

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Adopted by The Board of Trustees of the Village of Port Dickinson: Article I, 9-13-66 as Local Law No. 1-1966; Repealed 9-14-93; Reenacted 9-14-93 as Local Law No. 4-1993; Article II, 12-17-68 as Local Law No. 1-1968; Article III, 11-20-84 as Local Law No. 6-1984; Repealed 8-10-93; Reenacted 8-10-93 as Local Law No. 3-1993.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Repealed 9-14-93; Reenacted 9-14-93 as Local Law No. 4-1993]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 taxpaying 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.?