provisions of § 60-4, traffic control signals shall be installed, maintained and operated at the following intersections and locations:

**Intersection (Location)**  
(Reserved)

**§ 60-29. Schedule II: Prohibited Turns at Intersections.**

In accordance with the provisions of § 60-5, no person shall make a turn of the kind designated below at any of the following locations:

<b>Name of Street</b>	<b>Direction of Travel</b>	<b>Prohibited Turn</b>	<b>At Intersection of</b>
		(Reserved)	

**§ 60-30. Schedule III: Lanes Reserved.**

In accordance with the provisions of § 60-6, the following lanes are reserved for the purpose indicated:

<b>Direction of Travel</b>	<b>Reserved for</b>
<b>Street Lane</b>	

Chenango Street at                      Left                      North                      Left turn  
 Beacon Street

**§ 60-31. Schedule IV: Through Streets.**

In accordance with the provisions of § 60-7, the following streets are designated as through streets, and stop signs shall be erected on the entrances thereto:

<b>Through Street</b>	<b>Direction From Location Intersection</b>	<b>Which Traffic Is to Stop</b>	
Beacon Street	From its easterly termination to Hillcrest Avenue Chenango Street	Kirkwood Avenue East Rochelle Road	East East
Chenango Street	From Bromley Avenue to Miller Street Dickinson Avenue	Newton Street East State Road West	East East
	Macomber Avenue		
	Terry Avenue West		
	Wayne Avenue	East	
	Watson Avenue	West	
	James Avenue	East	
	Church Street West		
	Perkins Avenue	West	
	Gregory Avenue	East	
	Mill Street West		
	Grant Street West		
	Phelps Street East		
	Lincoln Street	Both	
	Access Road D	West	
	Dickinson Avenue	East	
Rochelle Road	From Beacon Street to Dickinson Avenue	Hillcrest Avenue Avenue West	West
Rochelle Road	From Kirkwood Avenue to Beacon Street	Hillcrest Avenue	West
State Road	From Brandywine Arterial Highway to Chenango Street	State Street Kinney Street	South South

State Street	From the village	Newton Street	Both
line to State Road		Miller Street	Both

**§ 60-32. Schedule V: Stop Intersections.**

In accordance with the provisions of § 60-8, the following described intersections are designated as stop intersections:

<b>Direction</b>	<b>Stop Sign on</b>	<b>of Travel</b>	<b>At Intersection of</b>
	Elizabeth Street	South	Newton Street
	Grant Street	West	River Street
	Kinney Street	South	Miller Street
	Kirkwood Avenue	Both	Rochelle Road
	Macomber Avenue	West	Riverview Drive
	Mill Street	<b>[Repealed 12-7-76 by L.L. No. 8-1976]</b>	
	Miller Street	East	Elizabeth Street
	River Street	South	Mill Street
	<b>[Added 12-7-76 by L.L. No. 18-1976]</b>		
	Rochelle Road	North	Dickinson Avenue
	Rochelle Road	South	Kirkwood Avenue
	State Street	South	Bromley Avenue
	Summer Street	North	Lincoln Avenue
	Summer Street	South	Grant Street
	Terry Avenue	West	Riverview Drive
	Village of Port Dickinson	East	Chenango Street
	Park Driveway		
	<b>[Added 11-20-84 by L.L. No. 3-1984]</b>		

**§ 60-33. Schedule VI: Yield Intersections.**

In accordance with the provisions of § 60-9, the following in-tersections are designated as yield intersections:

<b>Yield Sign on</b>	<b>Direction of Travel</b>	<b>At Intersection of</b>
	(Reserved)	

**§ 60-34. Schedule VII: One-Way Streets.**

In accordance with the provisions of § 60-10, the following described streets or parts of streets are designated as one-way streets in the direction indicated:

<b>Name of Street</b>	<b>Direction</b>	<b>Limits</b>
King Avenue	North	From Phelps Street to Lin-coln Avenue
Lincoln Avenue	West	From King Avenue to Chen-ango Street
Miller Street [Added 11-20-84 by L.L. No. 1-1984]	East	From Chenango Street east to Elizabeth Street

**§ 60-35. Schedule VIII: Speed Regulations.**

In accordance with the provisions of § 60-11, speed limits are established as indicated upon the following streets or parts of streets:

<b>Name of Street</b>	<b>Speed Limit (mph)</b>	<b>Location</b>
King Avenue	25	Entire street

**§ 60-36. Schedule IX: Weight Exclusions.**

In accordance with the provisions of § 60-12, all vehicles used for commercial purposes are excluded from the streets or parts of streets described below:

<b>Name of Streets</b>	<b>Maximum Weight</b>	<b>Location</b>
All streets and highways within the village, except for Brandywine Arterial Highway and Chenango Street	5 tons when loaded	As indicated

[Revised 2-14-95 by Local Law 2-1995.]

**§ 60-37. Schedule X: No Parking at Any Time.**

In accordance with the provisions of § 60-14, no person shall park a vehicle at any time upon the following streets or parts of streets:



<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Church Street	Both	From its termination to Chenango Street
Grant Street	South	From Chenango Street west to River Street
<b>[Added 12-10-85 by L.L. No. 4-1985]</b>		
King Avenue	West	From Phelps Street to Lincoln Avenue
Lincoln Avenue	South	From King Avenue west to Chenango Street
Phelps Street	North	From King Avenue west to Chenango Street
<b>[Added 6-8-82 by L.L. No. 4-1982]</b>		
Riverview Road	West	From a point beginning at the south curbside of Macomber Avenue, extending north 190 feet
<b>[Added 2-13-90 by L.L. No. 4-1990]</b>		
Chenango Street	East	From the southerly curb line of Phelps Street to a point 105 feet south of the said curb line.
<b>[Added 4-13-93 by L.L. No. 2-1993]</b>		
Chenango Street	East	From the southerly curb line of State Road to a point 120 feet south of the said curb line.
<b>[Added 4-13-93 by L.L. No. 2-1993]</b>		
Chenango Street	East	From the southerly edge of pavement of Wayne Avenue, southerly for a distance of 150'+/-; From the southerly curb line of James Avenue, southerly, for a distance of 150'+/-; From the southerly curb line of Lincoln Street, southerly, for a distance of 175'+/-
<b>[Added 10-9-01 by L.L. No. 14-2001]</b>		
Miller Street	South	225'+/- from the easterly curb line of Chenango Street to 330'+/- from the easterly curb line of Chenango Street, totaling 75'+/-
<b>[Added 6-14-05 by L.L. No. 4-2005]</b>		

**§ 60-38. Schedule XI: Standing Prohibited.**

In accordance with the provisions of § 60-17, the standing of vehicles is prohibited in the following locations:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Beacon Street	Both	From the south side of Kirk-wood Avenue north to Chenango Street-
<b>[Amended 6-8-82 by L.L. No. 2-1982]</b>		
Chenango Street	East	From the south end of the bridge over Phelps Creek continuing north to a point 117 feet north from the north curblines of Dickinson Avenue
<b>[Added 9-14-04 by LL No. 5-2004]</b>		
<b>Chenango Street [Added 12-7-76 by L.L. No. 3-1976; repealed 1-2-6-77 by L.L. No. 5-1977]</b>		
<b>Chenango Street [Repealed 6-8-82 by L.L. No. 1-1982]</b>		
<b>Chenango Street [Repealed 6-8-82 by L.L. No. 1-1982]</b>		

**Chenango Street [Repealed 6-8-82 by L.L. No. 1-1982]**

Chenango Street	West	Entire street, except from the Town of Fenton - Village of Port Dickinson boundary line on the north, southerly to a point 50 feet north from where the north curblineline of Dickinson Avenue, if extended, would in-tersect the west curblineline of Chenango Street
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Dickinson Avenue  
**[Added 2-13-1990 by L.L. No. 1-1990] [Deleted by L.L. No. 2-2004]**

Gregory Avenue	South	Entire street
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**[Added 10-18-77 by L.L. No. 4-1977]**

James Avenue	South	Entire street
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Kinney Street	East	Entire street
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Lincoln Avenue	North	Entire street
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Mill Street	South	Entire street
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Miller Street	North	From Chenango Street to a point 120 feet east of Chenango Street-
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**[Amended 12-7-76 by L.L. No. 5-1976]**

Miller Street	South	From Elizabeth Street to a point 61 feet east of Chen-ango Street
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Newton Street	South	Entire street
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Phelps Street	North	From King Avenue west to Chenango Street
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**[Added 6-8-82 by L.L. No. 5-1982]**

River Street	East	From Mill Street north to Grant Street
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**Name of Street      Side      Location**

River Street	West	Entire street
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Riverview Road	East	From Macomber Avenue south to its dead-end terminus
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**Name of Street      Side      Location**

Rochelle Road	East	From Dickinson Avenue south to Kirkwod Avenue
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**[Added 2-13-1990 by L.L. No. 2-1990]**

State Road	North	From a point where the west curblineline, if extended, of State Street would intersect the north curblineline of State Road continuing east to the village line
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State Road	South	Entire street
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State Street	East	Entire street
Summer Street	West	Entire street
Terry Avenue	South	Entire street
Watson Avenue	North	Entire street
Wayne Avenue	South	Entire street

**[Added 2-13-1990 by L.L. No. 3-1990]**

**§ 60-39. Schedule XII: No Parking Certain Hours.**

In accordance with the provisions of § 60-18, the parking of vehicles is hereby prohibited in the following locations during the hours indicated:

<b>Name of Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
Chenango Street	East	7:30 a.m. to 4:00 p.m. on school days	From a point 262 feet ± north of the curb line of Gregory Avenue to a point 390 feet ± north of the northerly curb line of Gregory Avenue.

**§ 60-40. Schedule XIII: Limited-Time Parking.**

A. In accordance with the provisions of § 60-19, the parking of vehicles is hereby prohibited in the locations described below for a longer period of time than designated during the hours indicated:

<b>Name of Street</b>	<b>Side</b>	<b>Limit</b>	<b>Time</b>	<b>Hours</b>	<b>Location</b>
Chenango	East	30 min.	All	All	From Phelps Street to a point 85 feet north of Phelps Street <b>[Added 12-8-92 by L.L. No. 3-1992]</b>
Dickinson Avenue	Both	1 hr.	8:00 a.m. to 6:00 p.m.	All	From Chenango Street east for a distance of 300 feet
Miller Street	South	15 min.	All	All	From Chenango Street to a point 61 feet east of Chenango Street

B. No person, firm or corporation shall cause or permit his, her or its automobile, truck, motorcycle or other vehicle to park or remain standing on any village street for a period of more than forty-eight (48) hours, exclusive of holidays, in the same location. **[Added 2-13-1990 by L.L. No. 5-1990]**

**§ 60-41. Schedule XIV: Bus Stops.**

In accordance with the provisions of § 60-20, the following locations are designated as bus stops:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
		(Reserved)

**§ 60-42. Schedule XV: No Standing Certain Hours. [Added 12-6-77 by L.L. No. 6-1977]**

In accordance with the provisions of § 60-17.1, standing vehicles is hereby prohibited in the following locations during the hours indicated:

<b>Name of Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
Chenango Street			[Repealed by L.L. 3-1996]

<sup>1</sup> Editor's Note: This local law repealed former Ch. 60, Vehicles and Traffic, adopted 1-12-65; see § 60-27 of this chapter.

## Chapter 62

### WATER

- § 62-1. Rules and regulations to constitute contract.
- § 62-2. Definitions.
- § 62-3. Application for service.
- § 62-4. Installation, repair and maintenance of water service.
- § 62-5. Water meters.
- § 62-6. Emergency shutoff of water.
- § 62-7. Unmetered use.
- § 62-8. Rates and bills.
- § 62-9. Inspections.
- § 62-10. Damages due to change in water pressure.
- § 62-11. Temporary discontinuance of service.
- § 62-12. Disputed bills.
- § 62-13. Penalties for offenses.
- § 62-14. Regulations regarding cross-connections.
- § 62-15. Protection of potable water system within premises.
- § 62-16. Discontinuance of service.

[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 7-2-63. Section 62-13 amended during codification; see Ch. 1, General Provisions, Article II. Amendments noted where applicable.]

## § 62-1. Rules and regulations to constitute contract.

The following rules and regulations are prescribed by the Board of Trustees of the Village of Port Dickinson, New York, and every person who shall be supplied or whose property? shall be supplied with water by the said village must agree to comply and must comply with these rules and regulations and the same shall constitute the contract existing between said persons and said village.

## § 62-2. Definitions.

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

**AESTHETICALLY OBJECTIONABLE FACILITY** – One in which substances are present, which if introduced into the public water supply system could be a nuisance to other water customers, but would not adversely affect human health. Typical examples of such substances are: food-grade dyes, hot water, stagnant water from fire lines in which no chemical additives are used, etc.

**AIR GAP SEPARATION** – The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. The differential distance shall be at least double the diameter (D) of the supply pipe. In no case shall the air gap be less than 1 inch. (See illustration below)

**APPROVED BACKFLOW PREVENTION DEVICE** – An acceptable air gap, reduced pressure zone device or double check valve assembly as used to contain potential contamination within a facility.

**APPROVED CHECK VALVE** – A check valve that seats readily and completely. It must be carefully machined to have free moving parts and assured watertightness. The face of the closure element and valve seat must be bronze, composition, or other non-corrodible material which will seat tightly under all prevailing conditions of field use. Pins and bushings shall be of bronze or other non-corrodible, non-sticking material, machined for easy, dependable operation. The closure element, e.g. clapper, shall be internally weighted or otherwise internally equipped to promote rapid and positive closure in all sizes where this feature is obtainable.

**APPROVED DOUBLE CHECK VALVE ASSEMBLY** – Two single independently acting check valves, including tightly closing shutoff valves located at each end of the assembly and suitable connections for testing the watertightness of each check valve. (See illustration below)

**BACKFLOW** – A flow condition, induced by a differential in pressure, that causes the flow of water or other liquids and/or gases into the distribution pipes of a public water supply from any source other than its intended source.

**BACKPRESSURE** – The resulting backflow of contamination, polluted, or otherwise unacceptable quality water from a plumbing fixture or other customer source(s) into a public water supply system due to a greater pressure within the customer's water system. (See illustration below)

Example: Only the valve at A separates the potable and the sea water systems aboard a vessel. The vessel's potable water system, at B, is being filled from the public

water supply system at C which is delivering water at a pressure of 60 psi. At the same time, the sea water fire fighting system is activated, which provides sea water at a pressure of 120 psi. If valve A is open, or leaks, the sea water will be forced into the public water supply system.

**BACKSIPHONAGE** – The backflow of contaminated or polluted water, or water of questionable quality from a plumbing fixture or other customer source(s), into a public water supply system main due to a temporary negative or sub-atmospheric pressure within the public water supply system. (See illustration below)

Example: A hose is submerged in a laboratory sink at A. Both buildings are connected to the same public water supply system, C. This main often lacks adequate pressure. The building on the right has installed a booster pump in the basement at B, in order to alleviate low pressures. The booster pump could deplete the water in main C, thereby subjecting the customer's water system to a pressure less than atmospheric thus causing a reversal of flow from the laboratory in the opposite building.

**BAROMETRIC LOOP** – A loop of pipe rising approximately thirty-five feet, at its top-most point, above the highest fixture it supplies.

**BOARD** – The Board of Trustees of the Village of Port Dickinson, New York, or its duly authorized employees or agents.

**BRANCH LINE** – Any pipe connecting to a lateral.

**CERTIFIED BACKFLOW PREVENTION DEVICE TESTER** – A person who has received a “general tester” certification proving satisfactory completion of a training course for testers of backflow and prevention devices which have been approved by the New York State Health Department.

**CONTAINMENT** – Cross-connection control which isolates the customer's entire facility from the public water system so as to provide the protection necessary to prevent contamination of the public water supply in the event of backflow from the customer's facility.

**CONTAMINATION** – The presence in water of a substance that tends to degrade its quality.

**CROSS-CONNECTION** – A physical connection through which a water supply could be contaminated.

**HAZARDOUS FACILITY** – One in which substances may be present which if introduced into the public water system would or may endanger or have an adverse effect on the health of other water customers. Typical examples: laboratories, sewage treatment plants, chemical plants, hospitals, mortuaries.

**INTERCONNECTION** – A joining of two independently operated public water supply distribution systems.

**MAIN** – A pipe owned by the village used for supplying water to more than one (1) property.

**OWNER, APPLICANT, CUSTOMER, PERSON and CONSUMER** – Shall be construed to mean “or their lawful agent.”

PERMIT – Shall be construed to mean a permit from the Board of Trustees of said village.

PERSONS and CONSUMERS – Shall be construed to mean individual, fiduciaries, partnerships, corporations and associations.

REDUCED PRESSURE ZONE (RPZ) DEVICE, ACCEPTABLE – A minimum of two independently acting check valves, together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow the pressure between these two checks shall be less than the upstream (supply pressure). In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checks at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

VACUUM BREAKER - NONPRESSURE TYPE – A vacuum breaker which is designed so as not to be subjected to static line pressure.

VACUUM BREAKER - PRESSURE TYPE – A vacuum breaker designed to operate under conditions of static line pressure.

[Note: Various definitions amended by Local Law No. 7-1995 on 7-11-95.]

§ 62-3. Application for service.

- A. All persons desiring to use water from a main shall obtain a permit from the Village Clerk before a connection will be made with the main or water furnished.
- B. Each service line shall service only one (1) property.
- C. The owner of each property supplied shall be responsible for all charges for the water supplied to the premises.

§ 62-4. Installation, repair and maintenance of water service.

- A. Upon written application for water service as hereinbefore prescribed and upon payment of the applicable charge for the size service to be installed, the village will install, operate, maintain and, when necessary, replace, at its own cost and expense, the service pipe and connection between the main and the curb box shutoff. [Amended 2-4-69]
- B. Each service shall have a minimum inside diameter as follows:

Number of Families Served	Size of Service (in inches)
Not more than 3	#/4
4 to 6	1
7 to 12	1 1/4
More than 12	2

- C. Connections to existing mains outside the village having an outside diameter of less than six (6) inches will not be made unless the property owner signs a written agreement which provides that

when the village or town decides that a main with an outside diameter of at least six (6) inches must be installed, said property owner will pay his share of the cost of such installation.

- D. The village shall tap the main, furnish and install a corporation cock and copper tubing of the required minimum inside diameter from the main to the curblin of the premises, and a curb cock, box and rod. The village will solicit bids each fiscal year for service installation. The owners applying for water service will be charged the current bid price per foot for water service from the water main to and including the curb stop, plus the current cost of meters, such charge to be paid at time of application. Service pipe and service connections shall not be trespassed upon nor interfered with in any respect. The curb stop may not be used by the customer for turning on or shutting off the water supply, but is for the exclusive use of the village. [Amended 2-4-69]
- E. The service line from the curb box to the building shall be of Type K copper tubing of the required minimum inside diameter. On the inside of the building an approved stop and waste valve shall be installed where the service line enters. The installation of the service line shall be at an elevation of five (5) feet below grade and shall be left exposed until inspected by the Board and, if satisfactory, connection to the main will be completed. Upon completion of grading the curb box shall be at grade for access at all times. All plumbing work shall be done by a duly licensed plumber and all materials and labor for the installation, repair and maintenance shall be at the property owner's expense.
- F. The consumer shall keep his own pipes and fixtures in good repair and protected from freezing and deterioration, at his own expense, and shall be responsible for the waste and damage resulting from the use of defective pipes or fixtures.
- G. Leaks between the curb cock and meter shall be repaired immediately by the property owner, at his own expense. In the event such repairs are not effected within the time specified by the Commissioner of Water and Sewer, the water will be shut off until the necessary repairs are made. Leaks between the main and the curb cock and including the curb cock shall be repaired by the Village, without charge to the property owner. All frozen service lines from the main in shall be thawed by the property owner at his own expense. [Amended 1-11-00]

§ 62-5. Water meters.

- A. All water service shall be metered, except as provided in § 62-7, and no more than one (1) meter may be installed on any one (1) service.
- B. The Board will supply and install each meter, for which a charge will be made to the property owner. Each meter shall be pretested and so designed that it cannot overrun or register a greater volume of water than passes through it.
- C. Each property owner shall provide an accessible location for the meter, which will be protected from freezing. Such location shall be kept free and accessible for the reading of the meter. Failure to keep the meter free and accessible for reading shall be cause for the discontinuance of service.
- D. The general repair and maintenance of meters shall be done by the village, at its expense, except that if a meter is damaged by freezing, hot water, steam, fire or any other similar cause, then a charge for repairing the meter shall be made to the property owner.
- E. Only the village may remove, reset or otherwise adjust meters
- F. (1) If the Board finds that the meter has been interfered with, tampered with, the seal broken, or the water has been diverted from passing through the meter and registering, or if there has been any



other act which would indicate an attempt to defraud the Village, the Board may discontinue water service.

(2) Additionally, the Board may charge the person in possession of that property with Criminal Tampering in violation of section 145.15 of the Penal Law of the State of New York or Theft of Services in violation of section 165.15 of said Penal Law or as having committed an offense against this provision of this chapter, in which event the person in possession of the property in which said meter had been installed shall be presumed to have committed such violation.

(3) The property owner shall be responsible for having a new meter installed by the Village Water Department at a cost of Four Hundred Dollars (\$400.00), and shall be charged for the water which had been diverted from the meter for the period of time since the most recent correct meter reading in an amount that reflects the highest 6 month consumption during the past 5 years. (Amended 1-11-05 by LL No. 1 - 2005)

G. In the event a meter shall be out of order or fail to function properly, this fact shall be reported to the Board, which shall repair or replace the meter.

#### § 62-6. Emergency shutoff of water.

In the event of an emergency because of fire, repairing or installing mains or for any other cause, the Board reserves the right to shut off the water for as long as the emergency lasts. The Board reserves the further right to shut off water from all fountains or other running streams if they deem it necessary for the public safety and convenience.

#### § 62-7. Unmetered use. [Amended November 8, 2005 by Local Law 5 - 2005]

- A. Any person desiring to use water directly from a hydrant in the construction of any building before the installation of a meter may do so upon the written consent of the Commissioner of Public Works or Commissioner of Water and Sewer and the payment of a fee of fifty dollars (\$50.00), which fee shall cover the cost of the water to be so used. Upon completion of the construction of said building, such use shall be discontinued and a meter will be immediately installed as hereinbefore provided.
- B. Any person desiring to use water from a hydrant in the filling of any swimming pool may do so upon the written consent of the Commissioner of Public Works or the Commissioner of Water and Sewer and the payment in advance:
1. Of a fee calculated by multiplying the then current water rate times the pool capacity, using the following formula: (Pool capacity in gallons divided by 7.5) divided by 100, times the current water rate per 100 cubic feet, plus
  2. A charge for one hour of the salary and benefits of the Village public works employee assisting in such activity.
  3. Any person filling their swimming pool from a hose connected to their residence may request the Commissioner of Public Works or the Commissioner of Water and Sewer to approve the reduction of their next sewer bill in an amount calculated by multiplying the then current sewer rate times the capacity of the pool as calculated in B (1) above.
- C. Other than as provided above, the taking of water from or the opening of the fire hydrants within the village, or the interference with or use for any purpose of such fire hydrants without the written

consent of the Commissioner of Public Works or the Commissioner of Water and Sewer is strictly prohibited.

§ 62-8. Rates and bills. [Amended 9-4-73; 11-20-84 by L.L. No. 4-1984 and 3-19-95 by L.L. No. 3-1995 and 141-00 by L.L. No. 1-2000]

- A. Water rates shall be established from time to time by the Board. A schedule of such rates shall be filed with the Village Clerk. Water bills shall be due and payable to the designated agent of the Board of Trustees of the Village of Port Dickinson in April and October of each year and if not paid within thirty (30) days after receipt, a fee of fifteen percent (15%) will be added for the next twenty (20) days. If the bill is not paid by the end of said twenty-day period, the water may be shut off and service will not be restored until the bill with the fifteen percent penalty and a \$25.00 service charge has been paid in advance.
- B. In the event that a meter is out of order and fails to register correctly, the consumer will be billed on the basis of the average daily consumption as shown by the meter when registering properly.
- C. There shall be filed annually with the Board a statement showing the unpaid water charges and penalties payable to the Village, with a brief description of the property upon which the water was used, the names of the persons or corporations liable to pay for the same and the amount chargeable to each, for the purpose of having such sums levied as a tax against the property liable.
- D. Deposits. As security for payment of charges, the Village may at any time require of any customer or applicant a deposit approximately equal to one and one-half (1 1/2) times the estimated average bill for the billing period plus other charges. No interest will be paid on such deposits. When service is disconnected and all charges due the Village are paid, such deposits will be returned.
- E. Discontinuance of Service. Water furnished to any property for any purpose, stands charged against such property regardless of change of ownership, and the Village reserves the right to discontinue the service from such property for any unpaid bill or bills, accumulated by former owner or owners, and refuses to turn same on again until all arrearages and penalties are paid. In case of transfer of a property the Commissioner of Water and Sewer shall be immediately notified so that proper adjustment may be made of any charges or repair bills against such property.

§ 62-9. Inspections.

The Board reserves the right to enter the premises of any consumer to examine the pipes and fixtures to determine the quantity of water used and the manner of use and to inspect test or read the meter.

§ 62-10. Damages due to change in water pressure.

The village shall not be liable for any damage or loss to property or to any business which may arise from or be caused by any change in water pressure, regardless of cause.

§ 62-11. Temporary discontinuance of service.

Upon written notice to the Village Clerk service maybe temporarily discontinued; however, the consumer shall still be required to pay the minimum bill for the semiannual period in which such discontinuance occurred.

§ 62-12. Disputed bills.

- A. Water bills which appear excessive may be brought to the attention of the Board, which shall investigate the billing within ten (10) days after notice. The meter shall be reread and, if the billing reading was incorrect, a corrected bill shall be prepared.
- B. If the bill is found to be correct, the Board shall, upon the request of the consumer, cause the consumer's pipes and fixtures to be inspected for leaks or defects resulting in waste and shall report the results of such inspection to the consumer.
- C. Where it appears waste has resulted because of circumstances beyond the control of the consumer, the Board may allow an allowance on the consumer's bill; however, such allowance shall not exceed fifty percent (50%) of that amount of the bill which exceeds the average bill for the billing period involved. No allowance shall be made where the consumer has been negligent in the installation and care of his pipes and fixtures, nor where water has been used for any purpose not disclosed in the consumers complaint to the Board.
- D. Allowance on disputed bills shall be at the sole discretion of the Board, except that each consumer shall be entitled to no more than one (1) such allowance each five (5) years.

§ 62-13. Penalties for offenses.<sup>1</sup>

- A. Any person committing an offense against any provision of this chapter shall, upon conviction be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.
- B. In addition to the above provided penalties, the Village Board of Trustees may also maintain an action or proceeding, in the name of the village, in a court of competent jurisdiction, to compel compliance with or to restrain by injunction the violation of this chapter.

§ 62-14. Regulations regarding Cross-connections.

- A. Where protection is required.
  - 1. Each service connection from a public water system for supplying water to premises having an auxiliary water supply shall have no interconnection into the public water system.
  - 2. Each service connection from a public water supply, for supplying water to premises on which any substance is handled under pressure in such fashion as to permit entry into the water system, shall be protected against backflow of the water from the premises into the public system. This shall include the handling of process waters and waters originating from the public water supply system which may have been subject to deterioration in sanitary or chemical quality.
  - 3. Each service connection from a public water system for supplying water to a hazardous facility shall be protected against backflow of the water from premises into the public system.

B. Type of protection. The protection device required shall depend on the degree of hazard as tabulated below:

1. At the service connection to any premises defined as non-hazardous where there is an auxiliary water supply handled in separate piping system with no known cross-connection if the user justifies the need for a separate source of water, the public water supply shall be protected by:
  - a. Requiring the user to regularly examine the separate water source as to its quality;
  - b. Approving the use of only those separate water sources which are properly developed, constructed, protected and found to meet the requirements of Sections 5-1.51 and 5-1.52 of Subpart 5-1 of the New York State Sanitary Code;
  - c. Filing such approvals with the State annually;and
  - d. Requiring an internal plumbing control.
2. At any service connection to any premises defined as a hazardous facility, the public water supply shall be protected by an approved RPZ or air gap to be installed in the service connection to the public water distribution system. Each of the below listed facilities are considered hazardous facilities:

Type of Facility	Potential Hazard
Sewage & industrial wastewater treatment plants & pumping stations, sewer flushers, etc.	Sewage industrial wastewater, contaminated water, toxic chemicals, etc.
Paper manufacturing or processing, dye plants, petroleum processing, printing plants, chemical manufacturing or processing, industrial fluid systems, steam generation, rubber processing, tanneries	Toxic chemicals, water conditioning compounds Examples: Toxic dyes, acids, alkalies, solvents, quaternary ammonia compounds, mercury, chromium, etc.
Canneries, breweries, food processing, milk processing, ice manufacturing, meat packers, poultry processing, rendering companies, etc.	Process wastewater, steam, detergents, acids, caustics, refrigeration lines
Hospitals, clinics, laboratories, veterinary hospitals, mortuaries, embalmers, etc.	Bacterial cultures, laboratory solutions, blood & tissue waste, toxic materials, etc.
Metal-plating, photo-processing, laundries, commercial car washes,	Toxic chemicals, concentrated cleaning agents, solvents, etc.

commercial refrigeration systems,  
dry cleaning establishments, etc.

Examples: Cyanides,  
fluorides, copper,  
chromium, caustic &  
acid solutions, etc.

Commercial greenhouses,  
spraying & irrigation systems  
using weedicides, herbicides,  
exterminators

Toxic chemicals  
Examples: Ammonium  
salts, phosphates, 2,4 D  
sodium, arsenite,  
lindane, malathion, etc.

Type of Facility  
Boiler systems, cooling towers  
or internal fire-fighting systems  
using conditioners, inhibitors,  
corrosion control chemicals, etc.  
Typically: apartment buildings,  
cooling towers, warehouses

Potential Hazard  
Toxic chemicals  
Examples: Hydrazine,  
sodium compounds,  
antifreeze solutions, etc.

3. At any service connection to aesthetically objectionable facilities, an approved DCV must be installed in the service connection to the public water distribution system. Each of the below listed facilities are considered aesthetically objectionable facilities:

Type of Facility  
Customer fire protection loops,  
fire storage tanks; with no  
chemical additives

Potential Hazard  
Stagnant water, objectionable  
tastes, odors

High temperature potable water

Objectionable temperatures

Utilization of food grade dyes

Objectionable color

Complex plumbing systems in  
commercial buildings  
Typically: barber shops,  
beauty salons, churches,  
apartment buildings,  
gas stations, supermarkets,  
nursing homes, construction  
sites, carnivals

Plumbing errors, obsolete  
plumbing equipment, poor  
plumbing inspection/correc-  
tion programs

- C. Frequency of inspection of protective devices. It shall be the duty of the water user on any premises on account of which backflow protective devices are installed, to have competent inspections made at least once a year, or more often in those instances where successive inspections indicate repeated failure. These devices shall be rebuilt or replaced at the expense of the water user whenever they are tested and found to be defective but at least every 5 years. These tests shall be performed by a certified backflow prevention device tester, and all test results will be provided to the water department within seventy-two hours after the test is made. Records of such tests, repairs and overhaul shall also be kept and made available to the water department and the local health department upon request.

- D. Recourse for noncompliance.

1. No water service connection to any premises shall be installed or maintained by the water department, unless the water supply is protected as required by state regulations and this local law.
2. Service of water to any premises may be discontinued by the Village, if a backflow preventive device required by this local law is not installed, tested and maintained; if any defect is found in an installed backflow preventive device; if it is found that a backflow preventive device has been removed or bypassed; if unprotected cross-connections exist on the premises; and service will not be restored until such conditions or defects are corrected.

[Note: § 61-14 amended by Local Law 7-1995 on 7-11-95.]

§ 62-15. Protection of potable water system within premises.

- A. Separate drinking water systems. Whenever the water department determines that it is not practical to protect drinking water systems on premises against entry of water from a source or piping system or equipment that cannot be approved as safe or potable for human use, an entirely separate public water supply shall be installed to supply water at points convenient for consumers.
- B. Fire systems. Water systems for fighting fire, derived from a supply that cannot be approved as safe or potable for human use shall, wherever practicable, be kept wholly separate from drinking water pipelines and equipment. In cases where the domestic water system is used for both drinking and fire-fighting purposes, approved backflow prevention devices shall be installed to protect such individual drinking water lines as are not used for fire-fighting purposes. Any auxiliary fire-fighting water supply which is not approved for potable purposes shall not be connected such that it may be introduced into potable water piping.
- C. Process waters. Potable water pipelines connected to equipment for industrial processes or operations shall be protected by a suitable backflow prevention device located beyond the last point from which drinking water may be taken, which device shall be provided on the feed line to process piping or equipment. In the event the particular process liquid is especially corrosive or apt to prevent reliable action of the backflow prevention device, air gap separation shall be provided. These devices shall be tested by the water user at least once a year, or more often in those instances where successive inspections indicate repeated failure. The devices shall be rebuilt or replaced whenever they are tested and found to be defective but at least every 5 years. These tests must be performed by a qualified backflow prevention device tester at least every year, and records of tests, repairs and replacement shall be kept and a copy forwarded to the water superintendent.
- D. Plumbing connections. Where the circumstances are such that there is special danger to health by the backflow of sewage, as from sewers, toilets, hospital bedpans and the like, into a drinking water system, a dependable internal plumbing control device shall be installed to prevent such backflow.

The purpose of these regulations is only to deal with those extraordinary situations where sewage may be forced or drawn into the drinking water piping. These regulations do not attempt to eliminate at this time the hazards of back-siphonage through flushometer valves on all toilets, but deal with those situations where the likelihood of vacuum conditions in the drinking water system is definite and there is special danger to health. Devices suited to the purpose of avoiding back-siphonage from plumbing fixtures are roof tanks, barometric loops or separate pressure systems separately piped to supply such fixtures, recognized approved vacuum or siphon breaker and other

backflow protective devices which have been proved by appropriate tests to be dependable for destroying the vacuum.

Inasmuch as many serious hazards of this kind are due to water supply piping which is too small, thereby causing vacuum conditions when fixtures are flushed or water is drawn from the system in other ways, it is recommended that water supply piping that is too small be enlarged whenever possible.

- E. Marking safe and unsafe water lines. Where the premises contain dual or multiple water systems and piping, the exposed portions or pipelines shall be painted, banded or marked at sufficient intervals to distinguish clearly which water is safe and which is not safe. All outlets from secondary or other potentially contaminated systems shall be posted as being contaminated and unsafe for drinking purposes. All outlets intended for drinking purposes shall be plainly marked to indicate that fact.

Water supervisor. The health department and the water department shall be kept informed of the identity of the person responsible for the water piping on all premises concerned with these regulations. At each premises where it is necessary in the opinion of the water department, a water supervisor shall be designated. This water supervisor shall be responsible for the installation and use of pipelines and equipment and for the avoidance of cross-connections.

In the event of contamination or pollution of the drinking water system due to a cross-connection on the premises, the local health officer and water department shall be promptly advised by the person responsible for the water system so that appropriate measures may be taken to overcome the contamination.

[Note: § 62-15 amended by Local Law 7-1995 on 7-11-95.]

#### § 62-16. Discontinuance of service.

1. General rules. Water service may be discontinued by the Village for any of the following reasons:
  - a. Use of water other than as represented in customer's application, or through branch connections on the street side of the meter or place reserved therefor.
  - b. Willful waste of water through improper and imperfect pipes, or by any other means.
  - c. Damaging or molesting any main, service line, seal, meter, or any other property or installation of the district.
  - d. Nonpayment of bills for water or services rendered by the Village.
  - e. Cross-connecting pipes carrying water supplied by the Village with any other source of supply, or with any apparatus which may endanger the quality of the Village's water supply without proper devices and prior approval.
  - f. Refusal of reasonable access to the property for the purposes of reading, repairing, testing or removing meters or inspecting water piping and other fixtures.
  - g. For violation of the rules of the department as set forth in its rules and regulations.

- h. For failure to repair leaky service lines after notice.

If any building is razed, moved or abandoned, it will be the responsibility of the owner or the authority which requires such razing, moving or abandonment by virtue of public improvement to notify the water department to remove the water meter. The owner may be required to discontinue the lateral line at the curb box by physically removing the service line connection at the curb box, under the supervision of the water department.

- 2. When for any reason the use of a service is discontinued, such service shall be shut off at the curb cock, and in case this section has not been complied with, such service may be so shut off, and all expense connected therewith shall be borne by the owner and chargeable against the property at which such service was discontinued regardless of whether or not such owner owned such property at the time that such service was discontinued. If the owner refused to reimburse the water department for service so rendered, the water will not be restored until payment is made.

[Note: § 62-16 amended by Local Law 7-1995 on 7-11-95.]

## Chapter 65

### ZONING

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## Schedule of Zoning Regulations

[HISTORY: Adopted by the Board of Trustees of the Village of Port Dickinson 76-10-58; amended in its entirety 8-18-74. Amendments noted where applicable.]

### GENERAL REFERENCES

Building construction — See Ch. 26.

Street construction — See Ch. 51.

Streets and sidewalks — See Ch. 52.

Subdivision of land — See Ch. 53.

## ARTICLE I General Provisions

§ 65-1. Title; short title.

- A. The title of this chapter shall be: “An Ordinance Regulating the Location, Construction and Use of Buildings and Structures and Regulating the Use of Land in the Village of Port Dickinson, New York, and for Said Purposes Dividing the Village Into Districts.”

B. This chapter may be known and may be cited as the “Village of Port Dickinson Zoning Ordinance.”

§ 65-2. Purpose.

This chapter is enacted for the purpose of promoting the health, safety, morals and general welfare of the community by lessening congestion in the streets and securing safety from fire, panic and other dangers; by providing adequate light and air; by preventing the overcrowding of land; to protect and conserve the value of property by avoiding undue concentration of population; by facilitating the adequate provision of transportation, water, schools and other public requirements; and by regulating the location and use of buildings, structures and land for trade, residence and other purposes in accordance with the Comprehensive Plan.

§ 65-3. Definitions, word usage.

- A. Word usage. For the purpose of this chapter, words used in the present tense include the future; the plural includes the singular; the word “lot” includes the word “plot”; the word “building” includes the word “structure”; the word “shall” is intended to be mandatory; the word “occupied” includes the words “designed for occupancy or intended to be occupied.”
- B. Definitions of words and terms. As used in this chapter, the following terms shall have the meanings indicated:

**ACCESSORY BUILDING** — A subordinate building or a portion of the main building of a lot, the use of which is customarily incidental to that of the main or principal building, except that Handicap Access Ramps shall not be deemed to be an accessory building. (See Accessory Permitted Uses in Schedule of Zoning Regulations for Residential Districts) [Amended 12-9-03 by Local Law 5-2003]

**ACCESSORY USE** — A use customarily incidental and subordinate to the principal use of building and located on the same lot with such principal use of building.

**BUILDING** — Any structure on a lot resting upon a support or foundation and shall include any physical features other than a boundary wall or fence.

**BUILDING, HEIGHT OF** — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for fiat roofs, to the top line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**BUILDING LINE** — A line parallel to the street line drawn between the points of the front yard setback as measured along each side lot line and/or the required setback from property lines to the building proper, front, sides and rear.

**COVERAGE** — The percentage of the plot or lot area covered by the building area.

**CELLAR or BASEMENT** — A story partly underground, the walls of which are used as the foundation and/or substructure for those remaining stories of the structure partially or completely above mean grade level.

DWELLING, MULTIPLE — A building or portion thereof containing three (3) or more dwelling units.

DWELLING, ONE-FAMILY — A detached building designed for or occupied exclusively by one (1) family.

DWELLING, TWO-FAMILY — A detached building designed for or occupied by two (2) families living independently.

DWELLING UNIT — A building or portion thereof providing complete housekeeping facilities for one (1) family.

ELECTRICAL DISTRIBUTION SUBSTATION — An assemblage of equipment designed to receive energy from a high voltage distribution supply system, to convert it to a form suitable for local distribution and to distribute the energy to feeders through switching equipment designed to protect the service from the effects of faults.

FAMILY [Amended 4/10/01, L.L. 2-2001]

1. Any number of individuals related by blood, marriage or adoption, and their domestics and servants, if any, living and cooking together on the premises as a single housekeeping unit;

2. Not more than two (2) persons, not related by blood, marriage or adoption, together with their minor children by blood, marriage or adoption, living and cooking together on the premises as a single housekeeping unit though not related by blood, marriage or adoption; or

3. More than two (2) persons not related by blood, marriage or adoption, together with their minor children by blood, marriage or adoption, living together on the premises as a functional family unit subject to the issuance of a special permit by the Zoning Board of Appeals pursuant to the standards enumerated in Section 65-39 (B) (2A) of the Village Code.

FLOOD - Deleted 8-14-01 by L.L. No. 11-2001 as now contained in Code Section 65-23.

FLOOD FRINGE - Deleted 8-14-01 by L.L. No. 11-2001 as now contained in Code Section 65-23.

FLOODWAY - Deleted 8-14-01 by L.L. No. 11-2001 as now contained in Code Section 65-23.

FLOOD, ONE-HUNDRED-YEAR - Deleted 8-14-01 by L.L. No. 11-2001 as now contained in Code Section 65-23.

GROSS FLOOR AREA (GFA) — The total area of all floors within the exterior walls of the building, excluding basements, cellars, garages, open or screened porches, patios or awning overhangs.

HOME OCCUPATION — Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. No person outside of the dwelling shall be employed in the home occupation. There shall be no external evidence of such use except an announcement or sign not over two (2) square feet in area.

**LOT** — A parcel of land occupied or capable of being occupied by one (1) building and accessory building and/or uses, including such open spaces as are required by this chapter.

**LOT, CORNER** — A lot situated at the junction of two (2) or more streets or highways.

**LOT DEPTH** — The mean horizontal distance between the front and rear lot lines, measured from the street or highway right-of-way line to opposite rear lot lines.

**LOT WIDTH** — The mean width of a lot measured at right angles to its depth.

**MOBILE HOME** — Any portable vehicle which is designed to be transported on its own wheels or those of another vehicle; which is used, designed to be used and capable of being used as a detached single family residence; and which is intended to be occupied as permanent living quarters containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities and plumbing and electrical connections for attachment to outside systems. This definition of “mobile home” includes all additions which are purchased and added thereto or additions made subsequent to installation. This definition does not include modular housing placed on a standard foundation or a travel trailer.

**MOBILE HOME TRAILER PARK** — Any parcel of land which is planned and improved for the placement of two (2) or more mobile homes which are used as dwellings and for occupancy of more than ninety (90) consecutive days.

**MODULAR HOUSING** — Prefabricated, modular or sectional housing units in excess of fourteen (14) feet in width, placed permanently on a standard foundation and which arrive on site in more than one component, and which meet all regulations of the New York State Building Code.

**NONCONFORMING BUILDING** — A building, structure or portion thereof, lawfully existing on the effective date of this chapter, or subsequent amendment thereof, which does not completely conform to the regulations applicable in the district in which it is located.

**NONCONFORMING USE** — A building, structure or use of land existing at the time of the enactment of this chapter, or subsequent district amendments, and which does not conform to the regulations of the district or zone in which it is situated.

**PARKING SPACE, OFF-STREET** — An off-street space, area or berth, with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

**PROFESSIONAL OFFICES** — An office located in the full-time residence of a professional, such as accountant, architect, dentist, medical doctor, engineer, insurance broker, lawyer, real estate broker, surveyor and the like. The office staff shall consist of no more than three (3) persons in addition to the professional and use a total area of no more than thirty-three percent (33%) of the combined gross floor area.

**PUBLIC UTILITY STRUCTURE** — A building, structure or lot used for or in connection with the transmission, distribution or regulation of water, electric, gas, telephone service or other public utility service.

**QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING** — A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale, as an industrial operation,

and exclusive of the process of excavation and grading a lot preparatory to the construction of a building for which application for a building permit has been made.

**SIGN** — A structure, part thereof or device attached thereto, or painted or represented thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, device, trademark or other representation used as an announcement, designation, direction or display to advertise or promote any person, firm, group, organization, commodity, service, profession or enterprise when said display is placed out-of-doors in view of the general public.

- A. **ADVERTISING SIGN** — A sign which directs attention to a business, industry, profession, commodity, service, or entertainment not sold or offered upon the same premises where the sign is located.
- B. **BUSINESS SIGN** — A sign which directs attention to a business, industry, profession, commodity, service or entertainment sold or offered upon the same premises where the sign is located.
- C. **DIRECTIONAL** — A sign, which is not illuminated, used for the purpose of stating the name or location of a municipality, a municipal building, hospital, community center, church or school or the name or place of meeting of an official or civic body (e.g., Rotary, Lions or Kiwanis), with no advertising matter contained on such sign.
- D. **DOUBLE-FACED OR V-TYPE SIGN** — Any two-faced sign utilizing both faces or surfaces for display purposes.
- E. **FACING or SURFACE** — The surface of the sign upon, against or through which the message of the sign is exhibited.
- F. **GROUND SIGN** — A sign which is not attached to any building.
- G. **PROJECTING SIGN** — A sign which is attached to the wall of any building or structure and which extends beyond the surface of such wall a distance greater than twelve (12) inches. Projecting sign shall include marquees. See also Subsection I “wall sign.”
- H. **ROOF SIGN** — A sign constructed or supported upon the roof of any building or structure.
- I. **WALL SIGN** — A sign which is attached to the wall of any building or structure and which does not extend beyond the surface of such wall a distance greater than twelve (12) inches. See also Subsection G “projecting sign.”

**TRAVEL TRAILER** — A travel trailer is any portable vehicle which is designed to be transported on its own wheels; which is temporary living quarters for travel, recreational or vacation purposes, or for office use; and which may or may not include one (1) or all of the accommodations and facilities in a mobile home.

**YARD, FRONT** — An open unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

**YARD, REAR** — An open unoccupied space, except for accessory buildings, on the same lot with the building between the rear line of said building and the rear lot line and extending the full width of the lot.

YARD, SIDE — An open unoccupied space on the same lot with the building, between the side line of the building and the side lot line and extending from the front yard to the rear yard. Any lot line not a rear or front line shall be deemed, a side lot line.

## ARTICLE II Establishment of Districts; Map

### § 65-4. Establishment of districts. [Amended 12-5-78 No. 1-1978]

For the purposes of this chapter, the Village of Port hereby divided into the following types of districts:

- R District: Residential District
- RM District: Multiresidential District
- C District: Commercial District
- I District: Industrial District
- PUD District: Planned Unit Development District (Added 4/14/98, L.L. No. 2-1998)

### § 65-5. Zoning Map.

- A. Said districts are shown, defined and bounded on a map entitled “Zoning Map, Village of Port Dickinson,” adopted on June 10, 1958, updated on July 29, 1974, and certified by the Village Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter.
- B. The Village Clerk shall engage a qualified person (civil engineer, licensed surveyor, etc.) to make changes map as directed by the Village Clerk, which map shall be available for public inspection.

### § 65-6. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- B. Where district boundaries are indicated as approximately following the center lines of streets or highways, street, lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as may be indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- D. Where uncertainty exists in determining the precise location of any district boundary line, the Board of Appeals shall interpret the intent and purpose of the Zoning Map.

§ 65-7. Lots in more than one district.

Where a district boundary line divides a lot which is in single or joint ownership of record at the time such boundary line was established, the regulations for the less restricted portion of such lot shall extend not more than twenty (20) feet into the more restricted portion, provided the lot has frontage on a street or highway in the less restricted portion.

### ARTICLE III General Regulations

§ 65-8. Application of regulations.

Except as hereinafter provided:

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

§ 65-9. Nonconforming buildings and uses.

- A. Continuation of nonconforming buildings or uses. The lawful use of any building or use of land existing at the time of the enactment of this chapter may be continued, although such use may not conform with the provisions of this chapter, except as hereinafter provided.
- B. Changes. A nonconforming use may not be changed to a more intensive nonconforming use, nor shall a conforming use be changed to a nonconforming use. Any nonconforming use, when changed to a conforming use, shall not thereafter be changed back to a nonconforming use. A nonconforming use, building or structure shall not be enlarged.
- C. Restoration. No building which has been damaged by fire or other natural causes to the extent of fifty percent (50%) of its replacement cost shall be repaired or rebuilt except in conformity with the regulations of this chapter. However, single- or two-family dwellings shall be permitted to be rebuilt on the same foundation if practical difficulties make it a hardship to meet the yard setback requirements of this chapter.
- D. Alterations and extensions. No nonconforming building shall be altered, or nonconforming use of building or land extended, except as authorized by the Zoning Board of Appeals.
- E. Abandonment and discontinuance. Whenever a nonconforming use has been abandoned or discontinued for a period of one (1) year, any future use shall be in conformity with provisions of this chapter.

§ 65-10. Schedule of regulations. [Amended 12-5-78 by L.L. No. 1-1978]



Regulations relating to zoning districts are hereby created and established as shown on Attachments I through VII, entitled "Schedule of Zoning Regulations, Village of Port Dickinson," which schedule is hereby adopted as a part of this chapter and which, with all explanatory matter thereon, is hereby made a part of this chapter.

Section 65-10 A                      Appointment of Ad Hoc Members to Planning Board?

[Added 3-14-00 by Local Law 3-2000]??    A.    The Mayor of the Village of Port Dickinson subject to the approval of the Board of Trustees may, in any year it deems necessary, appoint temporary ad hoc ? members to its Planning Board to serve as provided in this section.?

ARTICLE IV  
Supplementary Regulations

§ 65-11. Application of Article.

The provisions of this chapter shall be subject to such exceptions, additions or modifications as are provided by the supplementary regulations contained in this Article.

§ 65-12. Dwellings on small lots.

Nothing in this chapter shall prohibit the erection of a one-family dwelling on any lot of less than the required area, provided that all other provisions of this chapter are complied with, if, at the time of passage of this chapter, such lot was held under separate ownership or lesseeship from the adjoining lots.

§ 65-13. Visibility at intersections.

Clear vision on comer lots shall be maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are twenty (20) feet distant from the point of intersection, measured along said street lines. In such area, no foliage, shrubbery, fence or other obstruction shall be permitted higher than three (3) feet, nor low foliage or branches of trees less than twelve (12) feet from the ground.

§ 65-14. Off-street parking requirements.

Each land user shall provide sufficient suitable on-site parking spaces with necessary ingress and egress to said spaces, as required by this chapter, in order to prevent any necessity for off-site parking. The number of parking spaces required per each use are defined on the attached "Schedule of Zoning Regulations."

§ 65-15. Off-street loading requirements.

Each business or industrial use hereafter erected shall provide off-street loading space, not located on a public street or highway, with necessary ingress and egress. The number of loading spaces required for nonresidential, commercial or industrial use are defined on the "Schedule of Zoning Regulations."

§ 65-16. Garages and filling stations.

Garages and filling stations shall be subject to the issuance of a special permit by the Board of Appeals and shall also be subject to the following conditions:

- A. No garage or filling station lot shall be located within two hundred fifty (50) feet from a lot or parcel occupied by a public school, public or private hospital, public library or a church. The measurement distance shall be from the closest lot line to the closest lot line.
- B. No repair work shall be performed out-of-doors.
- C. Pumps and lubricating or other devices shall be located at least twenty (20) feet from any street line or highway right-of-way.
- D. All fuel, oil or similar substances shall be stored at least thirty-five (35) feet distant from any street or lot line.<sup>1</sup>
- E. All automobile parts, dismantled and/or unregistered vehicles and similar articles shall be stored within a building.<sup>2</sup>
- F. Any illumination shall be nonflashing, indirect or diffused, and shall be so constructed that the illumination shall not shine or reflect light into adjacent properties.

§ 65-17. Billboards and display signs.

No billboard, poster, panel, advertising sign or display sign shall be erected or maintained in any district except as hereinafter provided.

A. Residence districts.

(1) In residential districts, no advertising sign or structure, etc., will be permitted except:

- (a) One (1) small announcement or professional sign, not to exceed two (2) square feet in area, erected only in connection with a customary home occupation permitted in such district or districts.
- (b) One (1) sign, not to exceed three (3) square feet in area, for each tourist home, erected where permitted in such districts.
- (c) One (1) sign, not to exceed six (6) square feet, stating that the real property or a part thereof upon which said sign is located is for sale or rent.
- (d) One (1) sign, not to exceed sixteen (16) square feet in area, for each church or institutional building, erected where permitted in such districts.
- (e) One (1) temporary real estate development sign, not to exceed thirty-six (36) square feet, directing attention to the opening of a new subdivision. Such sign shall require a permit issued by the Ordinance Administrator. Said permit shall be issued for a period of twelve (12) months and may be renewed upon application.

- (f) Directional or information signs, not exceeding two (2) square feet in area and not illuminated. Said signs may be used for the purpose of stating the name or location of a town, hospital, community center, church, school, or the name or place of meeting of an official or civic body (i.e., Lions Club). No advertising matter shall be contained on signs of this type.
  - (g) Advertising signs not exceeding thirty-two (32) square feet in area located on the interior wall of the fence surrounding the Community Association baseball diamonds located on the property of the Port Dickinson Community Association at the northwest corner of Phelps Street and New York State Route 7. Said signs shall not extend above the top of the fence and in no instance shall be higher than five (5) feet. [Added 12-7-76 by L.L. No. 6-1976]
- (2) The signs or bulletin boards listed above shall be set back from the street line one-third (1/3) the distance of any required yard but shall in no instance be closer than eight (8) feet to any lot line.
  - (3) The signs or bulletin boards listed above shall be at least one (1) foot clear above the ground but shall not exceed a height of six (6) feet above the ground.
- B. Commercial and Industrial Districts. Within Commercial C and Industrial I Districts, only one (1) single-faced or double-faced billboard, display sign, etc. (a double-faced sign shall be considered as single-faced in computing display area), shall be allowed on any building lot, and it shall:
- (1) Not exceed two (2) square feet for every one (1) linear foot of street frontage on any lot upon which said billboard or display sign is located, but in no case shall any such billboard or display sign exceed three hundred (300) square feet in usable display area.
  - (2) Be located twenty-five (25) feet or more from any street or highway right-of-way line, shall be three (3) feet or more clear above the ground and shall be ten (10) feet or more from any lot line.
  - (3) Not exceed a height of twenty (20) feet above the ground.
  - (4) Be located at least one hundred fifty (150) feet or more from any public school, public park or playground, hospital, church or other similar places of public assembly. The distance shall be measured from building to building.
  - (5) Be located in such a manner so as not to be in the same line of vision as traffic control signals. If for some reason this alignment is not possible, no red, green or amber illumination or reflection shall be permitted.
  - (6) Be maintained by the owner or lessee to the satisfaction of the Ordinance Administrator or any other designated officer.
- C. Within any district where a billboard, poster, panel, advertising sign, display sign, etc., is permitted, the illumination of such sign shall be nonflashing, indirect or diffused and shall be so constructed so that the illumination shall not shine or reflect light into adjacent properties.
- D. Amorization of nonconforming signs. Any signs that are not in conformance with this chapter at the time of its enactment shall be brought into conformance with the chapter within two (2) years after enactment of the chapter.

§ 65-18. Waste disposal.

Dumping of refuse, waste materials and other substances is permitted subject to the issuance of a special permit by the Zoning Board of Appeals as provided in Article VIII, § 65-39. The dumping of refuse, etc., in districts where permitted shall not be allowed to become unsightly or constitute a menace to public health or safety. A permit from the Broome County Health Department shall be provided. The following regulations shall apply:

- A. Dumping shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m.
- B. Each day's dumping shall be covered with at least four (4) inches of clean fill dirt.
- C. The operator of the dump shall at all times keep fire hazard at a minimum.

§ 65-19. Private sewage disposal systems.

Private sewage systems shall be so located, constructed and maintained that they shall not be offensive and shall not by leakage or seepage offer a possible pollution of any water supply, adjacent surface waters or ground surfaces. Engineering evidence of compliance with this requirement shall be submitted by each applicant before the issuance of a building permit. A permit from the Broome County Health Department shall be obtained.

§ 65-20. Site plan review.

Notwithstanding other provisions of this chapter, a site plan shall be reviewed by the Planning Board and approved in writing thereon before a building permit is issued in all instances hereinafter stated, for the purpose of ensuring that the public welfare will be safeguarded by safe, adequate and sufficient ingress, egress, off-street parking and loading, surface water runoff control and open spaces required by this chapter.

- A. Site plan approval shall be required of:
  - (1) All nonresidential uses in R Districts.
  - (2) All multiple dwellings and nonresidential uses in RM Districts.
  - (3) All multiple dwellings and commercial uses in C Districts.
  - (4) All uses in I Districts.
  - (5) All uses in Planned Unit Development Districts. (Added 4-14-98, L.L. ?No. 2-1998)
- B. A site plan to be reviewed by the Planning Board shall be drawn to a scale of not less than one (1) inch equals twenty (20) feet and shall show:
  - (1) All proposed buildings and other structures.

- (2) All required off-street parking and loading spaces, driveways and points of access between the property or properties in question and any public roads.
  - (3) The existing topography, including contours with intervals not to exceed two (2) feet and any proposed regrading and structures to accommodate drainage of surface water.
- C. Prior to the issuance of a building permit by the Administrative Officer, the Planning Board shall review and recommend either approval, approval subject to modification or disapproval of said site plan within sixty (60) days after receipt thereof. In agreement with the applicant, additional review time may be extended beyond the sixty-day period. Failure of the Planning Board to respond to said application in the designated time will permit the Administrative Officer to act without the Planning Board's recommendation. The building permit shall be issued subject to regulations contained in Article VII, § 65-35.
- D. The Planning Board is required to find the following in determining if a site plan, properly submitted, shall be approved:
- (1) All buildings and other structures proposed meet the minimum requirements of this chapter.
  - (2) Off-street parking and loading spaces, the means of reaching them, points of access with public roads, and required planting and buffer strips will be adequate and sufficient to assure safe and uncongested traffic movements at the present time and in the future and that adjacent properties are safeguarded from excessive noise, glare, dust and drainage of water.
  - (3) The means shown to accommodate the drainage of surface waters from the property or properties in question are approved by the village (Engineer, Public Works Superintendent) in writing.

ARTICLE V  
Flood Damage Prevention  
[Added 4-7-87 by L.L. No. 2-1987<sup>1</sup>]

§§ 65-21 through 65-22. (Reserved)

<sup>1</sup> Editor's Note: This local law also repealed former Article V. Flood Management District, added 641-77 by LL. No. 3-1977. ?

ARTICLE VI  
Special Use Permits

§ 65-28. Standards.

Uses permitted after the issuance of a special permit by the Zoning Board of Appeals shall conform to the following:

- A. The provisions prescribed herewith for each special permit use.
- B. All other applicable provisions for the district for which said use is permitted, unless said provisions are waived by the Board of Appeals.

§ 65-29. Hotels and motels.

Special permits for hotels in RM Residential Districts may be granted by the Zoning Board of Appeals provided that other than guest room facilities (i.e., food and beverage services, newsstands, cleaning and laundry facilities, etc.) are intended primarily for the use of hotel residents and guests.

§ 65-30. Electrical distribution substations.

Electrical distribution substations and other utility structures of a similar nature may be permitted in any district in the village, provided that a permit has been obtained from the Zoning Board of Appeals. The permit shall be granted only after the Zoning Board of Appeals is satisfied that there will be substantial compliance with the following standards:

- A. The facility shall be surrounded by a fence set back from the property lines in conformance with the district regulations for front, side and rear yards.
- B. Suitable landscaping shall be provided in conformity to the area.
- C. Landscaping at comers of street intersections shall be so arranged so as not to obstruct clear vision.
- D. In residential areas, sound from the transformers shall be kept to a tolerable level in accordance with accepted standards as determined by local health authorities in conformity with standards of the New York State Department of Health and/or the Public Service Commission.

§ 65-31. Mobile home trailers.

Special permits for mobile home trailers located in mobile home parks in RM Residential Districts may be granted by the Zoning Board of Appeals provided that the mobile home trailer comply with the regulations as outlined for a single-family residence in an R Residential District. The Zoning Board of Appeals may impose other controls which are deemed necessary as outlined in Article VIII, § 65-39.

§ 65-32. Professional offices.

A professional office may be permitted in residential districts provided that:

- A. The professional office staff shall consist of no more than three (3) people in addition to the professional, himself. The staff may include employees or associates.
- B. One (1) vehicle parking space, with a minimum dimension of ten by twenty (10 x 20) feet, with necessary ingress and egress to said parking space and not on any public right-of-way, shall be provided for each fifty (50) square feet of gross floor area.
- C. The professional office shall be an integral part of the full-time residence of the professional and shall contain no more than thirty-three percent (33%) of the combined gross floor area.
- D. Appropriate landscaping shall be provided in conformity with the district in which such office is located.

- E. The Zoning Board of Appeals shall review the site and make a determination that the use will not constitute a traffic hazard. The Zoning Board of Appeals may place conditions on use to alleviate such hazard.
- F. A professional, within the meaning of this section, shall be limited to the following: accountant, architect, dentist, doctor, engineer, insurance broker, lawyer, real estate broker and surveyor.

§ 65-33. Signs.

A special permit to exceed the requirements as set forth for permitted signs may be granted if the use for which such permit is sought will meet the requirements of Article IV, § 65-17.

ARTICLE VII  
Administration and Enforcement

§ 65-34. Enforcing official.

This chapter shall be enforced by the Administrative Officer, a designated official appointed by the Village Board of Trustees who shall in no case, except under written order of the Zoning Board of Appeals, grant any building permit or certificate of occupancy for any building or premises, where the proposed construction, alteration or use thereof would be in violation of any provision of this chapter.

§ 65-35. Building permit and site plan approval.

- A. No building shall be erected, added to or structurally altered, nor shall any land be used in any district, until a permit has been issued by the Administrative Officer in accordance with requirements of this chapter and as hereinafter set forth.
- B. All applicants for a building permit shall submit two (2) copies of either a plot plan or site plan approved by the Planning Board, or a plot plan or approved site plan accompanied by a written order of the Board of Appeals, where such approval is required by other sections of this chapter.
- C. A plot plan shall be drawn to scale, with all dimensions indicated, showing the exact location of all buildings and required driveways, parking areas, utilities and other appurtenances.
- D. Building permits shall expire one (1) year from the date of issuance. In the event that construction is not complete at the end of one (1) year, an extension of no more than six (6) months may be granted by the Administrative Officer.

§ 65-36. Permit fees.

A fee may be charged for every permit issued. The amount of such fee shall be as determined by the Village Board in Section 26-9 of this Code. [Amended by Local Law 5-1996.]

§ 65-37. Certificate of occupancy.

- A. A certificate of occupancy shall be applied for coincident with the application for a building permit. A certificate of occupancy shall be issued by the Administrative Officer upon completion of a structure erected or altered for the occupancy of the structure and the use designated in the permit for the building, provided that the structure and the premises actually comply with the provisions of this chapter. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this chapter.
- B. No nonconforming use shall be renewed, changed or extended except as authorized by Section 65-9 of this Code and until a building permit and a certificate of occupancy has been issued by the Administrative Officer. [Amended by Local Law 5-1996.]
- C. The Administrative Officer shall maintain a record of all certificates, and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.

ARTICLE VIII  
Zoning Board of Appeals

§ 65-38. Creation; appointment; organization.

A Zoning Board of Appeals is hereby created. Said Board shall consist of five (5) members, to serve for five-year terms expiring at the end of each official year, to be appointed by the Village Board. Vacancies shall be filled in the like manner; provided, however, that an unexpired term shall be filled for such unexpired term only. There shall be a Chairperson and an Acting Chairperson. The procedure of the Board and the conduct of its members shall be in conformity with § 7-712 of the Village Law and any rules of procedure adopted by said Board. [Amended by Local Law 5-1996.]

Section 65-38 A Appointment of Ad Hoc Members ? [Added 3-14-00  
by Local Law 2-2000]

A. The Mayor of the Village of Port Dickinson subject to the approval of the Board of Trustees may, in any year it deems necessary, appoint temporary ad hoc members to its Zoning Board of Appeals to serve as provided in this section.

B. The number of temporary members so appointed pursuant to this section in any year shall not exceed three (3).

C. Each temporary member shall be appointed for one-year term of office.

D. The chairman of Zoning Board of Appeals shall assign the temporary members as necessary when absence of regular members of the Board or conflicts of interest of regular members of the Board would otherwise prevent five (5) members of the Board from considering any pending matter.

E. No more than two temporary members shall sit in determination on any pending matter.

F. The temporary members shall designated on a rotating basis in the manner provided in the general governing rules of the Zoning Board of Appeals so that each temporary member shall have the same powers and duties as regular members of the Board until that matter is concluded.



G. Once designated to serve on a particular matter before the Board, the temporary member shall have the same powers and duties as regular members of the Board until that matter is concluded.

H. Any determination by the Board consisting of temporary members shall have the same weight and be entitled to the same authority as the same authority as the act or deed of the regular Zoning Board of Appeals and all laws, statutes and ? regulations shall apply and be applied with equal force and effect.

#### § 65-39. Powers and duties.

The Zoning Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows.

- A. Interpretation. Upon appeal from a decision by an administrative official to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- B. Use permits. To issue special permits pursuant to Village Law Section 7-725(b) for any of the uses for which this chapter requires the obtaining of such permits from the Zoning Board of Appeals, or for the extension of a building or use as such existed at the time of the passage of this chapter into a contiguous, more restricted district for a distance not exceeding thirty (30) feet, but not for any other use or purpose. [Amended by Local Law 5-1996.]
  - (1) No such special permit shall be granted by the Zoning Board of Appeals unless it finds that the use for which such permit is sought will not, in the circumstances of the particular case and under any condition that the Board considers to be necessary or desirable, be injurious to the neighborhood or otherwise detrimental to the public welfare.
  - (2) The Zoning Board of Appeals, after public notice and hearing, and on application, may issue a special permit for any use specified in Article VI, provided such special permit use complies with the general standards set forth as follows:
    - (a) Each special permit use must comply with the regulations of this chapter for the district within which it is to be located.
    - (b) Each special permit use shall be of such character, intensity, size and location that it will be in harmony with orderly development of the district in which it is to be located and will not adversely affect the neighborhood. [Amended by Local Law 5-1996.]
    - (c) Each special permit use may be located only in the district or districts permitted for such special permit use.
  - (3) In issuing a special permit, the Board shall impose reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit which it deems necessary (i.e., wall fencing, landscaping, etc.) to protect the value of adjacent properties and to provide for the orderly development of the surrounding area. [Amended by Local Law 5-1996.]
  - (4) The Board shall deny any application for a special permit which, in its judgment, is not in accordance with the general standards and would prove detrimental to adjacent properties.
  - (5) The Board may, when reasonable, waive any requirements for the approval, approval with modifications or disapproval of special use permits submitted for approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such

requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular special use permit. [Added by Local Law 5-1996.]

- (6) Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Board for an area variance pursuant to Section 7-712-b-3 of the Village Law, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations. [Added by Local Law 5-1996.]
- C. Use variances. The Board, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this chapter. [Added by Local Law 5-1996.]
  - D. Finding of facts for use variance. No such variance shall be granted by the Board without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located: [Added by Local Law 5-1996.]
    - (1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
    - (2) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
    - (3) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
    - (4) That the alleged hardship has not been self-created.
  - E. Granting of use variance. [Added by Local Law 5-1996.]
    - (1) The Board, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
  - D. Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed together with all documents pertaining thereto in the office of the Village Clerk, by case number under one or another of the following headings: Interpretations; Special Permits; Variances. The Zoning Board of Appeals shall notify the Village Board of Trustees and the Village Planning Board of each special permit and each variance granted under the provisions of this chapter.

#### § 65-41. Fees for special permits and variances.

A fee may be charged on all applications or appeals for special permits or variances. The amount of such fee shall be determined by the Village Board of Trustees.

#### ARTICLE IX Penalties

§ 65-42. Penalties for offenses. [Amended by Local Law 1-2003 adopted Jan.14, 2003]

- A. A violation of this chapter or regulation made thereunder is an offense, punishable as follows:
  - 1. For conviction of a first offense: A fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both.
  - 2. For conviction of a second offense both of which were committed within a period of five years: A fine of not less than three hundred fifty dollars not more than seven hundred dollars or imprisonment for a period not to exceed six months, or both.
  - 3. For conviction of a third or subsequent offense all of which were committed within a period of five years: A fine of not less than seven hundred dollars or imprisonment for a period not to exceed six months, or both.
- B. A first violation shall be deemed to have occurred from the date of written notification of violation issued by the Administrative Officer or from such date as may be designated in such written notice.
- C. Each week's continued violation shall constitute a separate additional violation.
- D. In the event that any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of this ordinance or regulation made thereunder, in addition to other remedies, the Board of Trustees may institute any appropriate action or proceedings to prevent such unlawful act, to restrain, correct or abate such violation or to prevent any Illegal act thereunder.

§ 65-43. Complaints.

Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Administrative Officer, or other enforcing officer, who shall properly record such complaint and immediately investigate and report thereon.

ARTICLE X  
Amendments

§ 65-44. Initiation of amendments.

- A. The Village Board of Trustees may, from time to time, on its own motion or on petition or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this chapter. Every such proposed amendment or change, whether initiated by the Village Board of Trustees or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for.
- B. Whenever the owners of fifty percent (50%) or more of the street frontage in any district, or any specified part thereof, shall present to the Village Board of Trustees a petition duly signed and acknowledged, requesting an amendment, supplement, change, modification or repeal of the regulations prescribed for the Zoning Maps including said district or specified part thereof, it shall be the duty of the Village Board of Trustees to hold a public hearing thereon and cause notice thereof to be given in the manner prescribed above.

§ 65-45. Public hearings.

The Village Board of Trustees, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:

- A. By publishing a notice once a week for two (2) consecutive weeks in at least one (1) newspaper of general circulation in the village.

- B. By mailing a notice thereof to every association of residents of the village which shall have registered its name and address for this purpose with the Village Clerk. The notice shall state the general nature of the proposed amendment as well as the text.

§ 65-46. Planning Board recommendations.

Any proposed amendment shall be submitted to the Planning Board for report and recommendation prior to any action thereon by the Village Board of Trustees. If the Planning Board recommends against the enactment of any proposed amendment, or a protest is lodged as described in § 7-708 of the Village Law, the amendment shall become effective only by a favorable vote of three-fourths (3/4) of the members of the Village Board of Trustees as provided in § 7-708.

ARTICLE XI  
Planned Unit Development  
[Added 12-5-78 by L.L. No. 1-1978]

§ 65-47. Purpose.

- A. The purpose of the Planned Unit Development classification is to provide for the rezoning of land residential, multiresidential, commercial, industrial and recreational development zones either jointly or separately in conformance with the Village of Port Dickinson Plan and also with the provisions and standards ensure compatibility among all the land uses, foster innovation in site planning and development and encourage sound design practices.
- B. Provisions are included for planned unit development (PUD) to permit establishment of areas in which diverse uses may be brought together in a compatible and unified plan of development which shall be in the interest of the general welfare of the public. In Planned Unit Development Districts, land may be used and structures may be constructed and used for any lawful purpose in accordance with the provisions set forth herein. A planned unit development may be a development of diversified land uses integrated into a carefully considered plan. Any of the uses listed in the Schedule of Zoning Regulations may be permitted, subject to the requirements of that section. Industrial or obnoxious uses, however, shall not be allowed in established areas of PUD's if they are in conflict with overall character of the zone. Where development standards may be in conflict, or may be unnecessary due to the integrated nature of the plan, the Village Board may approve a PUD that does not meet all required standards, such as zero lot line developments, cluster housing, townhouses or such similar innovations, provided that a written explanation of the reasoning and efficiency of such modification is provided by the petitioner/developer/agent as part of the application.

§ 65-48. Procedure for zoning change.

The procedure for obtaining a change in zone for undertaking development within a Planned Unit Development District shall be as follows:

- A. The applicant/developer/agent shall have the opportunity to meet with the Village Planning Board at an informal preapplication session in order to discuss the proposed development plans in general, to present sketch plans thereof and to receive comments, procedural instructions to be followed, zoning ordinance requirements to be met and noncommittal pertinent information relative to the preparation of the formal preliminary development plan described below.

- B. The applicant or agent thereof, shall submit four (4) copies of a preliminary development plan to the Village Board as described in § 65-49 and an application for a change of zone. The Village Board shall refer the application and preliminary development plan to the Village Planning Board ten (10) days prior to the Planning Board's next scheduled meeting. Such referral shall be prior to the date of the public hearing required by law on any proposed amendment to the Zoning Ordinance and Zoning Map by the Village Board. In addition, the preliminary development plan shall be reviewed by the Broome County Department of Planning, which shall report its recommendation, in writing, to the Village Board, within thirty (30) days of written receipt thereof.
- C. The Planning Board shall discuss the application and shall review the preliminary development plan with the applicant/agent. The Planning Board shall prepare recommendations with regard to the preliminary development plan and the proposed change of zone.
- D. Within forty-five (45) days of receipt of the application and the preliminary development plan and at its regular meeting, the Planning Board shall transmit, in writing, to the Village Board its recommendation for approval, approval with conditions or modifications, or disapproval, in accordance with its findings as described in § 65-51. The Planning Board shall send a copy of its recommendations to the applicant/agent. Failure of the Planning Board to act within forty-five (45) days of receipt of the application shall permit, the Village Board to act without the Planning Board's recommendation.
- E. Within forty-five (45) days of receipt of the Planning Board's recommendation, public notice shall be given and public hearing held by the Village Board on the proposed change of zone, subject to the specifications of preliminary development plan.
- F. Within forty-five (45) days of the public hearing, the Zoning Ordinance may be amended so as to define the boundaries of the Planned Unit Development District, but such action shall have the effect only of granting permission for development of the approved preliminary development plan proposal in accordance with the Zoning Ordinance within the area so designated.
- G. If the preliminary development plan and change of zone are approved by the Village Board, an appropriate notation to that effect will be made on the face of four (4) copies of the preliminary development plan, and the Board's resolution of approval shall be attached thereto. One (1) copy will be retained by the Village Clerk, one (1) copy will be given to the Planning Board, one (1) copy will be given to the Administrative Officer and one (1) copy will be returned to the applicant/agent.
- H. In the event that the Village Board grants the change of zone subject to modifications in the preliminary development plan, the resolution granting the change of zone shall specify the required modification and shall specify the time period for completion of the final development plan, as specified in § 65-50E.
- I. In the event that the Village Board disapproves the application and preliminary development plan, it shall notify the applicant/agent, in writing, of the disapproval and of the reasons for such decision.
- J. Upon approval of the application on change of zone and the preliminary development plan, with or without required modification, the applicant shall submit for Planning Board review four (4) copies of a final development plan, as described in § 65-50, and the Planning Board shall take action within thirty (30) days after submission.

- K. When the Village Planning Board approves the final development plan as submitted, an appropriate notation to that effect will be made on the face of four (4) copies of the final development plan. One (1) copy will be retained by the Village Clerk, one ( 1 ) copy will be retained by the Planning Board, one (1) copy will be given to the Administrative Officer and one (1) copy will be returned to the applicant/agent.
- L. Prior to the issuance of a building permit, the Village Board shall approve as to the form and sufficiency of any performance bond obtained by the applicant and as to the acceptability of any offers of cession, deeds or restrictive covenants. In the event that the applicant desires change the use of the PUD from the original proposed use, a resubmittal of the final development plan shall be required.

§ 65-49. Preliminary development plan.

The applicant shall submit an application for a change of zone with a preliminary development plan at a scale of one (1) inch equals fifty (50) feet, which shall include the following:

- A. Site plan.
  - (1) For residential single-family development: a master site plan indicating individual lot layout, ten-foot contours, open spaces, land use areas, streets, utility easements, rights-of-way and adjacent land use.
  - (2) For all other development: a proposed site plan, including ten-foot contours, elevations, location and dimensions of proposed buildings, signs, open spaces, land use areas, streets, utility easements, rights-of way and adjacent land use.
- B. Location and dimensions of driveways and driveway intersections with streets and highways, proposed traffic circulation, parking and loading areas, pedestrian walks, lighting, landscaping and necessary screening.
- C. Proposed construction sequence for buildings, parking spaces and landscaping areas.
- D. Proposed public utilities plan, including water supplies, sewerage and stormwater drainage, with a letter of review from the Broome County Health Department.

§ 65-50. Final development plan.

- A. For site plan reviews in a PUD District, the applicant shall submit a final development plan at a scale of one (1) inch equals fifty (50) feet for review to the Village Planning Board prior to the issuance of a building permit. Plans and specifications shall bear the signature of the person responsible for the design and drawings and, where required by § 7302, as amended, of Article 147 of the Education Law of the State of New York, the seal of a licensed architect or licensed professional engineer.
- B. The final development plan shall include:
  - (1) A site plan showing location and dimensions of proposed buildings, signs, open spaces and land use areas, including any subdivision intended within the district.

- (2) Location and dimensions of driveways and their intersections with streets and highways, traffic circulation, required parking and loading areas, pedestrian walks and lighting.
- (3) A description, in writing, of the proposed use, including hours of operation, number of employees, expected volume of business and type and amount of traffic to be generated.
- (4) Landscaping plan, including site grading and type of landscape plantings and structures and necessary screening.
- (5) Final drawings of buildings to be constructed in the current phase, including floor plans, exterior elevations and sections.
- (6) Final engineering plans, including street improvements, water supply, waste disposal and drainage system (approved by the County Health Department) and other public utilities. All improvements shall comply, where applicable, with construction standards outlined in the Village of Port Dickinson subdivision regulations.
- (7) Letters in appropriate cases directed to the Chairman of the Planning Board, signed by a responsible official of the agency, utility company, government authority or special district having jurisdiction in the area of public sewer, public water, telephone, electric or gas improvements, and a responsible and qualified official of the Fire Department and School Board, transmitting their findings concerning the plan.
- (8) Engineering feasibility studies for the solution of any anticipated problem which might arise due to the proposed development, as required by the Planning Board.
- (9) The need for a performance bond for the items in Subsection B(2), (4) and (6) above, and the bond amount shall be determined by and at the option of the Village Board (see § 65-50F).
- (10) Offers of cession and proposed restrictive covenants.
- (11) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas, as applicable.
- (12) Complete documentation of means for the continual maintenance of common open space and buildings.
- (13) Any environmental quality review as may be required by New York State, Broome County or the Village of Port Dickinson.

C. Building permits.

- (1) Building permits shall be issued by the Administrative Officer only in accordance with an approved site plan and by the Village Board, accurately representing the manner in which the project shall be constructed, and after receipt of a recommendation from the Planning Board. The Planning Board shall transmit the application with its written findings to the Administrative Officer within sixty (60) days. A failure to act within sixty (60) days of the receipt of the application will permit the Village Board to authorize the Administrative Officer to act without the recommendation of the Planning Board.
- (2) An applicant wishing to make substantial changes in a duly reviewed site plan shall make application for a new building permit.

- D. The final development for a PUD site shall be in general conformance with the approved preliminary development plan. Such approval for each phase shall be secured by the applicant/agent for each phase of the development. Such approval for each phase shall be valid for two (2) years, at which time, unless the proposed development has been completed or is in process, the final development plan approval shall terminate, and no additional building permits shall be issued. If five (5) or more lots with separate deeds are provided on the Planned Unit Development District, the final development plan shall be in such form as to be acceptable according to the subdivision regulations of the Village of Port Dickinson, as a final subdivision plat, and may be approved in accordance with the procedures and requirements of the subdivision regulations of the Village of Port Dickinson.
- E. Final approval of site plans in PUD Districts for each phase of development, if applicable, shall be secured by the applicant/agent for each phase. Such approval for each phase shall be valid for two (2) years, at which time, unless the proposed development has been completed or is in process, the development plan approval shall terminate, and no additional building permits shall be issued.
- F. Prior to construction and at the discretion of the Village Board, a performance bond may be required to ensure that final development plans and specifications are satisfactorily completed or to return the subject properties to a usable state within the intent of this Article.

§ 65-51. Requirements for preliminary plan approval.

The Planning Board, after determining that the requirements of the Zoning Ordinance dealing with Planned Unit Development Districts have been met, shall recommend the approval, approval with modifications, or disapproval of the preliminary development plan to the Village Board. The Planning Board shall enter its reasons for such action in its records and transmit its findings by resolution to the Village Board. The Planning Board may recommend the establishment of a Planned Unit Development District, provided that it finds that the facts submitted with the preliminary development plan established that:

- A. The uses proposed will not be detrimental to the natural characteristic of the site or to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under any other district.
- B. Land surrounding the proposed development can be developed in coordination with the proposed development and be compatible in use.
- C. Land uses surrounding the proposed development will be adequately buffered from the proposed use, where necessary, by appropriate screening devices, such as a wall, fence or hedge. Where existing features of the property can serve this function, the design of the proposed development shall be such that these features are preserved for such purpose.
- D. The proposed change to a Planned Unit Development District is in conformance with the general intent of the Comprehensive Plan of the Village of Port Dickinson.
- E. Existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed district and in the vicinity of the proposed district.
- F. Existing and proposed utility services are adequate for the proposed development.



- G. Each phase of the proposed development, as it is proposed to be completed, contains the required parking spaces, landscapes and utility areas necessary for creating and sustaining a desirable and stable environment.

## ARTICLE XII

### Adult Uses

[Added 8-6-85 by L.L. No. 3-1985]

#### § 65-52. Purpose.

The establishment of certain adult entertainment businesses in the Village of Port Dickinson will tend to result in the blighting and deterioration of the village. Accordingly, it is necessary that these businesses be regulated in such a manner as to prevent the erosion of the character of the village. It is necessary to regulate the establishment of such adult entertainment businesses within close proximity to residentially zoned areas, schools, churches, parks, playgrounds and day care centers so as to minimize the proliferation of criminal activity and a blighting and degrading effect upon surrounding neighborhoods and to prevent the erosion of the residential character of the village and its neighborhoods. (Amended 4-14-98; L.L. No. 2-1998)

#### § 65-53. Definitions.

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

ADULT ENTERTAINMENT BUSINESS — As used in § 65-54 hereof, includes the following:

- A. ADULT BOOKSTORE — An establishment having as a significant portion of its stock-in-trade books, films, magazines and other periodicals which are distinguished or characterized by an emphasis on depicting or describing ?sexual conduct or specified anatomical areas.
- B. ADULT MINI-MOTION-PICTURE THEATER — An enclosed building ?with a seating capacity of fewer than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
- C. ADULT MOTION-PICTURE ARCADE — Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically or mechanically controlled still- or motion-picture machines, projectors or ?other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time and where the images so ?displayed are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
- D. ADULT MOTION-PICTURE THEATER — An enclosed building with a seating capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on depicting or describing ?sexual conduct or specified anatomical areas.
- E. ADULT ENTERTAINMENT CABARET — A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dancers and/or bottomless dancers, strippers, male or female impersonators or similar entertainers, or

employees appearing in a bottomless and/or topless manner of dress. (Added 4-14-98; L.L. No. 2-1998)

F. MASSAGE ESTABLISHMENT — Any establishment having a fixed place of business where any person, firm, association or corporation, engages in, carries on, or permits to be engaged in or carried on, any of the activities referred to in subparagraph (i) below. (Added 4-14-98; L.L. No. 2-1998)

(i) The activities referred to herein are any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in the practice of massage. (Added 4-14-98; L.L. No. 2-1998)

(ii) This article XII, Adult Uses, shall not apply to licensed hospitals, licensed nursing homes, or clinics or persons holding an unrevoked certificate to practice any of the healing arts under the law of the State of New York, or persons working under the direct supervision and in the presence of any such persons or in any such establishments, nor shall this article apply to barbers or cosmetologists lawfully carrying out their particular profession of business and holding a valid unrevoked license or certificate of registration issued by the State of New York. (Added 4-14-98; L.L. No. 2-1998)

G. SEXUAL CONDUCT — Includes the following:

1. The fondling or other touching of human genitals, pubic region, buttocks or female breasts.
2. Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
3. Acts of masturbation, sexual intercourse, oral copulation, or sodomy. (Added 4-14-98; L.L. No. 2-1998)
4. Human genitals in a state of sexual stimulation or arousal. (Added 4-14-98; L.L. No. 2-1998)

H. SPECIFIED ANATOMICAL AREAS — Include the following: human genitals, pubic region, buttocks and female breasts below the top of the areola.

§ 65-54. Restrictions. (Amended 4-14-98; L.L. No. 2-1998)

A. LOCATION RESTRICTIONS — Adult uses, including but not limited to adult entertainment businesses, shall be permitted in a Planned Unit Development - Entertainment (PUD-E) District, subject to the requirements of the Zoning Ordinance of the Village of Port Dickinson, including the requirement of a Special Use Permit pursuant to § 65-33A, and subject to the following restrictions and regulations:

(i) No such adult use shall be located in any zoning district except a Planned Unit Development - Entertainment District, and in addition to the restrictions and regulations

contained in this Article, shall be subject to all zoning requirements of Planned Unit Development - Entertainment Districts.

- (ii) No adult entertainment business shall be located within 500 feet of any residential dwelling or building containing a residential dwelling or rooming units, or within 1,000 feet of any church, school, park, playground, day care center, amusement arcade or existing adult entertainment business.
- (iii) The establishment of an adult entertainment business shall include the opening of such business as a new business, the relocation of such business or the conversion of an existing business location to any of the uses described in Section 65-53 hereof.
- (iv) A Site Plan review pursuant to § 65-20(A)(5) shall be required prior to the issuance of any Special Use Permit, to insure compliance with the above conditions.

#### B. REGULATIONS.

- A. There shall be no exposure of the interior of any adult entertainment business to the outside and no outside displays of products, wares, books, magazines or any stock in trade of any adult entertainment business.
- B. The legal age for admittance to any adult use establishment is 18 years of age.

§ 65-55. Registration. (Repealed and replaced with the following 4-14-98; L.L. ? No. 2-1998)

- A. The owner of a building or premises, his agent for the purpose of managing or controlling or collecting rents or any other person managing or controlling a building or premises, any part of which contains an adult use, shall register the following information with the Village Clerk of the Village of Port Dickinson:
  - (1) The address of the premises.
  - (2) The name and address of the owner(s) of the premises and the names and addresses of the beneficial owners if the property is in a land trust.
  - (3) The name of the business or the establishment subject to the provisions of this Article XII.
  - (4) The name(s) and addresses of the owner, beneficial owner of the major stockholder(s) of the business or the establishment subject to the provisions of this Article XII.
  - (5) The date of initiation of the adult use.
  - (6) The nature of the adult use.
  - (7) If the premises or building is leased, a copy of said lease.
- B. DISPLAY OF REGISTRATION — The owner, manager or agent of a registered adult use shall display in a conspicuous place in the premises of the adult use a copy of the registration filed with the Village Clerk.

- C. VIOLATION — It is a violation of this § 65-55 for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate thereon an adult use without having properly registered said adult use with the Village Clerk.

§ 65-55A. Special Registration Use Permit. (Added 4-14-98; L.L. No. 2-1998)

- A. No use as described in this Article XII shall be established until the issuance of a special registration use permit by the Zoning Board of Appeals of the Village of Port Dickinson.
  - (1) Application for such special registration use permit shall be in writing to the Village Planning Board and shall consist of a description of the premises for which the permit is sought, a plain and concise statement of the use which is proposed, the full information required for Registration in § 65-55, and such additional information as shall be required by the Planning Board in order to hold a site plan review pursuant to § 65-20. Upon receipt of said application the Planning Board, upon notice to the applicant, shall hold a site plan review and within 30 days of said review shall transmit its findings and recommendations to the Zoning Board of Appeals.
  - (2) Upon receipt of the findings and recommendations of the Planning Board, the Zoning Board of Appeals shall call and conduct a public hearing pursuant to § 65-40 and as the same may be amended from time to time for the purpose of considering the request for a special registration use permit.
- B. A special registration use permit issued under the provisions of this section shall not be transferable.
- C. Upon the issuance of such special registration use permit, a fee in the sum of One Hundred (\$100.00) Dollars shall be paid by the licensee to defray the administrative costs thereof and the cost of inspecting the premises during the term of such permit to insure compliance with this section.
- D. Approval by the Zoning Board of Appeals and registration by the Village Clerk shall be permitted only upon full compliance with the provisions of this section.

§ 65-55B. Renewal/Revocation of Special Registration Use Permit. (Added 4-14-98; L.L. No. 2-1998)

- A. Such special registration use permit shall be effective from the date of its issuance until the 31<sup>st</sup> day of December of the year of such issuance. Applications for renewal permits shall be submitted in the December preceding the year for which such renewal permit is sought and may be issued, either upon the applicant's reaffirmation of his original application and a statement showing any variations therein, or upon a new application as described in § 65-55A. Said application for renewal shall be accompanied with a fee of Fifty (\$50.00) Dollars to be paid by the applicant to defray the administrative cost of said application.
- B. Such special registration use permit may be revoked, or renewal thereof denied, by the Board of Trustees after a public hearing thereon at which the holder of said permit shall have an opportunity to be heard.
- C. Said special registration use permit shall be revoked, or renewal thereof denied, based upon:

- (1) Conviction of the holder of said permit for violation of any section of Article 230 and Article 235 of the Penal Law of the State of New York.
- (2) Any violation of § 65-55B.

§ 65-55C. Penalty. (Added 4-14-98; L.L. No. 2-1998)

Failure to register said adult use with the Village Clerk as hereinbefore directed is an offense in violation of this section and upon conviction thereof, is punishable by a fine not to exceed Five Hundred (\$500.00) Dollars. Continuation of such violation for each subsequent period of one week shall be a separate offense punishable by an additional fine not to exceed Five Hundred (\$500.00) Dollars.

§ 65-55D. (Added 4-14-98; L.L. No. 2-1998)

The following properties situate off Phelps Street located in an Industrial (1) District as defined in the Village Code is hereby rezoned and designated Planned Unit Development - Entertainment under said Code, subject to all regulations created and established relative to said Planned Unit Development - Entertainment District:

Tax Map No.	Reputed Owner and Address
129-13-2 -9	Overnite Transportation

§ 65-56. Penalties for offenses.

Violation of this Article is punishable by a fine not exceeding five hundred dollars (\$500.) or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment. Each day during any portion of which any violation of this Article is committed, permitted or continued shall constitute a separate offense.

§ 65-57. Severability.

If any provisions or clause of this Article, or the application thereof to any person or circumstance, is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such validity shall not affect the other provisions or clauses or applications thereof, which can be implemented without the invalid provision, clause or application, and to this end, the provisions and clauses of this Article are declared to be severable.

§ 65-58. When effective.

This Article shall take effect immediately.

<sup>1</sup> Editor's Note: For additional provisions pertaining to the storage of flammable liquids, see Ch. 34, Fire Prevention.

<sup>2</sup> Editor's Note: See also Ch. 59, Vehicles, Abandoned.

## INDEX INSTRUCTIONS

The main **INDEX**, beginning on page 1, will guide you to the legislation contained within the Code at the time the main **INDEX** was originally prepared. As new legislation is adopted, or existing legislation is amended, the Code pages are replaced by supplementary pages which include the new material, thereby causing some **INDEX** entries to become obsolete. **INDEX** entries to the new material will be provided for in the **SUPPLEMENTAL INDEX**, beginning on page SI-1.

The **SUPPLEMENTAL INDEX** should, therefore, be consulted first, since it refers to the more recent legislation. Then reference should be made to the main **INDEX**.

When received, **SUPPLEMENTAL INDEX** pages should be placed directly following this page and in front of the main **INDEX**, according to the instructions accompanying the supplement.

Numbers in the indices refer to section numbers in the Code, e.g., 39-3 is a reference to Chapter 39, Section 3.

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