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Chapter 1

GENERAL PROVISIONS

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

ARTICLE I

Adoption of Code

[Adopted 4-10-2002 by L.L. No. 1-2002]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Village of Cove Neck, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 175, together with an Appendix, shall be known collectively as the "Code of the Village of Cove Neck," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Village of Cove Neck" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

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 Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

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

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of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

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

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the

following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Village of Cove Neck 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 Cove Neck or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law, brought pursuant to any legislative provision of the Village of Cove Neck.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Cove Neck.
- E. Any local law or ordinance of the Village of Cove Neck 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 Cove Neck or any portion thereof.
- F. Any local law or ordinance of the Village of Cove Neck 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 Cove Neck or other instruments or evidence of the Village's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the Village.
- N. Any local law adopted subsequent to 11-14-2001.
- O. The following local laws related to the Police Department: Local Law Nos. 2-1991, 1-1993 and 2-1993.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local

law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Village Clerk of the Village of Cove Neck and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Village Clerk of the Village of Cove Neck by impressing thereon the Seal of the Village of Cove Neck, and such certified copy shall remain on file in the office of said Village Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Village of Cove Neck" or any new local laws or resolutions, when enacted or adopted in such form as to indicate the intention of the Board of Trustees to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Board of Trustees deems desirable.

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

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

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

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

Code.

§ 1-10. Penalties for tampering with Code.

Any person who, without authorization from the Village Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Village of Cove Neck or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Village of Cove Neck to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

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

In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Village of Cove Neck, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Village of Cove Neck, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

§ 1-13. When effective.

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

ARTICLE II

Use and Construction

[Adopted 10-18-1974 by L.L. No. 2-1974 as Secs. 110 and 150 of the 1974 General Code]

§ 1-14. Penalties for offenses; enforcement.

Any person who violates or fails to perform any duty imposed by any provisions of this Code shall, unless otherwise provided and except as limited by the Vehicle and Traffic Law, be punishable by a fine of not more than \$250 for each and every offense, and in addition thereto each such violation shall constitute and is hereby declared to be an offense against such provisions of this Code. Each day that a violation under any provision of this Code continues, such violation on each such separate day shall be deemed a separate offense. In addition, the Village Board of Trustees may enforce obedience to any provisions of this Code by injunction or any other civil remedy.

§ 1-15. Amendment of Village Law § 20-2006. [Added 12-10-1975 by L.L. No. 1-1975]

Section 20-2006, Subdivision 1, of the Village Law, as last amended by Chapters 1028 and 1029

of the Laws of 1974, is hereby amended in its application to the Village of Cove Neck to read as follows:

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

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

§ 1-16. Definitions and word usage.

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

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

FIRE DEPARTMENT — Any Fire Department which normally operates within or serves the Village of Cove Neck.

LOCAL LAW NO. 1-1969 — Village Local Law No. 1-1969 titled "General Fee and Deposit Law" and any amendments thereto.¹

POLICE DEPARTMENT OR POLICE FORCE — The Police Department or police force operating within the Village of Cove Neck.

POLICE OFFICER — Any member of the Police Department or police force.

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

VILLAGE — The Incorporated Village of Cove Neck, Nassau County, New York.

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

1. Editor's Note: See Ch. 65, Fees and Deposits.

§ 1-17. Authority of Mayor and Trustees.

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

Chapter 4

ADVERTISING AND BILL POSTING

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Art. 12 of the 1974 General Code. Amendments noted where applicable.]

GENERAL REFERENCES

Parades, exhibitions, auctions and sales — See Ch. 108.

Peddling and soliciting — See Ch. 116.

Solid waste — See Ch. 136.

Signs — See Ch. 175, § 175-21.

§ 4-1. Prohibited acts.

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

§ 4-2. Certain signs exempted.

The provisions of § 4-1 of this chapter shall not apply to signs permitted by or authorized under the provisions of Chapter 175, Zoning, or to signs permitted by the Board of Trustees in connection with a charitable or community event.

§ 4-3. Vendor presumed responsible for advertisement.

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

Chapter 8

AIRCRAFT

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Art. 23 of the 1974 General Code. Amendments noted where applicable.]

§ 8-1. Definitions.

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

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

§ 8-2. Restrictions on operation.

No person, except when permitted to do so by the commanding officer of the Police Department in the case of a bona fide emergency or after obtaining permission from the Mayor of the Village, shall operate or fly an aircraft within or over the Village at an altitude of less than 1,000 feet.

Chapter 11

ALARM SYSTEMS

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 3-3-1992 by L.L. No. 2-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Noise — See Ch. 100.

Peace and good order — See Ch. 112.

Police Department — See Ch. 121.

§ 11-1. Purpose and objectives. [Amended 10-10-2001 by L.L. No. 1-2001]

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

§ 11-2. Definitions.

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

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

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

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

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

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

APPROVED ALARM SYSTEM — An alarm system that incorporates the following features and meets with the below requirements: [Amended 10-10-2001 by L.L. No. 1-2001]

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

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

DOING BUSINESS — An alarm agent or alarm business shall be deemed to be doing business in the Village if he or it operates, maintains, modifies, installs, services, repairs, alters, replaces, leases, sells, monitors, receives a signal from or responds to or in any way conducts installation services or provides central station service for an alarm system in the Village. [Amended 10-10-2001 by L.L. No. 2-2001]

FALSE ALARM — Any message or signal which is transmitted directly or indirectly to the Police or Fire Department to which the Police or Fire Department responds and which signal or message is not the result of a criminal offense. The transmitting of a message or signal due to an equipment malfunction or the unauthorized actions of an alarm business or alarm agent shall be deemed to be a false alarm and not an emergency.

POLICE DEPARTMENT — Any lawfully authorized Police Department contracted to service the Village or operated by the Village. [Amended 10-10-2001 by L.L. No. 2-2001]

VILLAGE — The Village of Cove Neck.

VILLAGE JUSTICE COURT — The Village Justice Court of the Village of Cove Neck.

§ 11-3. Violations.

It shall be a violation of this chapter:

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

§ 11-4. Alarm businesses and alarm agents.

- A. It shall be unlawful for any alarm agent or alarm business to do business in the Village without a license issued by the Village of Cove Neck or in accordance with § 11-5F or to refuse to display the required identification upon request.
- B. Alarm businesses and alarm agents who or which are presently doing business in the Village under an existing license, as of the effective date of this chapter, may continue to do business under such license for a period of 90 days after the effective date of this chapter. Thereafter, they shall obtain the required license to do business in the Village. [Added 10-10-2001 by L.L. No. 1-2001]

§ 11-5. Licenses and permits.

- A. Alarm businesses and alarm agents. Applications for alarm business and alarm agent licenses and permits shall be filed with the Police Department on an approved form and accompanied by the required application fee. In addition, a fingerprint processing fee required by, and payable to, the New York State Division of Criminal Justice Services shall be submitted for the purpose of obtaining a criminal history record from the Division of Criminal Justice Services and/or any other state where the alarm business officers or supervisors or alarm agents may have resided and/or the Federal Bureau of Investigation to determine their eligibility for a license or permit. Prior to processing the application, the Police Department may require the officers and supervisors of an alarm business and an alarm agent to be fingerprinted at police headquarters. Prior to the issuance of an alarm agent license, the alarm agent shall be photographed for identification purposes. [Amended 10-10-2001 by L.L. No. 1-2001]
- B. Alarm installation permit. Application for an alarm installation permit shall be filed with the Police Department on the approved form and accompanied by installation specifications and plans and the alarm user permit fee. An alarm installation permit shall be obtained prior to installing any alarm system.

- C. Alarm user permit. After the required alarm user permit fee has been paid and the Police Department is satisfied that the alarm system complies with the requirements of this chapter and the rules and regulations, the Police Department shall issue an alarm user permit. An alarm system shall not be operated until an alarm user permit has been issued for the alarm system.
- D. License and permit period. [Amended 10-10-2001 by L.L. No. 1-2001]
 - (1) An alarm business license and alarm agent license shall be valid for a two-year period.
 - (2) An alarm installation permit shall be valid for 90 days after issuance.
 - (3) An annual alarm user permit shall expire when an alarm system is replaced or significantly modified or when a change in ownership of the premises occurs.
- E. Renewal of licenses and permits. Alarm business and alarm agent licenses and alarm user permits may be renewed upon filing a renewal application with the Police Department and payment of the appropriate license or permit fee, provided that:
 - (1) All fines and charges for violating any provision of this chapter have been paid;
 - (2) There is full compliance with all rules, regulations and provisions of this chapter; and
 - (3) There are no existing unremedied violations of this chapter or of the rules and regulations.
- F. Multi-village permit. A single alarm business or alarm agent license issued by an approved Police Department shall be recognized for doing business within the Village.

§ 11-6. Fees.

- A. The Police Department shall charge, collect and retain the following processing fees:
 - (1) Business license: \$100 (for a two-year period).
 - (2) Agent license: \$50 (for a two-year period).
 - (3) Alarm user permit. [Amended 10-10-2001 by L.L. No. 1-2001]
 - (a) New alarm installation, significant modification to existing alarm system or change of ownership: \$50 (for a one-year period).
 - (b) Initial permit fee for all existing alarm users who do not have an alarm user permit as of the effective date of this chapter: \$50 (for a one-year period).
 - (c) Annual renewal fee: \$20.
- B. For new installations or significant modifications to an existing alarm system, an alarm installation permit shall be issued free of charge when the alarm user permit fee has been paid.
- C. No refunds of license or permit fees shall be made. If revoked, a new license or permit fee must be paid to reinstate any revoked license or permit.

§ 11-7. Inspections.

- A. After a recurring problem of false burglar or fire alarms at the premises, a representative of the Police Department, upon reasonable notice, shall be permitted to inspect and test an alarm system or alarm system installation. If permission to inspect is refused, it shall be grounds for revocation of the alarm user permit.
- B. If an inspection reveals any violations of or noncompliance with the provisions of this chapter or the rules and regulations, a written report shall be promptly mailed to the alarm user. Within 30 days after receipt of such report, the alarm user shall take corrective action so that the alarm system complies with the provisions of this chapter and the rules and regulations. If the alarm user fails to bring his alarm system into compliance, it shall be grounds for revocation of the alarm user's permit. The alarm user may, upon good cause, be granted a reasonable extension of time by the Police Commissioner or Chief of Police to correct or remedy such violation. [Amended 10-10-2001 by L.L. No. 1-2001]

§ 11-8. Response to activated alarm system.

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

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

- A. The Police Commissioner or Chief of Police may deny, suspend or revoke a license or permit for the following grounds: [Amended 10-10-2001 by L.L. No. 1-2001]
 - (1) False statement or willful and knowing misrepresentation made in a license or permit application;
 - (2) Failure to comply with any lawful order or notice issued by the Police Commissioner or Chief of Police;
 - (3) Repetitive or flagrant violation of the provisions of this chapter or the rules and regulations;
 - (4) Failure to correct any deficiencies in equipment, procedures or operations within 30

days of receipt of notice;

- (5) The activation of more than 10 false alarms within a one-year period; or
 - (6) The conviction of an alarm agent or a partner, officer or manager of an alarm business of a criminal offense subject to the applicable provisions of the Correction Law.
- B. Any license, permit or identification card issued hereunder shall be surrendered to the Police Department upon the revocation, suspension or expiration of a license or permit or the termination of an alarm business operation.
 - C. An alarm agent shall surrender his identification card to the Police Department within 10 days of termination of his employment with the alarm business.
 - D. The cost of disconnecting any alarm system with the Police or Fire Department shall be the responsibility of the alarm user whose alarm permit has been revoked, suspended or expired.
 - E. The Police Commissioner or Chief of Police may deny, suspend or revoke any license or permit for a violation of this chapter or any rule and regulation. Such denial, suspension or revocation shall become effective 30 days after written notice thereof is mailed to the violator by certified mail, return receipt requested. Within the thirty-day period, the licensee or permittee may appeal the action of the Police Commissioner or Chief of Police to the Board of Trustees, which shall have the power to stay, affirm, reverse or modify the action of the Police Commissioner or Chief of Police. [Amended 10-10-2001 by L.L. No. 1-2001]

§ 11-10. False alarm charges.

- A. Alarm user charge. An alarm user shall pay to the Village the below-noted charge for each and every false alarm in each calendar year as follows: [Amended 10-10-2001 by L.L. No. 1-2001]

Cumulative Number of False Alarms During a Year Charge

1	\$0
2	\$10
3	\$20
4	\$40
5	\$60
6	\$60
7	\$80
8	\$80
9	\$100
10 and over	\$100

- B. Business alarm charges. An alarm business shall pay to the Village a charge for each and every false alarm resulting from its failure to verify whether an alarm is false. The charge schedule during a calendar year for alarm businesses shall be \$20 for each false alarm.
- C. New alarm system installations will be permitted two nonchargeable false alarms during a ninety-day period after installation of the alarm system.
- D. False alarm charge notification procedure. Whenever an alarm user or alarm business has a chargeable false alarm in any calendar year, the Village Clerk shall mail a notice requesting payment by certified mail, return receipt requested. If payment is not received by the Village within 30 days from the date of mailing or from the date of refusal (if the alarm user or alarm business refuses delivery of the notice), it shall be deemed a violation of this chapter.
- E. The full monetary charge shall become the property of the Village 30 days after its payment to the Village unless, before the end of the thirty-day period, the alarm user or alarm business submits a written request to the Police Commissioner or Chief of Police for review of the charge. If the Police Commissioner or Chief of Police sustains the charge, the alarm user or alarm business may appeal such action to the Board of Trustees or designated representative within 15 days after receiving written notice of the same. The Board of Trustees or designated representative shall have the power to affirm, reverse or modify the actions of the Police Commissioner or Chief of Police. [Amended 10-10-2001 by L.L. No. 1-2001]

§ 11-11. Rules and regulations. [Amended 10-10-2001 by L.L. No. 1-2001]

The Board of Trustees or designated representative, after a duly noticed public hearing, may promulgate rules, regulations and standards to ensure the quality, efficiency and effectiveness of the enforcement, interpretation and implementation of this chapter.

§ 11-12. Disclaimer and liability.

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

§ 11-13. Existing alarm user permits.

- A. An alarm user maintaining and operating an existing alarm system pursuant to a valid alarm user permit immediately prior to the effective date of this chapter shall be subject to

all provisions of this chapter, except that such alarm user shall not be required to:

- (1) Modify his alarm system to comply with this chapter's technical requirements for an approved alarm system; or
 - (2) Obtain or be required to renew an alarm user permit or pay an alarm user permit fee, provided that there is compliance with the regulations in force immediately prior to the effective date of this chapter.
- B. Notwithstanding the provisions of Subsection A(1) and (2) immediately above, if an existing alarm user has three chargeable false alarms within any twelve-month period or if he replaces or significantly modifies his alarm system, said alarm user shall be subject to all provisions of this chapter and the rules and regulations, including but not limited to maintaining an approved alarm system, obtaining a new alarm user permit and paying the required fifty-dollar permit fee after receiving written notification from the Police Department.
- C. An alarm user who has been charged with violating the provisions of the Village's burglar or fire alarm regulations in force prior to the effective date of this chapter shall be governed by the provisions of said burglar or fire alarm regulations and pay any false burglar or fire alarm charges in accordance with such regulations.

§ 11-14. Penalties for offenses.

Any person who violates or fails to comply with this chapter shall commit a violation as defined in the New York State Penal Law which shall be punishable in the Village Justice Court by a fine of up to \$250 for each such violation.

Chapter 15

ANIMALS

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Art. 19 of the 1974 General Code. Amendments noted where applicable.]

GENERAL REFERENCES

Noise — See Ch. 100.

Peace and good order — See Ch. 112.

ARTICLE I

General Regulations

§ 15-1. Definitions.

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

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

ANNOYING DOG — A dog which, when it is not on the premises of its owner or custodian:

- A. Without being provoked, harasses or threatens a person in such a manner so as to create the apprehension of fear of bodily injury by such person; or
- B. Deposits animal waste on or damages the real property of or damages or destroys the personal property of a person other than the dog's owner or custodian.

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

DANGEROUS ANIMAL — Any animal which by its nature or behavior is capable of inflicting bodily harm upon a person, such as, but not limited to, poisonous snakes and reptiles, carnivorous birds, large cats, large monkeys, apes and bears.

VICIOUS DOG — A dog which has once bitten any person or twice within a period of 30 days makes an unprovoked attack upon and bites another dog or other domestic animal while at large.

§ 15-2. Control of animals.

- A. No person shall harbor or keep any dangerous animal in the Village.
- B. No person shall permit to be at large in the Village any animal except dogs that have not been declared vicious or annoying and house cats not exceeding 15 pounds in weight.

§ 15-3. Complaints.

- A. Complaint by Village resident. Any Village resident claiming that a dog is vicious or annoying as defined herein or is or was at large in violation of this chapter or that any other

animal is dangerous may make a written complaint to the Village Clerk or the Village Justice. It shall be the duty of the Village Justice, upon receipt of a complaint, to immediately issue a summons requiring the owner of such dog or dangerous animal to appear on not less than three days' nor more than 10 days' written notice before the Village Court to determine such issue.

- B. Complaint by police officer. Upon reasonable belief by a police officer that a dog is vicious or annoying as defined herein or is or was at large in violation of this chapter or that any other animal is dangerous, he may issue an appearance ticket requiring the owner of such dog or dangerous animal to appear on not less than three days' nor more than 10 days' written notice before the Village Court to determine such issue.

§ 15-4. Trial; penalties for offenses.

- A. Trial or plea of guilty. The Village Justice shall hold a trial for the purpose of determining whether a dog is vicious or annoying or any other animal is dangerous. In lieu of said trial, the owner or custodian of such animal or dog may plead guilty to any complaint.
- B. Dangerous animals. If, after trial, the Village Justice finds that an animal is dangerous, or the owner thereof pleads guilty to the complaint, he shall order:
 - (1) That the dangerous animal be removed from the Village within 24 hours of said order;
 - (2) If said animal is not removed from the Village after said twenty-four-hour period, that any police officer shall kill the dangerous animal on or off the premises of the owner; and
 - (3) That the owner pay a fine as provided for in Chapter 1, Article II of this Code.
- C. Vicious and annoying dogs. If, after trial, the Village Justice finds that a dog is vicious or annoying, or the owner thereof pleads guilty to the complaint, or if a dog previously ordered to be confined is found running at large, he may:
 - (1) Declare that such dog is vicious or annoying and order that such dog shall thereafter be prohibited from running at large in the Village;
 - (2) Order that a vicious dog be removed permanently from the Village within 48 hours of said order;
 - (3) Order any police officer to kill such vicious dog on or off the premises of the owner if said dog is not permanently removed from the Village after said forty-eight-hour period; and
 - (4) Order that the owner pay a fine not exceeding \$25.
- D. Miscellaneous penalties. Any owner who fails to obey an order made as provided in Subsection C for the confinement, removal or killing of a dog within 48 hours after the service either personally or by registered mail upon him of such an order shall be subject to a penalty of \$25 for each 24 hours thereafter until the order is complied with.

§ 15-5. Emergency killing or impoundment of vicious dogs and dangerous animals.

- A. Killing by police officer. Any police officer is hereby authorized to kill any dangerous animal or vicious dog when in an emergency it is necessary for the protection of any person or property.
- B. Seizing and impounding by police officer. Any police officer is also hereby authorized to seize or cause to be seized and impound any dangerous animal or vicious or annoying dog if he is unable to locate and have the animal's owner (or a responsible person on the owner's premises in the Village) take custody of such animal within 24 hours after receiving the complaint. All costs and charges for seizure and impoundment shall be paid by the owner of the animal.

§ 15-6. Trapping.

- A. Regulation. No person shall set, install, construct, operate or maintain any trap, deadfall, or other device or set out any chemical substance designed or intended to capture, kill or take fur-bearing animals within the Village.
- B. Exception. Nothing contained in Subsection A above shall prohibit the capture and killing of mice, rats and other vermin by the use of appropriate chemical substances or traps provided the same are not dangerous to fur-bearing animals.

§ 15-7. Animal waste. [Added 4-12-2011 by L.L. No. 2-2011]

No person owning, harboring or having custody or control of any animal shall permit such animal to deposit any animal waste, as that term is commonly understood, on any public street or other public place within the Village, unless such waste is immediately removed in a sanitary manner.

ARTICLE II
Wild and Domestic Waterfowl
[Adopted 4-12-2011 by L.L. No. 3-2011¹]

§ 15-8. Findings.

The Board of Trustees of the Village of Cove Neck finds that human feeding of waterfowl is actually harmful to these animals and can cause poor nutrition, increased hybridization, water pollution and beach closures and contamination of shellfish growing areas, delayed natural migration, high concentrations of waterfowl at unnatural sites, overcrowding, spread of disease, costly management efforts, unnatural behavior and cumulative negative environmental impacts in the Village.

§ 15-9. Definitions.

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

DOMESTIC WATERFOWL — Those species of birds commonly known as white ducks,

1. Editor's Note: This local law was originally adopted as Ch. 47, but was renumbered for organizational purposes.

barnyard geese, Muscovy ducks and any other geese/ducks bred by man, but not any other waterfowl falling under the jurisdiction of the United States Fish and Wildlife Service and/or the New York Department of Environmental Conservation.

FEED — To give, place, expose, deposit, distribute, or scatter any edible material with the intention of feeding, attracting, or enticing migratory or domestic waterfowl.

MIGRATORY WATERFOWL — Those species of birds commonly known as swans, geese and ducks, and any other waterfowl falling under the jurisdiction of the United States Fish and Wildlife Service.

PERSON — Any individual, company, partnership, corporation, limited partnership, joint venture, or other legal entity.

VILLAGE PROPERTY — Any land in the Village of Cove Neck which is owned, maintained, leased, or managed by the Village of Cove Neck for any purpose whatsoever, including, but not limited to, parks, preserves, beaches and Village Hall.

§ 15-10. Prohibition.

No person shall feed or provide food for any domestic or migratory waterfowl on Village property at any time of the year.

§ 15-11. Penalties for offenses.

A violation of this article shall be punishable by a fine of not less than \$100, nor more than \$500. Any subsequent violation occurring within five years of the date of such first violation shall be punishable by a fine of not less than \$250, nor more than \$750.

§ 15-12. Applicability.

The provisions of this article shall not apply to property owned by or under the jurisdiction of other municipal authorities, the State of New York, and any agency thereof or the government of the United States of America.

Chapter 23

BOARDS, COMMITTEES AND COMMISSIONS

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

GENERAL REFERENCES

Subdivision of land — See Ch. 145.

Zoning — See Ch. 175.

ARTICLE I

Board of Appeals

[Adopted 9-11-1985 by L.L. No. 3-1985]

§ 23-1. Amendment of Village Law § 7-712.

Subdivision 1 of § 7-712 of the Village Law, as last amended by Chapter 892 of the Laws of 1972, is hereby amended in its application to the Village of Cove Neck, New York, to read as follows:

§ 7-712. Board of Appeals.

1. Such Board of Trustees shall provide for the appointment of a Board of Appeals consisting of three or five members, one of whom shall be appointed Chairman by the Board of Trustees for a period of three years in the case of a three-member board and for five years in the case of a five-member board. In addition, the Board of Trustees may appoint, for a one-year term, one alternate member of such Board of Appeals who shall be entitled to serve and function in the place and stead of a regular member, when his presence is necessary to constitute a quorum of the Board, in the absence or inability of a regular member to serve or function. The first appointment of regular members thereto shall be for terms so fixed that at least one will expire at the end of each official year commencing at the end of the current such year and continuing in succeeding years until the entire original appointments run out. At the expiration of each original appointment the succeeding regular members shall be appointed for three-year terms in the case of a three-member board and five-year terms in the case of a five-member board. No such term shall exceed five years. No person who is a member of the Village Board of Trustees shall be eligible for membership on such Board of Appeals. The Board of Trustees shall have the power to remove any member of the Board for cause and after public hearing. Vacancies shall be filled for the unexpired term of the member whose place has become vacant. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. Such Chairman or, in his absence, the Deputy Chairman, who shall also be appointed by the Board of Trustees for a period of three years in the case of a three-member board and for five years in the case of a five-member board, may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public. Such Board shall keep minutes of its 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 its examinations and other official actions. Every rule and regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and with the Village Clerk and shall be a public record.

ARTICLE II
Planning Board
[Adopted 9-11-1985 by L.L. No. 4-1985]

§ 23-2. Amendment of Village Law § 7-718.

The first paragraph of § 7-718 of the Village Law, as last amended by Chapter 544 of the Laws of 1974, is hereby amended in its application to the Village of Cove Neck, New York, to read as follows:

§ 7-718. Planning Board; appointments; terms of office.

The Board of Trustees may establish a Planning Board of five regular members. The first appointments of regular members thereto shall be for terms so fixed that at least one will expire at the end of each official year commencing at the end of the current such year and continuing in succeeding years until the entire original appointments run out. At the expiration of each original appointment the succeeding regular members shall be appointed for five-year terms. No such term shall exceed five years. In addition, the Board of Trustees may appoint, for a one-year term, one alternate member of such Planning Board who shall be entitled to serve and function in the place and stead of a regular member, when his presence is necessary to constitute a quorum of the Board, in the absence or inability of a regular member to serve or function. The members of such Board in office at the time this section as hereby amended takes effect shall continue in office until the end of the term for which they were appointed and their successors have been appointed as provided in this section as so amended and have qualified. Any officials of the Village on such Board shall not, by reason of membership thereon, forfeit their right to exercise the powers, perform the duties or receive the compensation of the municipal office held by them during such membership. Any member of the Board may be removed by the Mayor for cause after public hearing.

Chapter 28

BRUSH, GRASS AND WEEDS

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Art. 18 of the 1974 General Code. Amendments noted where applicable.]

§ 28-1. Declaration of policy.

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

§ 28-2. Notice to remedy prohibited conditions.

The Board of Trustees may from time to time by resolution require notice to be served upon owners as hereinafter provided to remedy any of the conditions designated in § 28-1 which may exist upon the land.

§ 28-3. Duty to abate prohibited conditions.

Any person, being the owner of real property in the Village, shall be required to cut, trim or remove brush, grass, rubbish, weeds or other materials upon his lands when ordered to do so by resolution of the Board of Trustees to abate a dangerous, unhealthful or hazardous condition.

§ 28-4. Service of notice; time for compliance.

Whenever the Board of Trustees shall adopt a resolution requiring the owner of land within the Village to cut, trim or remove brush, grass, rubbish, weeds or other materials upon his lands, the Village Board of Trustees shall specify the place, manner and time, not less than 10 days from the receipt of notice, within which such work shall be commenced. A notice of the adoption of such resolution shall be served upon such owner or owners by certified mail addressed to his or their last known address.

§ 28-5. Abatement of prohibited conditions by Village.

Whenever a notice or notices referred to in § 28-4 hereof has or have been served upon the owner of the respective lots or parcels of land to cut, trim or remove brush, grass, rubbish, weeds or other materials and such owner shall neglect or fail to comply with the requirements of such notice or notices within the time provided therein, the Board of Trustees may cause the work to be done and pay the cost thereof.

§ 28-6. Recovery of costs.

The Village shall be reimbursed for the cost of work performed or services rendered by direction of the Board of Trustees as provided in § 28-5. When the Village has effected the removal of such brush, weeds and like matter from such private property or has paid for its removal, the actual cost of such removal plus accrued interest at the rate of 6% per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be assessed against such property, which assessment shall be included in the next succeeding annual bill for Village taxes for such property and shall become a lien thereon when such taxes become a lien.

Chapter 32

BUILDING CONSTRUCTION

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

GENERAL REFERENCES

Dangerous buildings — See Ch. 35.
Environmental quality review — See Ch. 51.
Excavation, filling and topsoil removal — See Ch. 60.
Fees and deposits — See Ch. 65.
Freshwater wetlands — See Ch. 74.
Sewage disposal systems — See Ch. 131.
Subdivision of land — See Ch. 145.
Zoning — See Ch. 175.

ARTICLE I

Elevation of Structures, Roadways and Sewage Systems

[Adopted 10-18-1974 by L.L. No. 2-1974 as Art. 16 of the 1974 General Code]

§ 32-1. Findings.

It is found and declared that:

- A. The Village is contiguous along its northeast and west boundaries to the waters of Oyster Bay Harbor and Cold Spring Harbor.
- B. Certain areas of the Village adjacent to Oyster Bay Harbor and Cold Spring Harbor are at or near sea level.
- C. The waters of Oyster Bay Harbor and Cold Spring Harbor are subject to storms, hurricanes, high water and exceptional tides and, as a consequence, flood or could flood low-lying lands within the Village adjacent to Oyster Bay Harbor and Cold Spring Harbor and thereby endanger the lives and property of residents and owners of such lands by flooding or by contamination.
- D. The following regulations are necessary to promote and protect the public safety, health, welfare, good order and peace of the inhabitants and landowners of the Village and the public therein and to protect and secure their property and to protect and preserve the public streets and other property of the Village.

§ 32-2. Effect on Building Code; definitions.

- A. This article shall be an addition to the Building Code of the Village which is otherwise the New York State Building Construction Code.¹

1. Editor's Note: See now the New York State Uniform Fire Prevention and Building Code.

- B. The words used in this article shall have the same meaning as is set forth in Chapter 175, Zoning, to the extent that they are therein defined or used, otherwise they shall have the same meaning as is set forth in the New York State Building Construction Code. In addition, mean sea level and elevation shall be taken from Nassau County datum as shown on the topographic map prepared by the Nassau County Department of Public Works and dated 1957.

§ 32-3. General regulations.

- A. No building permit shall be issued for any building within the Village, including accessory buildings and uses, but excepting any of the following structures provided they do not contain sleeping accommodations, namely, swimming pools and appurtenant bathhouses, beach club and beach association facilities, toolhouses, playhouses, greenhouses, tennis houses, tennis courts and riding rings, unless:
- (1) The elevation of any habitable floor area of any building is at least 12 feet above mean sea level.
 - (2) The elevation of the level of the ground in all directions around the outside wall of the foundation of any such building is at least 10 feet above mean sea level for a distance of 30 feet.
- B. No street or driveway shall be constructed or authorized unless the crown of the street is at least 10 feet above mean sea level.
- C. No permit shall be issued for any building described in Subsection A hereof and no street or driveway shall be built on land which has been filled or must be filled to comply with the provisions of this article (except where regrading is required only to provide a one-percent drainage gradient of a building site) unless the applicant shall state in his application for a permit to erect such building, street or driveway the manner and extent to which and the materials with which said land has been filled or with which he proposes to do such filling and shall furnish engineering and/or laboratory test reports satisfactory to the Village Engineers and the Village Building Inspector reasonably showing that the compaction of such fill and of the subsoil will properly support the structure or roadbed or any permanent improvement proposed to be erected thereon or installed therein.
- D. No permit shall be issued for the construction of any facility or system for the disposal of sewage or other putrescent organic wastes on any lot which, in its natural state, has or had more than 75% of its lot area at an elevation of less than 10 feet above mean sea level and/or in a location which, in its natural state, is or was at an elevation of less than 10 feet above mean sea level, unless such facility or system is designed by a civil engineer licensed to practice in the State of New York and is approved by the Village Engineers and, to the extent of their jurisdiction, by the New York State Board of Health and the Nassau County Department of Health. No such facility or system that is installed in the ground shall be backfilled without first having been inspected and approved by the Village Engineers.

§ 32-4. Variances; fees; indemnification of Village.

- A. The Board of Appeals of the Village may permit the erection of a building or installation of

a street or driveway not conforming to this article, upon application to said Board by the person proposing to erect such building or to install such street or driveway, if it shall find that compliance with the provisions of this article shall cause practical difficulties or unnecessary hardships in connection with existing structures or surface drainage in the vicinity of such proposed building, street or driveway, and in granting such permit the Board of Appeals may impose such reasonable conditions for the protection of persons and property affected by the proposed erection or installation as it may deem reasonable and in the public interest.

- B. In addition to any and all other fees prescribed by law, ordinance or regulation, the fees required by Chapter 65, Fees and Deposits, shall be paid upon application for the issuance of a permit where § 32-3D hereof is applicable.
- C. The acceptance by any person of a permit or the construction by any person of a street or driveway where § 32-3D or 32-4A hereof is applicable shall constitute an agreement by such person, his heirs or successors and assigns to indemnify the Village for and to hold the Village harmless from any damage, liability, claim, suit or proceeding arising out of a change of the grade of any land, street or driveway. The acceptance by any person of a permit or the construction by any person of a street or driveway where § 32-3D or 32-4A hereof is applicable shall constitute a waiver and release by such person, his heirs or successors and assigns in favor of the Village for any damage or injury to person or property sustained on the land for which the permit was accepted or on the street or driveway so constructed.

ARTICLE II

Building Design

[Adopted 10-18-1974 by L.L. No. 2-1974 as Art. 25 of the 1974 General Code]

§ 32-5. Findings and purpose.

- A. It is found and declared that uniformity in the exterior design and appearance of buildings erected in the same residential neighborhood for occupancy as single-family dwellings adversely affects the desirability of immediate and neighboring areas for residence purposes and by so doing impairs the benefits of occupancy of existing residential property in such areas, impairs the stability and value of both improved and unimproved real property in such areas, prevents the most appropriate use of such real property, prevents the most appropriate development of such areas, produces degeneration of residential property in such areas with attendant deterioration of conditions affecting the health, safety and morals of the inhabitants thereof, deprives the municipality of tax revenue which it otherwise could receive and destroys a proper balance in relationship between the taxable value of real property in such areas and the cost of the municipal services provided therefor. It is the purpose of this article to prevent these and other harmful effects of uniformity in the exterior design and appearance of buildings erected in the same residential neighborhood for occupancy as single-family dwellings and thus to promote and protect the health, safety, morals and general welfare of the community.
- B. Therefore, this article is adopted in order to regulate uniformity in the exterior design and appearance of buildings erected in the same residential neighborhood for occupancy as single-family dwellings and to create and define the powers and duties of a board with

authority to hear and decide appeals from action relating thereto.²

§ 32-6. General regulations.

- A. Except as provided in this article, no building permit shall be issued under Chapter 175, Zoning, and the State Building Construction Code³ of the Village for the erection of any building for occupancy as a single-family dwelling if it is like or substantially like any neighboring building, as hereinafter defined, then in existence or for which a building permit has been issued in more than three of the following six respects:
- (1) Height of the main roof ridge or, in the case of a building with a flat roof, the highest point of the roof beams above the elevation of the first floor.
 - (2) Height of the main roof ridge above the top of the plate (all flat roofs shall be deemed identical in this dimension).
 - (3) Length of the main roof ridge or, in the case of a building with a flat roof, length of the main roof.
 - (4) Width between outside walls at the ends of the building measured under the main roof at right angles to the length thereof.
 - (5) Relative location of windows in the front elevation or in each of both side elevations with respect to each other and with respect to any door, chimney, porch or attached garage in the same elevation.
 - (6) In the front elevation, both relative location with respect to each other of garage, if attached, porch, if any, and the remainder of the building and either height of any portion of the building located outside the limits of the main roof, measured from the elevation of the first floor to the roof ridge, or, in the case of a flat roof, the highest point of the roof beams or width of said portion of the building if it has a gable in the front elevation, otherwise length of said roof ridge or said flat roof in the front elevation.
- B. Buildings shall be deemed to be like each other in any dimension with respect to which the difference between them is not more than four feet. Buildings between which the only difference in relative location of elements is end to end or side to side reversal of elements shall be deemed to be like each other in relative location of such elements. In relation to the premises with respect to which the permit is sought, a building shall be deemed to be a neighboring building if the lot upon which it or any part of it has been or will be erected is any one of the following lots, as shown on the tax map of the Village:
- (1) Any lot on the street upon which the building to be erected on said premises would front which is the first or the second lot next along said street in either direction from said premises, without regard to intervening street lines;
 - (2) Any lot any part of the street line frontage of which is across said street from said

2. Editor's Note: See also Ch. 175, Zoning, § 175-15, Architectural Review.

3. Editor's Note: See now the New York State Uniform Fire Prevention and Building Code.

- premises or from a lot referred to in Subsection B(1) of this section;
- (3) Any lot any part of the street line frontage of which faces the end of and is within the width of said street, if there are fewer than two lots between said premises and the end of said street;
 - (4) Any lot on another street which adjoins said premises on such other street; or
 - (5) Any lot any part of the street line frontage of which is across such other street from said premises or from a lot referred to in Subsection B(4) of this section; provided, however, that, notwithstanding any of the foregoing provisions of this section, no building shall be deemed to be a neighboring building in relation to said premises if its rear elevation faces the street upon which the building to be erected on said premises would front.

§ 32-7. Denial of building permit; appeals.

- A. Denial of building permit. In any case in which the Building Inspector of the Village shall deny an application for a building permit solely or partly because of the provisions of § 32-6 of this article, he shall promptly send to the applicant, by mail, addressed to the address of the applicant set forth in the application, a notice of his action which shall specify the ground or grounds upon which the same is based.
- B. Appeal. Any person aggrieved by action of the Building Inspector in denying an application for a building permit solely or partly because of the provisions of § 32-6 of this article and any officer of the Village who claims that action of the Building Inspector in granting an application for a building permit violates such provisions may take an appeal therefrom to the Board of Zoning Appeals by filing a notice of appeal, which shall specify the grounds thereof, with the Building Inspector and with the Board within 30 days from the date on which such action was taken. Upon receipt of such notice of appeal, the Building Inspector shall forthwith transmit to the Board of Zoning Appeals all of the papers constituting the record upon which the action appealed from was taken.
- C. Stay of proceeding. Unless the Board of Zoning Appeals shall otherwise direct, an appeal duly taken as provided in Subsection B of this section stays all proceedings in furtherance of the action appealed from.
- D. The Board of Zoning Appeals shall fix a reasonable time for the hearing of each appeal duly taken as provided in Subsection B of this section and give due notice thereof to the parties and shall hold said hearing and decide said appeal within a reasonable time. The hearing shall be open to the public. Upon the hearing, any party may appear in person or by agent or by attorney. The Board may reverse or affirm, wholly or partly, or may modify the action appealed from insofar as it relates to the provisions of § 32-6 of this article and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Building Inspector in connection with the application of the provisions of § 32-6 of this article. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of said provisions, the Board shall have the power, in passing upon appeals, to vary or modify the application of such provisions in harmony with their general purpose and intent so that

the spirit of this article shall be observed, public safety and welfare secured and substantial justice done.

Chapter 35

BUILDINGS, DANGEROUS

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Art. 15 of the 1974 General Code; amended in its entirety 3-14-1984 by L.L. No. 1-1984. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 28.

Building construction — See Ch. 32.

§ 35-1. Definitions.

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

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

- A. Is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to health of the occupants of it or neighboring structures.
- B. Because of faulty construction, age, lack of proper repair or any other cause is especially liable to fire and constitutes or creates a fire hazard.
- C. By reason of faulty construction or any other cause is liable to cause injury or damage by collapsing or by a collapse or fall of any part of the structure.
- D. Because of its condition or because of lack of doors or windows is an attractive nuisance or is available to and frequented by malefactors or disorderly persons who are not lawful occupants of the structure.

§ 35-2. Repair or removal required.

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

§ 35-3. Notice and order.

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

with such notice shall commence and complete the securing or removal of such building. If such service is made by registered mail, the Village Clerk shall cause a copy of such notice to be posted on the premises.

§ 35-4. Appointment of surveyors.

In the event of the neglect or refusal of the person served with the notice provided for in § 35-3 to comply with the same within the time therein specified, the Village may by written notice to the property owner require that a survey be made by the Village Engineer and a practical builder, engineer or architect to be named by the Board of Trustees and a practical builder, engineer or architect appointed by the person notified as provided in § 35-3. In the event of the refusal or neglect of the person so notified to appoint such surveyor within 15 days from the date of such notice provided for in this section, the two surveyors named by the Village shall prepare the survey and report. The aforesaid notice shall state that in the event the building or other structure shall be reported unsafe or dangerous under such survey, an application may be made at the Supreme Court in Nassau County, following the receipt of said report of the surveyors by the Board of Trustees, for an order determining the building to be a public nuisance and directing that it shall be repaired and secured or taken down and removed by the Village at the sole expense of the owner of said building.

§ 35-5. Compensation of surveyors.

The surveyors appointed by the Village as provided for in § 35-4 shall receive reasonable compensation for their services as such from the Village.

§ 35-6. Posting of surveyors' report.

Following the receipt of a report of surveyors by the Board of Trustees, the Village Clerk shall cause a copy of the report of survey to be posted on the building and mailed to the property owner.

§ 35-7. Repair or removal by Village; recovery of costs.

Upon obtaining the aforementioned Supreme Court order, the Village shall enter the property and effect the repairing, securing or removing of a dangerous or unsafe building. All costs and expenses for the same incurred by the Village, plus accrued interest at the rate of 12% per annum from the date of completion of the work, shall be paid by such owner. If such costs, expenses and interest are not paid by the owner, they shall be assessed against the lot or parcel of land where such building is or was located, which assessment shall be included in the next succeeding annual bill for Village taxes for such property and shall become a lien thereon when such taxes become a lien.

Chapter 44

DEFENSE AND INDEMNIFICATION

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

ARTICLE I

Village Officers and Employees

[Adopted 12-6-1978 by L.L. No. 2-1978]

§ 44-1. Definitions.

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

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

OFFICER — The Mayor, Trustee, Planning Board member, Board of Zoning Appeals member, any duly appointed commissioner or deputy commissioner, Treasurer, Clerk and such other officers, including deputies, as the Board of Trustees shall determine.

§ 44-2. Procedure.

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

ARTICLE II

Court Officers and Employees

[Adopted 12-20-1979 by L.L. No. 1-1979]

§ 44-3. Definitions.

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

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

COURT OFFICER — A Village Justice, Acting Village Justice, prosecutor and deputy prosecutor.

§ 44-4. Procedure.

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

Chapter 51

ENVIRONMENTAL QUALITY REVIEW

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 3-11-1977 by L.L. No. 1-1977. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 32.
Excavation, filling and topsoil removal — See Ch. 60.
Freshwater wetlands — See Ch. 74.
Sewage disposal systems — See Ch. 131.
Subdivision of land — See Ch. 145.
Zoning — See Ch. 174.

§ 51-1. Definitions and word usage.

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

APPLICANT — A person, corporation, partnership or association submitting an application to the Board of Trustees, Planning Board, Zoning Board or other board or agency established by the Trustees or an appeal to the Zoning Board.

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

BUILDING INSPECTOR — The Building Inspector of the Village.

CLERK — The Village Clerk.

DEIS — Draft environmental impact statement.

EIS — Final environmental impact statement.

PLANNING BOARD — The Planning Board of the Village.

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

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

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

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

TRUSTEES — The Board of Trustees of the Village.

TYPE I ACTIONS — Actions or classes of actions as set forth in 6 NYCRR 617.12 and the rules and regulations that are likely to require preparation of an EIS because they will in almost

every instance have a significant effect on the environment.

TYPE II ACTIONS — Actions or classes of actions which have been determined not to have a significant effect on the environment and which do not require an EIS as set forth in 6 NYCRR 617.12 or the rules and regulations.

VILLAGE — The Incorporated Village of Cove Neck.

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

§ 51-2. Rules and regulations.

- A. The Trustees shall adopt and may amend from time to time, by resolution, rules and regulations for the implementation and administration of this chapter which shall be no less protective of the environment and consistent with SEQR and with Part 617 NYCRR.
- B. The rules and regulations may set forth additional Type I and Type II actions which shall be consistent with Part 617 NYCRR.
- C. The rules and regulations shall use the definitions and abbreviations set forth in § 51-1 above.

§ 51-3. Compliance required.

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

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

§ 51-4. Statement to be filed.

Applicants in all cases, unless otherwise specified in the rules and regulations and § 51-3 above, shall file a written statement with the board or officer designated by the rules and regulations setting forth the name of the applicant, the location of the real property affected, if any, a description of the nature of the proposed action and the effect it may have on the environment. In addition, applicants may include a detailed statement of the reasons why, in their view, a proposed action may or will not have a significant effect on the environment. Where the action

involves an application, the statement shall be filed simultaneously with the application for the action. The statement required above shall be upon a form prescribed by the rules and regulations and shall contain such additional relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches and maps, if any, together with any other relevant explanatory material required by the rules and regulations.

§ 51-5. Notice of application.

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

§ 51-6. Written determination; coordination of time limits.

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

§ 51-7. Fees.

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

§ 51-8. Determination to be filed and circulated.

If the board determines that the proposed action is an exempt action or is a Type II action or that it will not have a significant effect on the environment, the board shall prepare, file and circulate such determination, as provided in 6 NYCRR 617.7(b), and thereafter the proposed action may be processed without further regard to this chapter. If the board determines that the proposed action is not an exempt action and is not a Type II action and that it may have a significant effect on the environment, the board shall prepare, file and circulate such determination, as provided in 6 NYCRR 617.7(b), and thereafter the proposed action shall be reviewed and processed in accordance with the provisions of this chapter and Part 617 NYCRR.

§ 51-9. Actions which may have a significant effect on the environment.

- A. Following a determination that a proposed action may have a significant effect on the environment, the board shall, in accordance with the provisions of Part 617 NYCRR:

- (1) In the case of an action involving an applicant, immediately notify the applicant of the determination and require the applicant to prepare a DEIS; or
 - (2) In the case of an action proposed by a governmental agency, require that agency to prepare a DEIS.
- B. If an applicant decides not to submit a DEIS, the board shall notify the applicant that the application will not be further processed until said environmental impact statement is submitted and that no approval will be issued.

§ 51-10. Draft environmental impact statement.

- A. Upon completion of a DEIS prepared at the request of the board, a notice of completion containing the information specified in 6 NYCRR 617.7(d) shall be prepared, filed and circulated, as provided in 6 NYCRR 617.7(e) and (f). In addition, it shall be published in the official newspaper of the Village at the applicant's expense, and a copy thereof shall also be posted in a conspicuous place designated in the rules and regulations. Copies of the DEIS and the notice of completion shall be filed, sent and made available, as provided in 6 NYCRR 617.7(e) and (f).
- B. If the board determines to hold a public hearing on a DEIS, notice thereof shall be filed, circulated and sent in the same manner as the notice of completion and shall be published in the official newspapers of the Village at least 10 days prior to such public hearing. Such notice shall also state the place where substantive written comments on the DEIS may be sent and the date before which such comments shall be received. The hearing shall commence no less than 15 calendar days nor more than 60 calendar days from the filing of the DEIS, except as otherwise provided where the board determines that additional time is necessary for the public or other agency review of the DEIS or where a different hearing date is required as appropriate under other applicable law.
- C. If, on the basis of a DEIS or a public hearing thereon, the board determines that an action will not have a significant effect on the environment, the proposed action may be processed without further regard to SEQR or this chapter.
- D. If, on the basis of a DEIS or a public hearing thereon, the board determines that the proposed action will have a significant effect on the environment, the board shall require the preparation of an EIS in accordance with the provisions of Part 617 NYCRR. Such EIS shall be prepared within 45 days after the close of any hearing or within 60 days after the filing of the DEIS, whichever last occurs; provided, however, that the board may extend this time as necessary to complete the statement adequately or where problems identified with the proposed action require material reconsideration or modification.

§ 51-11. Environmental impact statement.

- A. A notice of completion of an EIS shall be prepared, filed and sent in the same manner as provided in § 51-10 herein and shall be sent to all persons to whom the notice of completion of the DEIS was sent. Copies of the EIS shall be filed and made available for review in the same manner as the DEIS.
- B. No decision to carry out or approve an action which has been the subject of an EIS shall be

made by the board until after the filing and consideration of the EIS. The board shall make a decision whether or not to approve the action within 30 calendar days of the filing of the EIS.

- C. When the board decides to carry out or approve an action which may have a significant effect on the environment, it shall make the following findings in a written determination:
 - (1) Consistent with social, economic and other essential considerations of state and local policy, to the maximum extent practicable, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects, including the effects disclosed in the relevant environmental impact statements; and
 - (2) All practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.
- D. For public information purposes, a copy of this determination shall be filed and made available as provided in Part 617 NYCRR.

§ 51-12. Public records.

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

§ 51-13. Actions undertaken by Village.

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

§ 51-14. Actions involving multiple agencies.

Where more than one agency is involved in an action, the procedures of 6 NYCRR 617.4 and 617.8 shall be followed.

§ 51-15. Existing actions.

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

Chapter 56

ETHICS, CODE OF

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 11-19-1970 by L.L. No. 1-1970. Amendments noted where applicable.]

§ 56-1. Purpose.

Pursuant to the provisions of § 806 of the General Municipal Law, the Board of Trustees of the Village of Cove Neck 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 Cove Neck. These rules shall serve as a guide for official conduct of the officers and employees of the Village of Cove Neck. The rules of ethical conduct of this chapter, as adopted, shall not conflict with but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 56-2. Definitions.

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 or his or her spouse, minor children and dependents; a firm, partnership or association of which such officer or employee is a member or employee; a corporation of which such officer or employee is an officer, director or employee; and a corporation any stock of which is accrued or controlled directly or indirectly by such officer or employee, unless the context otherwise requires.

MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the Village of Cove Neck, 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.

§ 56-3. Standards of conduct.

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

- A. Disclosure of interest. He shall publicly disclose to the Board of Trustees, in writing, the nature and extent of any interest he may have or later acquire in any actual or proposed contract with the Village of Cove Neck as soon as he has knowledge of such actual or prospective interest.

- B. Gifts. He shall not directly or indirectly solicit any gift or accept or receive any gift having a value of \$25 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.
- C. 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.
- D. Representation before one's own agency. He shall not receive or enter into any agreement, express or implied, for the receipt of 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.
- E. Representation before any agency for a contingent fee. He shall not receive or enter into any agreement, express or implied, for the receipt of 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.
- F. 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 Cove Neck, 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.
- G. 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.
- H. 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.
- I. 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 Cove Neck in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

§ 56-4. Officer and employee claims.

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

§ 56-5. Board of Ethics.

- A. There is hereby established a Board of Ethics consisting of three members to be appointed by the Board of Trustees and who shall serve without compensation and at the pleasure of the Board of Trustees. Two of such members shall be persons other than officers or employees of the Village of Cove Neck, and the third shall be the Mayor of the Village of Cove Neck.
- B. The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall render advisory opinions to the officers and employees of the Village of Cove Neck with respect to Article 18 of the General Municipal Law and any Code of Ethics adopted pursuant to such article, under such rules and regulations as the Board may prescribe. In addition, the Board may make recommendations with respect to the drafting and adoption of amendments to this Code of Ethics upon request of the Board of Trustees.

§ 56-6. Distribution of code.

The Mayor of the Village of Cove Neck shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Village within 30 days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment.

§ 56-7. Penalties for offenses.

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

Chapter 60

EXCAVATION, FILLING AND TOPSOIL REMOVAL

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Art. 20 of the 1974 General Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 32.
Environmental quality review — See Ch. 51.
Freshwater wetlands — See Ch. 74.
Streets and sidewalks — See Ch. 141.
Subdivision of land — See Ch. 145.
Zoning — See Ch. 175.

§ 60-1. Findings.

It is found and declared that:

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

§ 60-2. Removal of live trees; excavating, filling or earth removal activities.

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

§ 60-3. Application for special permit.

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

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

§ 60-4. Grant of special permit.

- A. The Board of Trustees may grant a special permit for a limited period of time, not exceeding one year, if it shall find that the proposed removal of live trees, dredging, filling, excavating or removing will not result in the creation of any sharp declivities, pits or depressions; will not tend to result in soil erosion, fertility problems, erosion, storm damage, flooding or pollution; will not cause depressed land values; and will not destroy the ecological value of wetlands or create any drainage or sewerage problems or other conditions which would impair the use of the property in accordance with Chapter 175, Zoning, or Chapter 145, Subdivision of Land, or which would cause any damage to private or public property within the Village and that such removal of live trees, dredging, filling, excavating or removing will be in harmony with the general purpose and intent of Chapter

175, Zoning, or Chapter 145, Subdivision of Land.

- B. A permit shall be granted only upon the following conditions and in accordance with Chapter 145, Subdivision of Land:
- (1) The premises shall be filled, dredged, excavated and graded in conformity with the proposed contour plan as approved;
 - (2) Slopes shall not exceed a ratio of two vertical feet to four horizontal feet;
 - (3) No fixed or movable machinery shall be erected or maintained within 300 feet of any property or street line, and no buildings shall be erected on the premises, except temporary shelters for machinery and field offices;
 - (4) There will be no sharp declivities, pits or depressions, and proper drainage will be provided to avoid stagnant water;
 - (5) After dredging, filling, excavating or removing the premises shall be cleared of debris;
 - (6) Where applicable, the top layer of arable soil for a depth of six inches shall be set aside and retained on the premises and shall be respread over the premises upon completion of the dredging, filling, excavating or removing in accordance with approved contour lines. Trees, shrubs, brush, sod and other flora shall be replaced to the extent and within such time limitation as may be required by the Board of Trustees; and
 - (7) The applicant shall deposit or file with the Village an appropriate amount of cash or, if said Board permits, a performance bond in form and with surety acceptable to the Board, in such amount as the Board shall deem sufficient, to insure the faithful performance of the work to be undertaken pursuant to the conditions of approval and to insure repairs to any streets (public or private) or any public property damaged by trucks or other machinery using the same for access to and from the premises being dredged, filled or excavated.

§ 60-5. Exceptions.

In addition to and in furtherance of the exceptions noted in § 60-2 hereof, this chapter shall not be deemed to prevent:

- A. Usual landscaping, gardening and maintenance of lawns of private residences and clubs.
- B. Bona fide farming operations.
- C. The cutting down of dead or diseased trees and branches.

Chapter 65

FEES AND DEPOSITS

[**HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-24-2006 by L.L. No. 1-2006¹. Amendments noted where applicable.**]

GENERAL REFERENCES

Alarm systems — See Ch. 11.
Boards, committees and commissions — See Ch. 23.
Building construction — See Ch. 32.
Fees in lieu of reservation of recreation areas — See § 145-28.
Subdivision of land — See Ch. 145.
Zoning — See Ch. 175.

§ 65-1. Definitions.

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

ALTER — To make an alteration.

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

APPEAL — Any appeal made to the Village's Zoning Board of Appeals pursuant to Chapter 175, Zoning, or matters pertaining to an appeal.

APPLICANT — An individual, corporation or partnership or group thereof submitting an application to the Village's Zoning Board of Appeals, Planning Board, Site and Architectural Review Board, Board of Trustees, Clerk, Building Inspector and Highway Commissioner.

APPLICATION — Any application or written request made to the Village's Zoning Board of Appeals, Planning Board, Site and Architectural Review Board, Board of Trustees, Clerk, Building Inspector and Highway Commissioner seeking approval or relief.

BUILDING INSPECTOR — The Building Inspector of the Village.

CLERK — The Clerk of the Village.

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

OFFICIAL RECORD — Includes:

- A. Pages and writings contained in the official Minute Books of the Village's Board of Trustees, Site and Architectural Review Board, Planning Board and Zoning Board of

1. Editor's Note: This local law also repealed former Ch. 65, Fees and Deposits, adopted 11-24-1969 by L.L. No. 1-1969, as amended.

Appeals.

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

VILLAGE — The Incorporated Village of Cove Neck.

§ 65-2. Copies of official records, laws and maps.

- A. Any person who requests a copy of any public official record of the Village shall pay to the Clerk or designee \$0.25 per page for originals not exceeding 8 1/2 inches by 14 inches or the actual cost of reproduction for larger-size originals or those originals that are not reproducible on Village equipment.
- B. The following booklets and maps, when in print, are available for the noted charge:
 - (1) Village Code: \$200, which includes subscription.
 - (2) Zoning pamphlet: \$25.
 - (3) Subdivision pamphlet: \$20.
 - (4) Village Map: \$25.
- C. The Board of Trustees may, by resolution, increase the above charges for these publications.

§ 65-3. Building Department. [Amended 4-8-2015 by L.L. No. 2-2015]

- A. Building permit fees.
 - (1) There shall be due on the filing of an application for a building permit for all construction, except as noted in Subsection A(3) below, a permit fee in an amount equal to 1% of the estimated cost of construction based upon actual cost or the Village's minimum construction cost standards or minimum permit fee, whichever is greater.
 - (2) Cost of construction and minimum permit fee. The minimum construction cost for estimating a building permit fee for the noted construction shall be as follows:
 - (a) Single-family dwelling: \$300 per square foot.
 - (b) Addition to a single-family dwelling:
 - [1] For existing interior work: \$200 per square foot.
 - [2] For new square footage to dwelling: \$250 per square foot.
 - (c) Accessory building: \$200 per square foot.
 - (d) Deck or masonry patio: \$25 per square foot or \$250, whichever is greater.
 - (e) Commercial construction: \$350 per square foot.
 - (3) The minimum building permit fee for the noted construction shall be as follows:

- (a) Swimming pool: \$1,000.
 - (b) Tennis court: \$1,000.
 - (c) Storage shed (200 square feet or less): \$100.
 - (d) Oil or propane tank installation: \$275.
 - (e) Spa, hot tub or other recreational court: \$500.
 - (f) Demolition of principal dwelling: \$4,000.
 - (g) Demolition of accessory structure: \$1,000.
 - (h) Cost for other construction shall be determined by the Building Inspector and approved by the Board of Trustees.
- (4) The above minimum cost of construction and minimum permit fees may, from time to time, be added to, amended, modified or eliminated by resolution of the Board of Trustees.
- B. Additional fees. In addition to the building permit fee, the following fees are due and owing on the filing of an application for a building permit:
- (1) Site plan review.
 - (a) A review fee by the Village's Engineer shall be charged as follows:
 - [1] Construction of a single-family dwelling: \$1,500.
 - [2] Alteration to an existing single-family dwelling, construction or alteration of an in-ground swimming pool, tennis court, deck, attached garage or other significant accessory building: \$750.
 - (b) Resubmission of a site plan which contains a substantial modification or revision shall be deemed a new application.
 - (2) Certificate of occupancy:
 - (a) Fee: \$500.
 - (b) Duplicate certified copy: \$50.
 - (3) Architectural Review Board filing fee: \$500.
- C. Miscellaneous.
- (1) The building permit for a single-family dwelling will expire 18 months from the date of issuance. For all other construction, the building permit will expire 12 months from the date of issuance. A building permit may be extended for an additional six-month period upon payment of a renewal fee of \$500. No further renewals of a building permit will be granted, unless authorized by the Board of Trustees.
 - (2) Building permit fees.
 - (a) Building permit fees set forth in Subsection A shall be doubled for construction

that is commenced without a validly issued building permit by the Building Department. If the terms or conditions of the building permit or provisions of the Village's Code occur during construction after the issuance of the permit, the building permit fees shall be increased as follows:

- [1] First violation: \$500;
- [2] Second violation: \$1,000;
- [3] Third violation: \$2,500;
- [4] Fourth violation: \$7,500.

(b) If after the issuance of the permit and during construction, if the terms or conditions of a stop work order that is served on the contractor or property owner by the Village is violated, the building permit fees shall be increased as follows:

- [1] First violation: \$2,500;
- [2] Second violation: \$5,000;
- [3] Third violation and all further violations: \$10,000.

(c) Failure to pay the additional building permit fees within 30 days will result in suspension of the building permit.

(3) Fees for duplication of Building Department records including a survey shall be the actual cost of reproduction, plus an administration charge of \$50.

§ 65-4. Board of Zoning Appeals.

A. Every applicant to the Village's Zoning Board of Appeals shall pay to the Village the following:

(1) Filing fees.

- (a) Application for special use permit and amendments thereto: \$5,000.
- (b) Appeal and all other matters: \$1,500.
- (c) General appearance fee for discussion with Board of Zoning Appeals when no application or appeal is pending: \$750.

(2) Deposit: In addition to the above filing fee, a hearing charge deposit shall be submitted with an application for the following:

- (a) Special use permit and amendments: \$5,000.
- (b) Appeals and other matters: \$1,000.
- (c) General appearance fee for discussion purposes with Board of Zoning Appeals: \$750.

B. The appropriate filing fee and hearing deposit must be paid to the Village before the

application is deemed complete and a hearing can be noticed.

C. Hearing charges.

- (1) Each applicant to the Board of Zoning Appeals shall be responsible for all expenses incurred by the Village for engineering, inspection, consulting, stenographic, administration, and legal expenses. Village expenses shall be deducted from the hearing deposit and, to the extent that the charges for the above services incurred by the Village exceed the hearing deposit, the applicant shall be responsible for payment of all additional sums incurred by the Village, except for legal fees that are in excess of the below maximum amount:
 - (a) Appeals, maximum Village legal fees: \$25,000.
 - (b) Special use permit and amendments thereto, maximum legal fees: \$100,000.
- (2) All hearing charges shall be paid to the Village before the Zoning Board of Appeals shall file its decision.

§ 65-5. Planning Board.

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

A. Filing fees.

- (1) Preliminary approval: \$500 per lot.
- (2) Final approval: \$200 per lot.
- (3) General discussion before Planning Board: \$750 per meeting.
- (4) Adjourned public hearing: \$750 per adjourned hearing.

B. Hearing deposit.

- (1) Preliminary hearing: \$10,000 plus \$750 per building lot.
- (2) Final hearing: \$10,000 plus \$750 per building lot.
- (3) All other matters: \$1,000.
- (4) Minimum hearing deposit to be maintained by the applicant during subdivision or partitioning applications: \$5,000; additional hearing deposits to maintain minimum balance: amount to be determined by Village Clerk.

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

- (1) Maximum Village legal fees chargeable to the applicant as follows:
 - (a) Application with fewer than five lots: \$50,000.
 - (b) Application with five or more lots: \$100,000.
 - (c) Environmental review of application:
 - [1] With fewer than five lots: \$25,000.
 - [2] With five or more lots: \$50,000.
- D. Recreation site and improvement fund. If the Planning Board makes the appropriate findings to so require, the applicant shall pay to the Village's site and recreation fund \$10,000 per lot, excluding recharge basins and one newly created lot if it has an existing principal dwelling.
- E. The applicant shall be responsible for prompt payment of all filing fees and hearing costs. An application shall not be processed or the proceeding continued unless and until payment for outstanding fees and costs is received by the Village within 30 days of request.
- F. Discharge of bond. No bond filed for the completion of the public improvements on a proposed subdivision shall be discharged until all fees and charges, as herein required, have been paid.
- G. Land outside Village. Filing fees for partitioning and subdivision of land outside the Village for which Village Planning Board approval is required by law shall be an amount equal to 1/2 of the required filing fees enumerated in Subsection A(1).

§ 65-6. Site and Architectural Review Board. [Amended 4-8-2015 by L.L. No. 2-2015]

Every applicant to the Village's Site and Architectural Review Board shall pay to the Village a filing fee of \$500.

§ 65-7. Licenses and permits for certain activities. [Amended 12-4-2011 by L.L. No. 5-2011; 6-13-2012 by L.L. No. 2-2012; 4-8-2015 by L.L. No. 2-2015]

An applicant for a permit or license to conduct any of the following activities in the Village shall pay to the Village a fee determined by the following schedule:

- A. Heavy trucking fee: \$1.50 as multiple for formula.²
- B. Tow car permit: \$50 per calendar year; \$25 if permit expires within six months.
- C. Street opening:
 - (1) Permit fee: \$30.
 - (2) Bond: an amount determined by the Street Commissioner not to exceed \$75 per square foot.

2. Editor's Note: See Ch. 164, Vehicles and Traffic, § 164-7B.

- D. Peddling licenses:
 - (1) Investigation: \$20.
 - (2) License fee: \$10.
- E. Parade or auction sales and tag sales.
 - (1) Parade or auction sale permit fee: \$1,000 per day.
 - (2) Tag sale by homeowner: \$50.
- F. Application pursuant to Chapter 32, Article I, Elevation of Structures, Roadways and Sewage Systems: \$50.
- G. Burglar and fire alarm fees.
 - (1) Homeowner's permit fee: \$50 per installation.
- H. Commercial use of residential property when authorized by the Board of Trustees: \$1,000 per day.
- I. Tree removal permit fee: \$50 per application minimum fee for the removal of up to five trees.
 - (1) For an application that involves the removal of six or more trees, in addition to the \$50 minimum fee, there shall be a further fee based upon the total number of trees to be removed, computed as follows:
 - (a) For the sixth to the 10th tree: \$20 per tree;
 - (b) For 11 to 20 trees: \$30 per tree for every tree to be removed beyond five;
 - (c) For 31 trees and more: \$75 per tree for every tree to be removed beyond five.
 - (2) For an application that pertains to a property for which a prior tree removal permit was issued within the past twelve-month period, or for a property where trees were removed without a removal permit, the permit fee shall be calculated using the total number of all trees that have been and will be removed, charged at the highest applicable rate per tree. There shall be no credit for prior fees paid.
 - (3) The application fee for a tree removal permit for trees that had been removed without a permit, shall be tripled plus \$250.
 - (4) In addition to a tree removal permit fee, the Village may require new planting to replace trees to be removed or that have been removed; the number, size, species and location of the plantings shall be as determined by the Village Board of Trustees.

§ 65-8. Refunds; waivers; assessment of unpaid fees. [Amended 4-8-2015 by L.L. No. 2-2015]

- A. Refund of fees. No filing fees, deposits or charges required by §§ 65-3, 65-4, 65-5 and 65-6 shall be returned or refunded, except as follows:
 - (1) If the construction of a building is discontinued or abandoned, the Trustees may

authorize a refund of up to 75% of the building permit fee and all of the certificate of occupancy fee to the extent that the Village's actual charges of review and inspection have not been incurred as certified to the Board of Trustees by the Building Inspector.

- (2) If an application to the Village's Planning Board, Zoning Board of Appeals or Site and Architectural Review Board is discontinued or abandoned, the Board of Trustees may authorize a refund of up to 90% of the filing fee paid in connection with said application to the extent that the Village's actual permitted charges have not been incurred as certified to the Board of Trustees by the Chairman of such Board.
 - (3) If the actual charges assessed pursuant to §§ 65-4C and 65-5C do not exceed the deposit held by the Village, the remaining balance shall be refunded to the applicant or appellant, provided that he shall, within one year after the decision on the application or appeal is filed, make a written demand for such refund upon the Clerk. All unclaimed excess deposits shall become the property of the Village within one year from such filing date.
- B. The Board of Trustees, in its sole discretion, shall have the right to waive any fee, charge or deposit or portion thereof imposed pursuant to this chapter as it deems necessary and proper.
- C. Fees and costs assessed. Any fees and charges herein required under §§ 65-3, 65-4, 65-5 and 65-6 which remain unpaid for more than 90 days after they are due and billed shall be assessed against the property which is the subject of the application, which assessment shall be included in the next succeeding annual bill for Village taxes for said property and shall become a lien thereon when such taxes become a lien.

§ 65-9. Interpretation and application. [Amended 4-8-2015 by L.L. No. 2-2015]

- A. Words that are singular or masculine shall be deemed to be plural or feminine whenever the sense of this chapter so requires.
- B. Any increase or decrease of a fee, charge or deposit resulting from an amendment of this chapter shall affect pending applications and appeals which have been filed with the Village as follows:
- (1) If the former fee or deposit has been paid to the Village before the effective date of any amendment hereto, no additional amounts shall be due nor refunds made relating to the particular stage of the application or appeal for which the former fee or deposit was paid. However, all additional fees shall be computed as set forth in Subsection B(2).
 - (2) Any fees or deposits paid after the effective date of any amendment shall be in accordance with the new amounts relating to the particular stage of the application or appeal for which they are paid.

§ 65-10. Changes of fees, deposits and charges. [Added 6-13-2012 by L.L. No. 2-2012]

The fees, deposits and charges set forth above may be increased or decreased from time to time by resolution of the Board of Trustees, and a current record and schedule of such fees, deposits

and charges shall be maintained by the Village Clerk/Treasurer.

Chapter 69

FIREARMS AND WEAPONS

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Art. 10 of the 1974 General Code. Amendments noted where applicable.]

§ 69-1. Definitions.

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

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

WEAPON — A bow and arrow, crossbow, blow gun, slingshot, c/o2 gun, air gun, BB gun or any other device which emits a projectile with a force other than an explosion.

§ 69-2. Prohibited acts.

No person shall:

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

§ 69-3. Exceptions.

Subject to the restrictions of state law (which among other things prohibits the discharge of a rifle in the Village), the foregoing provisions of § 69-2 shall not apply to:

- A. A police officer acting in the discharge of his duties.
- B. The owner or lessee of a parcel of land or any of his immediate family, employees or guests who have permission from said owner or lessee to use a firearm or weapon on said parcel for recreation or the hunting of game, provided that any guest not accompanied by the owner, lessee or a member of the immediate family or an employee of the owner or lessee shall have on his person a written permit dated within one year of its use from said owner or lessee to use any firearm or weapon on said parcel of land, and provided further that no discharge of said firearm or weapon shall be done in a reckless or negligent manner or across a public highway or lane or across the property of another.
- C. The owner or lessee of property or any of his immediate family, employees or guests

engaged in the sport of skeet or trap shooting between the hours of 9:00 a.m. and sunset and under such circumstances as not to endanger person or property.

- D. Any owner or lessee when reasonably necessary for the protection of life or property, or both, or in the act of self-defense.

Chapter 74

FRESHWATER WETLANDS

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 8-20-1976 by L.L. No. 1-1976. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 32.
Environmental quality review — See Ch. 51.
Excavation, filling and topsoil removal — See Ch. 60.
Subdivision of land — See Ch. 145.
Waterways — See Ch. 169.
Zoning — See Ch. 175.

§ 74-1. Findings; intent.

- A. The Village of Cove Neck ("Village") finds that freshwater wetlands are invaluable resources for flood protection, wildlife habitat, open space, water resources and other benefits associated therewith which, if preserved and maintained in an undisturbed, natural condition, constitute important social, economic and aesthetic assets to existing and future residents of the Village.
- B. It is the intent of the Village Trustees to protect the residents of the Village by preserving, protecting and conserving freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands and to regulate use and development of such wetlands consistent with the general welfare of the Village pursuant to Article 24 of the New York State Environmental Conservation Law.
- C. It is also the intent of the Village Trustees to promote the public purpose and the health, safety and general welfare of present and future residents of the Village by providing for the protection, proper maintenance and use of wetlands, water bodies and watercourses located within the Village by preventing or minimizing erosion due to flooding and stormwater runoff, maintaining the natural groundwater supplies, protecting subsurface water resources and providing valuable watersheds, preserving and protecting the purity, utility, water retention capability, ecological functions and natural beauty of all wetlands, water bodies, watercourses and other related natural features of the terrain and by providing and protecting wildlife habitat.

§ 74-2. Definitions.

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

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

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

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

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

- A. Lands and submerged lands commonly called "marshes," "swamps," "sloughs," "bogs" and "flats" supporting aquatic or semiaquatic vegetation of the following vegetative types:
- (1) Wetland trees, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other trees, including, among others, red maple (*Acer rubum*), willows (*Salix* spp.), black spruce (*Picea mariana*), swamp white oak (*Quercus bicolor*), red ash (*Fraxinus pennsylvanica*), American elm (*Ulmus americana*) and larch (*Larix laricina*).
 - (2) Wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other shrubs, including, among others, alder (*Alnus* spp.), buttonbush (*Cephalanthus occidentalis*), bog rosemary (*Andromeda glaucophylla*) and leatherleaf (*Chamaedaphne calyculata*).
 - (3) Emergent vegetation, including, among others, cattails (*Typha* spp.), pickerelweed (*Pontederia cordata*), bulrushes (*Scirpus* spp.), arrow arum (*Peltandra virginica*), arrowheads (*Sagittaria* spp.), reed (*Phragmites communis*), wild rice (*Zizania aquatica*), bur-reeds (*Sparganium* spp.), purple loosestrife (*Lythrum salicaria*), swamp loosestrife (*Decodon verticillatus*) and water plantain (*Alisma plantago-aquatica*).
 - (4) Rooted, floating-leaved vegetation, including, among others, water lily (*Nymphaea odorata*), water shield (*Brasenia schreberi*) and spatterdock (*Nuphar* spp.).
 - (5) Free-floating vegetation, including, among others, duckweed (*Lemna* spp.), big duckweed (*Spirodela polyrhiza*) and watermeal (*Wolffia* spp.).
 - (6) Wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently waterlogged soils to give it a competitive advantage over other open land vegetation, including, among others, sedges (*Carex* spp.), rushes (*Juncus* spp.), cattails (*Typha* spp.), rice cut-grass (*Leersia oryzoides*), reed canary grass (*Phalaris arundinacea*), swamp loosestrife (*Decodon verticillatus*) and spikerush (*Eleocharis* spp.).
 - (7) Bog mat vegetation, including, among others, sphagnum mosses (*Sphagnum* spp.), bog rosemary (*Andromeda glaucophylla*), leatherleaf (*Chamaedaphne calyculata*), pitcher plant (*Sarracenia purpurea*) and cranberries (*Vaccinium macrocarpon* and *V. oxycoccos*).
 - (8) Submergent vegetation, including, among others, pond weeds (*Potamogeton* spp.), naiads (*Najas* spp.), bladderworts (*Utricularia* spp.), wild celery (*Vallisneria spiralis*), coontail (*Ceratophyllum demersum*), water milfoils (*Myriophyllum* spp.), muskgrass (*Chara* spp.), stonewort (*Nitella* spp.), waterweeds (*Elodea* spp.) and water

smartweed (*Polygonum amphibium*).

- B. Lands and submerged lands containing remnants of any vegetation that is not aquatic or semiaquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six feet, and provided further that such conditions can be expected to persist indefinitely, barring human intervention.
- C. Lands and waters enclosed by aquatic or semiaquatic vegetation as set forth herein in Subsection A above and dead vegetation as set forth in Subsection B above, the regulation of which is necessary to protect and preserve the aquatic and semiaquatic vegetation.
- D. The waters overlying the areas set forth in Subsections A and B above and the lands underlying Subsection C.

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

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

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

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

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

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

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

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

§ 74-3. Permit required for regulated activities; exceptions; emergencies.

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

§ 74-4. Permit application; notice and hearing.

- A. Any person proposing, permitting or causing to be conducted a regulated activity upon any freshwater wetland or adjacent area shall file an application for a permit with the Village Clerk. The application shall include a detailed description of the proposed activity, a map showing the area of freshwater wetland directly affected, with the location of the proposed activity thereon, and a current list of record owners of lands and claimants of water rights within 100 feet of the property on which the regulated activity is located.
- B. After submission of the completed application, the applicant shall publish, at his expense, a notice of application, indicating that the applicant intends to file an application, in two newspapers having a general circulation in the area. The Planning Board may waive the publishing of the notice of application and require the publication of the appropriate notice of hearing.
- C. If no notice of objection has been filed by any party in interest in response to the notice of application or if the Planning Board finds that the proposed activity is of such a minor nature as not to affect or endanger the balance of systems within the freshwater wetland, it may dispense with a public hearing. If the Planning Board determines that a hearing is not to be held, the Board shall publish, in the Village newspaper, its decision setting forth its findings and reasons therefor.
- D. If a hearing is to be held it shall be scheduled no sooner than 30 days and not later than 60 days after the receipt of the completed application by the Village and the publishing of the notice of application. The applicant shall publish the notice of hearing at his expense in two newspapers having a general circulation in the area where the affected freshwater wetland is located not more than 28 days nor less than 15 days prior to the date set for the hearing.
- E. The applicant shall also send by certified mail, not less than 15 days prior to the date set for the hearing, the notice of hearing to owners of record of adjacent lands within 100 feet of the premises containing the wetlands and known claimants to water rights which will be

affected.

§ 74-5. Findings of Planning Board.

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

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

§ 74-6. Conditions; bond; inspections; suspension or revocation of permit; fees; rules and regulations.

- A. Any permit issued pursuant to this chapter may be issued with conditions. Such conditions may be attached as are necessary to assure the preservation and protection of affected freshwater wetlands and to assure compliance with the policy and provisions of this chapter and the provisions of the Planning Board's rules and regulations adopted pursuant to this chapter.
- B. The Planning Board may require a performance bond in such form and sureties as it deems necessary. Said bond shall guarantee compliance with all provisions of this chapter and all other conditions and requirements imposed on the approval of the permit.
- C. Operations conducted under the permit shall be open to inspection at any time by the Building Inspector or Village Engineer. The issuance of a permit by the Planning Board does not relieve the applicant from obtaining all other necessary authorizations.
- D. The Planning Board may suspend or revoke a permit issued pursuant to this chapter where it finds that the permittee has not complied with any or all terms of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth in the application.
- E. The Planning Board may impose a permit fee in an amount required by Chapter 65, Fees and Deposits, and subsequent amendments thereto.
- F. After a public hearing the Planning Board may adopt, amend and repeal rules and regulations consistent with this chapter as it deems necessary and proper to administer this chapter.

§ 74-7. Penalties for offenses; enforcement.

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

§ 74-8. Review of decisions and orders.

- A. Any decision or order of the Planning Board may be reviewed:
 - (1) By the Freshwater Wetlands Appeals Board in accordance with Title 11 of Article 24 of the New York State Environmental Conservation Law, provided that, within 30 days after service of such order or notice of such decision, such review is commenced by filing with the Freshwater Wetlands Appeals Board a notice of review; and
 - (2) Pursuant to Article 78 of the New York State Civil Practice Law and Rules.
- B. The institution of a judicial proceeding to review a determination or order of the Planning Board shall preclude the institution of a proceeding before the Freshwater Wetlands Appeals Board to review such a determination or order.

§ 74-9. Freshwater Wetlands Map.

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

§ 74-10. When effective.

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

Chapter 80

ILLCIT DISCHARGES, ACTIVITIES AND CONNECTIONS

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 5-9-2007 by L.L. No. 2-2007. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 32.
Environmental quality review — See Ch. 51.
Excavation, filling and topsoil removal — See Ch. 60.
Freshwater wetlands — See Ch. 74.
Sewage disposal systems — See Ch. 131.
Stormwater management and erosion and sediment control — See Ch. 138.
Subdivision of land — See Ch. 145.
Waterways — See Ch. 169.

§ 80-1. Intent.

- A. It is the intent of this legislation to prohibit illicit discharges, activities, and connections to the Village of Cove Neck separate storm sewer system that will satisfy the relevant part of the Phase II stormwater management requirements of the National Pollutant Discharge Elimination System regulations, administered by New York State through the State Pollutant Discharge Elimination System regulations (SPDES) and to provide for the health, safety, and general welfare of the citizens of the Village through the regulation of nonstormwater discharges to the MS4 (Municipal Separate Storm Sewer System) to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for MS4s.
- B. The objectives of this chapter are:
- (1) To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit No. GP-02-02, or as amended or revised;
 - (2) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process, or discharge nonstormwater wastes;
 - (3) To prohibit illicit connections, activities, and discharges to the MS4;
 - (4) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter; and
 - (5) To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment, and other pollutants into the MS4.

§ 80-2. Definitions; word usage.

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

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

BEST MANAGEMENT PRACTICES — Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

BMPs — Best management practices.

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

CONSTRUCTION ACTIVITY — An activity requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DEC — The New York State Department of Environmental Conservation.

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

EPA — The federal Environmental Protection Agency.

HAZARDOUS MATERIALS — Any material, including any substance, waste, or combination thereof, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLCIT CONNECTIONS — Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:

- (1) Any conveyances which allow any nonstormwater discharge, including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

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

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

MS4 — Municipal separate storm sewer system.

MUNICIPAL SEPARATE STORM SEWER SYSTEM — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (1) Owned or operated by the Village;
- (2) Designed or used for collecting or conveying stormwater;
- (3) Which is not a combined sewer; and
- (4) Which is not part of a publicly owned treatment works as defined at 40 CFR 122.2.

NYCRR — New York Code, Rules, and Regulations.

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

PERSON — Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT — Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or reasonably be expected to cause pollution of the waters of the state in contravention of pertinent standards promulgated by the federal government, the state, the Village, or any other municipality or department thereof having legal jurisdiction to impose such standards.

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

SMO — The Stormwater Management Officer.

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

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 — A DEC SPDES permit issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

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

SPECIAL CONDITIONS

- (1) Discharge compliance with water quality standards. A condition that applies when the Village has been notified that the discharge of stormwater authorized under its MS4

- permit may have caused or has the potential to cause or contribute to the violation of an applicable water quality standard. Under this condition, the Village must take necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
- (2) 303(d) listed waters. A condition in the Village's MS4 permit that applies when the MS4 discharges to a 303(d) listed water. Under this condition, the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
 - (3) Total maximum daily load strategy. A condition in the Village's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a water body or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the Village shall be required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
 - (4) A condition in the Village's MS4 permit that applies if a TMDL is approved in the future by EPA for any water body or watershed into which an MS4 discharges. Under such condition, the Village must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the Village must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved and conforms with the State Pollutant Discharge Elimination System (SPDES).

STATE — The State of New York.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

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

303(d) LIST — A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the DEC as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes, and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TMDL — Total maximum daily load.

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

VILLAGE — The Incorporated Village of Cove Neck.

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

§ 80-3. Applicability.

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

§ 80-4. Responsibility for administration.

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

§ 80-5. Discharge and illicit connection prohibitions.

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

- (1) The following discharges are exempt from discharge prohibitions established by this chapter, unless DEC or the Village has determined them to be substantial contributors of pollutants: flushing of water line or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains, crawl space or basement sump pumps, air-conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire-fighting activities, and any other water source not containing pollutants.
- (2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this chapter.
- (3) Dye testing in compliance with applicable state, county and Village regulations is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.
- (4) The prohibition shall not apply to any discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of DEC, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

B. Prohibition of illicit connections.

- (1) The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the

past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- (3) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the Village's MS4, causes or allows such a connection to continue.

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

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

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

§ 80-7. Prohibition against activities contaminating stormwater.

The following activities are prohibited:

- A. Those types of activities that cause or contribute to:
 - (1) A violation of the Village's MS4 SPDES permit; [NOTE: Upon notification to a person that such person is engaged in activities that cause or contribute to violations of the Village's MS4 SPDES permit authorization, such person shall immediately commence and continue thereafter with all due diligence to take all reasonable actions to correct such activities such that such person no longer causes or contributes to violations of the Village's MS4 SPDES permit authorization.] and/or
 - (2) The Village being subject to special conditions.
- B. Failing individual sewage treatment systems; and
- C. Improper management of pet waste; and
- D. Any other activity that causes or contributes to a violation of the Village's MS4 SPDES permit authorization. [NOTE: Upon notification to a person that such person is engaged in activities that cause or contribute to violations of the Village's MS4 SPDES permit authorization, such person shall immediately commence and continue thereafter with all due diligence to take all reasonable actions to correct such activities such that such person no longer causes or contributes to violations of the Village's MS4 SPDES permit authorization.]

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

A. Best management practices.

- (1) Where the SMO has identified illicit discharges or activities contaminating stormwater, the Village may require implementation of BMPs to control those illicit discharges and activities.
- (2) The owner or operator of a commercial or industrial establishment shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.
- (3) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge or an activity contaminating stormwater, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
- (4) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

B. Individual sewage treatment systems; response to special conditions requiring no increase of pollutants or requiring a reduction of pollutants.

- (1) Where individual sewage treatment systems are contributing to the Village's being subject to the special conditions, the owner or operator of such individual sewage treatment systems shall be required to:
 - (a) Maintain and operate individual sewage treatment systems as follows:
 - [1] Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within 10 inches of the bottom of the outlet baffle or sanitary tee;
 - [2] Avoid the use of septic tank additives;
 - [3] Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals;
 - [4] Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash, and other such items; and
 - [5] Most tanks should be pumped out every two to three years. However, pumping may be more or less frequent depending on use. Inspection of the tank for cracks, leaks and blockages should be done by the septage hauler at the time of pumping of the tank contents.
 - (b) Repair or replace individual sewage treatment systems as follows:
 - (a) In accordance with 10 NYCRR Appendix 75A, as the same may be amended or superseded from time to time, to the maximum extent practicable.

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

§ 80-9. Suspension of access to MS4 in emergency situations.

- A. Suspension of access to MS4. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.
- B. Suspension due to the detection of illicit discharge. Any person discharging to the Village's MS4 in violation of this chapter may have its MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if the SMO finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this subsection, without the prior approval of the SMO.

§ 80-10. Industrial or construction activity discharges.

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

§ 80-11. Applicability; access to facilities; monitoring of discharges.

- A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this chapter or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this chapter.
- B. Access to facilities.

- (1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this chapter as reasonably necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow reasonable access to the SMO.
- (2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records as may be required to implement this chapter.
- (3) The Village shall have the right to set up on any facility, subject to this chapter, such devices as are reasonably necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The Village has the right to require the facilities subject to this chapter to install monitoring equipment as is reasonably necessary to determine compliance with this chapter.
- (5) The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (6) Unreasonable delays in allowing the Village access to a facility subject to this chapter is a violation of this chapter. A person who is the operator of a facility subject to this chapter commits an offense if the person denies the Village reasonable access to the facility for the purpose of conducting any activity authorized or required by this chapter.
- (7) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and the SMO is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, then the SMO may seek issuance of a search warrant from the Village Court or, at its option, any other court of competent jurisdiction.

§ 80-12. Notification of spills.

- A. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take necessary steps to ensure the discovery, containment, and cleanup of such release.
- B. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.
- C. In the event of a release of nonhazardous materials, said person shall notify the Village in person or by telephone or facsimile no later than the next business day.

- D. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Village within three business days of the telephone notice.
- E. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 80-13. Enforcement; penalties for offenses.

- A. Notice of violation. When the SMO, his designee, or other designee of the Board of Trustees determines that a person has violated a prohibition or failed to meet a requirement of this chapter, the SMO or such designee may order compliance by written notice of violation to all violators. Such notice may require all violators, without limitation:
 - (1) The elimination of illicit connections or discharges;
 - (2) That violating discharges, practices, or operations shall cease and desist;
 - (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (4) The performance of monitoring, analyses, and reporting;
 - (5) The implementation of source control or treatment BMPs;
 - (6) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the Village may perform or have performed by an independent contractor, the remediation or restoration and the cost thereof shall become a lien upon the land until paid, and if not paid, at the option of the Mayor, may be added to the current tax bill for the subject premises and collected in the same manner and with the annual Village real estate taxes.
- B. Violations. Any activity that is commenced or is conducted contrary to this chapter may be enforced by injunction or otherwise provided by law.
- C. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed 15 days, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$300 nor more than \$750 or imprisonment for a period not to exceed 15 days, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both. Violations of this chapter shall be not be deemed misdemeanors. Each week's continued violation shall constitute a separate additional violation.

§ 80-14. Violations deemed a public nuisance.

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

§ 80-15. Remedies not exclusive.

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

§ 80-16. Severability.

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

Chapter 90

LIGHTING, OUTDOOR

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 7-10-2002 by L.L. No. 2-2002.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 32.

Zoning — See Ch. 175.

§ 90-1. Applicability.

No person, firm or corporation, their agents, servants or employees shall install, operate or maintain on private property in the Village any exterior light, lamp or other artificial illumination which is not in compliance with § 90-2.

§ 90-2. Standards.

All exterior lights, lamps and other artificial illumination ("exterior lighting") shall be arranged, placed, oriented, and operated with the required wattage, reflector, refractor and screening that will insure:

- A. The light beam or any part thereof will not project beyond the property line of the premises of the owner or occupant.
- B. The light emitted will not be directed at or towards an adjoining property or residence on an adjoining property.
- C. The light source will be oriented, hooded and shielded to the degree necessary and equipped with the minimum wattage so that glare from the light source will not be an unreasonable nuisance to the adjoining property. For purposes of this chapter, lighting glare shall constitute an unreasonable nuisance to an adjoining property if the light projected exceeds 0.2 of a footcandle at any point on the adjoining property.
- D. No light shall be directed upon any surface which shall reflect the beam beyond the property line of the premises of the owner or occupant. Light overspill shall not create shadowing discernible without instruments on any residentially zoned premises.
- E. Exterior lighting controlled by automatic controls shall turn off after 10 minutes or shall not operate after 11:00 p.m. The mounting height of any exterior light shall not exceed 35 feet.
- F. No exterior light shall be placed so as to shed light directly upon any public street so as to interfere with motorists' vision or otherwise affect safe driving conditions on any street.

1. Editor's Note: This local law also repealed former Ch. 90, Outdoor Lighting, adopted 10-18-1974 by L.L. No. 2-1974 as Art. 17 of the 1974 General Code.

§ 90-3. Prohibited lights; holiday lights.

No flashing, fluorescent or neon exterior lights shall be permitted in any residential district. Holiday lighting, comprised of string lighting and other illuminated articles, shall be permitted only during the traditional holiday period, or when not visible from the roadway or adjoining property.

§ 90-4. Lights on residential entrance signs.

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

§ 90-5. Existing lighting.

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

§ 90-6. Variances.

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

Chapter 100

NOISE

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 2-16-2000 by L.L. No. 2-2000. Amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems — See Ch. 11.
Animals — See Ch. 15.
Excavation, filling and topsoil removal — See Ch. 60.
Firearms and weapons — See Ch. 69.
Parades, exhibitions, auctions and sales — See Ch. 108.
Peace and good order — See Ch. 112.
Vehicles and traffic — See Ch. 164.
Waterways — See Ch. 169.

§ 100-1. Definitions.

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

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

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

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

LANDSCAPING EQUIPMENT — Any powered leaf blower, mower, chain saw, grinder, trimmer, wood chipper or other internal-combustion engine apparatus or landscaping equipment used for lawn or ground maintenance. [Amended 10-8-2014 by L.L. No. 2-2014]

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

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

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

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

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

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

VILLAGE — The Incorporated Village of Cove Neck and all territory within its boundaries.

§ 100-2. Unreasonable noise prohibited.

No person shall make or cause to be made or continued, nor shall any owner, lessee or occupant of any land in the Village permit to be made or continued on his premises, any unreasonable noise within the Village except as permitted in Chapter 69 of this Code relating to the regulation of firearms.

§ 100-3. Acts which constitute unreasonable noise.

Without limiting the provision of § 100-2, the following acts are expressly declared to be unreasonable noise in violation of this chapter:

- A. Horns and signaling devices: the sounding of any horn or signaling device on any boat, motor vehicle or recreational vehicle, except as a danger or warning signal.
- B. Loudspeakers for advertising or broadcasting: the playing, using or operating of, or permitting to be played, used or operated, any loudspeaker on the public street, public waterway or other public places for the purpose of advertising or broadcasting which is heard on private property, unless a permit therefor shall have been issued by the Board of Trustees.
- C. Unnecessary amplification: the playing, using or operating of, or permitting to be played, used or operated, any loudspeaker at a volume level sufficient to cause the sound produced or reproduced to be audible at a point 10 feet beyond the property boundary line of the property from which the sound is produced or reproduced.
- D. Animals:
 - (1) The keeping of or allowing to be kept any animal outdoors between the hours of 9:00 p.m. and 8:00 a.m. of the following morning which causes unreasonable noise.
 - (2) The keeping of or allowing to be kept any animal which creates or causes unreasonable noise at any time that is continuous for a period exceeding 30 minutes in duration.
- E. Exhaust: the discharge of the exhaust of any internal-combustion engine, without a muffler or other device which will effectively prevent unreasonable noises emanating therefrom.
- F. Noisemaking devices: the using, operating, discharging, or installing of, or causing to be

used, operated, discharged or installed, any noisemaking device.

- G. Construction and operation of construction machinery: the construction, demolition, alteration or repair of any building, structure, driveway or road, including the operation of construction machinery and the delivery of construction machinery, building materials or devices, at any time on Saturday, Sunday and New York State legal holidays, and for all other days between the hours of 6:00 p.m. and 8:00 a.m. of the following morning, except pursuant to a permit issued by the Building Inspector or the Mayor in an emergency situation. Nothing herein shall be construed to prohibit minor alteration to a building which is entirely enclosed, the use or operation of emergency vehicles or the delivery of home heating oil. The operation of a generator for emergency purposes shall not be prohibited under any provision of this chapter. [Amended 9-8-2010 by L.L. No. 1-2010]
- H. Commercial landscapers: the use of any landscaping equipment by commercial landscapers at any time on Sunday and New York State legal holidays, and for all other days between the hours of 6:00 p.m. and 8:00 a.m. of the following morning, unless pursuant to a permit issued by the Mayor.
- I. Alarms: a burglar alarm or other alarm system of any building, motor vehicle, recreational vehicle or boat which is continuous and exceeds 15 minutes in duration.
- J. Tires: the intentional use and operation of a motor vehicle or recreational vehicle in such a manner as to cause excessive squealing or other excessive noise of the tires.
- K. Recreational vehicles:
 - (1) The continuous use or operation of any recreational vehicle on private or public property for a period exceeding 30 minutes.
 - (2) The use or operation of any recreational vehicle on private or public property at any time on Sunday and New York State legal holidays, and for all other days between the hours of 6:00 p.m. and 8:00 a.m. the following morning, unless pursuant to a permit issued by the Board of Trustees.

§ 100-4. Enforcement.

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

Chapter 108

PARADES, EXHIBITIONS, AUCTIONS AND SALES

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Art. 13 of the 1974 General Code. Amendments noted where applicable.]

GENERAL REFERENCES

Advertising and bill posting — See Ch. 4.

Noise — See Ch. 100.

Peace and good order — See Ch. 112.

Peddling and soliciting — See Ch. 116.

§ 108-1. Permit required.

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

§ 108-2. Application for permit.

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

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

§ 108-3. Permit conditions.

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

§ 108-4. Permit fee.

The fee for any such permit shall be the amount indicated in § 65-6 of Chapter 65, Fees and Deposits, which fee may be waived by the Mayor when such parade or exhibition is for a charitable, noncommercial or community event.

Chapter 112

PEACE AND GOOD ORDER

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Arts. 7, 8 and 9 of the 1974 General Code. Amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems — See Ch. 11.
Animals — See Ch. 15.
Firearms and weapons — See Ch. 69.
Noise — See Ch. 100.
Parades, exhibitions, auctions and sales — See Ch. 108.
Peddling and soliciting — See Ch. 116.

§ 112-1. Disorderly conduct.

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

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

§ 112-2. Trespassing; unattended vehicles.

- A. No person shall enter or leave unattended any vehicle upon any premises, lot, piece of land, private road or driveway or enter a building within the boundaries of the Village without authority from the owner thereof.
- B. No person who, with the authority from the owner, has entered upon any premises, lot, piece of land or building within the boundaries of the Village shall remain there after being personally notified to leave by the owner thereof or other authorized person.
- C. The owner of any vehicle involved in a violation of Subsection A shall be liable to the fines

and penalties under this Code.¹

- D. Any police officer is hereby authorized to affix a parking summons to any unattended vehicle involved in a violation of Subsection A for the purpose of obtaining jurisdiction in the Village Court over the owner thereof.

§ 112-3. Damage to property.

No person shall, in the Village, having no right to do so nor any reasonable ground to believe that he has such right:

- A. Intentionally damage property of another person or of the Village; or
- B. Recklessly damage property of another person or of the Village, in an amount exceeding \$250.

1. Editor's Note: See Ch. 1, General Provisions, § 1-14.

Chapter 116

PEDDLING AND SOLICITING

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 3-14-1984 by L.L. No. 1-1984. Amendments noted where applicable.]

GENERAL REFERENCES

Advertising and bill posting — See Ch. 4.

Fees and deposits — See Ch. 65.

Noise — See Ch. 100.

Parades, exhibitions, auctions and sales — See Ch. 108.

§ 116-1. Prohibition of commercial peddling and soliciting.

No person, organization, firm, society, association, company or corporation shall, for commercial purposes, hawk, peddle, solicit, sell, offer to sell or solicit orders for the sale of any goods, wares or merchandise or solicit subscriptions or orders for immediate or future delivery of any merchandise on public or private property in the Village.

§ 116-2. License required for noncommercial soliciting.

No person, organization, firm, society, association, company or corporation shall solicit upon any public or private property in the Village without a license to solicit.

§ 116-3. Soliciting on posted premises prohibited.

No person, organization, firm, society, association, company or corporation who or which has obtained a license to solicit upon public or private property in the Village shall solicit where there is displayed to public view any sign containing any or all of the following words: "No Peddlers," "No Solicitors," "No Agents" or other wording, the purpose of which purports to prohibit soliciting on the premises.

§ 116-4. Application for license.

A. All solicitors seeking a license shall cause to be filed an application addressed to the Clerk of the Village of Cove Neck containing the following information:

- (1) Name, address and social security number of the solicitor(s).
- (2) A brief description of the purpose, method and estimated duration of the solicitation.
- (3) Name and address of the organization for which permission to solicit is sought.
- (4) Names and addresses of the officers and directors of the organization, firm, society, association, company or corporation.
- (5) Legal and tax status of any organization, firm, society, association, company or

corporation so applying.

- (6) Whether or not any commissions, fees, wages or emoluments are to be expended in connection with such solicitation.
 - (7) Such other information as the Board of Trustees may require.
- B. All applications must be accompanied by a processing fee of \$25 payable to the Clerk of the Village of Cove Neck.

§ 116-5. Approval of license; restrictions.

- A. Upon receiving such application, the Village Clerk shall present the same to the Board of Trustees at its next regular meeting. The Board of Trustees shall approve the application of all bona fide applicants who have complied with the above procedures.
- B. Any license approval granted by the Board of Trustees is subject to the following restrictions:
- (1) All solicitation shall be conducted between the hours of 9:00 a.m. and sunset or 7:00 p.m., whichever is later.
 - (2) Any organization, society, association, company or corporation licensed under this chapter shall not have more than six solicitors engaged in the solicitation at any one time.
 - (3) Any license issued under the terms of this chapter shall expire 10 days after the date of issuance.

§ 116-6. Exhibition of license.

All persons soliciting pursuant to this chapter shall at all times during such period carry an identification card issued by the organization, society, association, company or corporation licensed to conduct the solicitation. Each identification card shall plainly show the name of the person soliciting, his or her photograph and the person, organization, society, association, company or corporation on whose behalf such solicitation is being conducted.

§ 116-7. Suspension and revocation of license.

Any and all licenses which may be granted by the Board of Trustees pursuant to any part of this chapter may, for cause, be suspended by the Mayor and may be revoked by the Board of Trustees after notice and hearing for any of the following causes:

- A. Fraud, misrepresentation or false statement contained in the application for the license.
- B. Violation of any of the restrictions imposed on the issuance of such license or on the conduct of any solicitation so licensed.

Chapter 121

POLICE DEPARTMENT

[The position of Chief of Police in the Village was abolished by Local Law No. 2-1991. The Cove Neck Police Department was abolished by Local Law No. 1-1993. The Board of Police Commissioners, established by Local Law No. 1-1992, was abolished by Local Law No. 2-1993. Police protection for the Village is now provided on a contract basis. Consult the Village Clerk's office for current provisions.]

Chapter 131

SEWAGE DISPOSAL SYSTEMS

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Art. 26 of the 1974 General Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 32.

Excavation, filling and topsoil removal — See Ch. 60.

Subdivision of land — See Ch. 145.

§ 131-1. System required prior to issuance of building permit.

No building permit shall be issued for the construction of any new dwelling or any existing building to be renovated or converted into a dwelling in the Village until reasonable satisfactory proof has been furnished to the Building Inspector that the facility or system for the disposal of sewage or other putrescent organic wastes for said dwelling will properly operate and function in consideration of the actual soil and topographic conditions existing at the location where said facility or system is to be installed.

§ 131-2. Approval of plans.

Plans for the proposed sewage disposal system, prepared by a duly licensed professional engineer, shall be submitted to the Building Inspector, who shall review and approve the same only after he has personally inspected the soil conditions and has observed appropriate percolation tests at the exact location of the proposed system.

§ 131-3. Inspections.

The Building Inspector shall, during the course of construction of the sewage disposal system, make necessary inspections to ensure that said system is constructed (and the excavations are backfilled) in accordance with the approved plan.

§ 131-4. Certificate of occupancy.

No certificate of occupancy shall be issued for any such dwelling until the Building Inspector receives satisfactory proof that said system is constructed in accordance with the approved plan.

Chapter 136

SOLID WASTE

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

GENERAL REFERENCES

Advertising and bill posting — See Ch. 4.

Brush, grass and weeds — See Ch. 28.

ARTICLE I

General Provisions

[Adopted 10-18-1974 by L.L. No. 2-1974 as Art. 6 of the 1974 General Code]

§ 136-1. Definitions.

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

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

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

TRASH — Includes but is not limited to building materials, concrete, fill, inoperable or wrecked automobiles, automobile parts, plumbing fixtures and household appliances.

§ 136-2. Deposit of garbage, rubbish or trash.

No person shall throw, place, litter, deposit or dump or suffer or permit any servant, agent, employee or person in his charge to throw, place, litter, deposit or dump any garbage, rubbish or trash of any kind on the surface of any street, public grounds or private property in the Village for the purpose of abandonment or otherwise, except when such garbage, rubbish or trash is placed on the street in a proper container for normal garbage collection.

§ 136-3. Property maintenance.

The owner of any private property in the Village shall at all times maintain said premises free of garbage, rubbish and trash, except that this section shall not prohibit the temporary storage of garbage, rubbish and trash in authorized private receptacles for collection and trash in connection with bona fide land clearing and building activity pursuant to an issued building permit or the maintaining of a wood pile or the making and retaining of a compost heap and mulching areas for normal gardening purposes in accordance with customary gardening practices.

§ 136-4. Notice to remove; action by Village; recovery of costs.

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

ARTICLE II

Recycling

[Adopted 1-10-1990 by L.L. No. 1-1990]

§ 136-5. Findings and purpose.

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

materials in accordance with and pursuant to the New York State Solid Waste Management Plan as currently enacted and as hereafter amended and shall be liberally construed to effectuate the purposes set forth herein.

§ 136-6. Definitions.

The following words and terms shall have the following meanings:

NONRECYCLABLE MATERIALS — All other solid waste generated by the Village other than prohibited materials.

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

PROHIBITED MATERIALS — Materials that contain hazardous or toxic substances or that are not suitable for residential disposal and which will not be collected or permitted to be placed in recyclable containers as set forth in the rules and regulations.

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

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

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

§ 136-7. Mandatory separation and collection of recyclables.

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

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

§ 136-8. Recyclable containers.

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

§ 136-9. Collection schedule and procedures.

The Board of Trustees, by resolution, shall establish a collection schedule and applicable procedures for the collection of recyclables.

§ 136-10. Unlawful activities.

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

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

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

§ 136-11. Penalties for offenses; removal of waste.

- A. Any person found to violate any provision of this article or rules and regulations promulgated hereunder shall be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. Each day that such violation exists shall constitute a separate offense.
- B. The Board of Trustees is further authorized, upon written notice mailed to the property owner at the owner's last known address, as shown in the Village records, to direct the removal of solid waste in violation of this article. The cost of said removal, together with interest, shall become a special assessment on the property where the material is removed, collectible with the next tax bill due. This remedy is in addition to all other remedies available to the Village to remedy the violation.

§ 136-12. Enforcement.

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

§ 136-13. Rules and regulations.

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

Chapter 138

STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 5-9-2007 by L.L. No. 1-2007. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 32.
Environmental quality review — See Ch. 51.
Excavation, filling and topsoil removal — See Ch. 60.
Freshwater wetlands — See Ch. 74.
Illicit discharges, activities and connections — See Ch. 80.
Sewage disposal systems — See Ch. 131.
Subdivision of land — See Ch. 145.
Waterways — See Ch. 169.

§ 138-1. Intent.

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

§ 138-2. Purpose.

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Village and to address the findings of fact in this chapter. This chapter seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from MS4s, Permit No. GP-02-02, or as amended or revised;
- B. Require land development activities to conform to the substantive requirements of SPDES General Permit for Construction Activities GP-02-01, or as amended or revised;
- C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;
- D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 138-3. Findings.

It is hereby determined that:

- A. Land development activities and associated increases in site-impervious cover often alter the hydrologic response of local watersheds and increase stormwater-runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- B. This stormwater runoff contributes to increased quantities of waterborne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff, thereby increasing stream bank erosion and sedimentation;
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- H. The regulation of stormwater-runoff discharges from land development activities in order to control and minimize increases in stormwater-runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

§ 138-4. Definitions; word usage.

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

AGRICULTURAL ACTIVITY — The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or

similar operation, or the construction of new structures associated with agricultural activities.

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

BUILDING — Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

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

CLEARING — Any activity that removes the vegetative surface cover.

DEC — The New York State Department of Environmental Conservation.

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

DESIGN MANUAL — The State Stormwater Management Design Manual, most recent version, including applicable updates, which serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER — A person who undertakes land development activities.

EPA — The United States Environmental Protection Agency.

EROSION CONTROL MANUAL — The most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book."

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

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

INDUSTRIAL STORMWATER PERMIT — A SPDES permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION — The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

LAND DEVELOPMENT ACTIVITY — Construction activity, including but not limited to clearing, grading, excavating, soil disturbance, and placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER — The legal or beneficial owner of land, including those holding the right to

purchase or lease the land, or any other person holding proprietary rights in the land.

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

MS4s — Municipal separate stormwater sewer systems.

NONPOINT SOURCE POLLUTION — Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include but not be limited to pollutants from agricultural, silvicultural, mining, construction, subsurface disposal, and urban runoff sources.

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

POLLUTANT OF CONCERN — Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity, or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT — Land development activity.

RECHARGE — The replenishment of underground water reserves.

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

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

SILVICULTURE — Commercial care and cultivation of trees; forestry.

SMO — The Stormwater Management Officer.

SMPs — Stormwater management practices.

SPDES — State Pollutant Discharge Elimination System.

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

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 — A DEC SPDES permit issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

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

STATE — The State of New York.

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

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

STORMWATER HOTSPOT — A land use or activity that generates higher concentrations of hydrocarbons, trace metals, or toxicants than are found in typical stormwater runoff, based on monitoring studies.

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

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

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

STORMWATER MANAGEMENT PRACTICES — Measures, either structural, nonstructural, or a combination of the two, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

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

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

STRUCTURE — As defined in this Code, Chapter 175, "Zoning."

SURFACE WATERS OF THE STATE — Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the state and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not surface waters of the state. Said exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands), nor resulted from impoundment of waters of the state.

SWPPP — Stormwater pollution prevention plan.

VILLAGE — Incorporated Village of Cove Neck.

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

WATERWAY — A channel that directs surface runoff to a watercourse or to the public storm drain.

§ 138-5. Statutory authority.

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

§ 138-6. Applicability.

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

§ 138-7. Procedures.

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

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

§ 138-8. Exemptions.

- A. Agricultural activity.
- B. Repairs to any stormwater management practice or facility deemed necessary by the SMO.
- C. Any part of a subdivision, if the subdivision has been finally approved by the Village Planning Board on or before the effective date of this chapter, except where the Planning Board has reserved site plan review or other contiguous jurisdiction.

§ 138-9. Stormwater pollution prevention plans (SWPPP).

- A. SWPPP requirement. No application for approval of a land development activity shall be reviewed until the appropriate board has received a SWPPP prepared in accordance with the specifications in this chapter.
- B. Contents of SWPPP.
 - (1) All SWPPPs shall provide the following background information and erosion and sediment controls:
 - (a) Background information about the scope of the project, including location, type and size of project.
 - (b) Site map/construction drawing(s) for the project, including a general location

map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow, or equipment storage areas; and location(s) of the stormwater discharges(s). The site map should be at a scale no smaller than one inch equals 100 feet.

- (c) Description of the soil(s) present at the site;
- (d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation, and any other activity at the site that results in soil disturbance. Consistent with the Erosion Control Manual, not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
- (e) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
- (f) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
- (g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project, from initial land clearing and grubbing to project close-out;
- (h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- (i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- (j) Temporary practices that will be converted to permanent control measures;
- (k) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
- (l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- (m) Name(s) of the receiving water(s);
- (n) Delineation of SWPPP implementation responsibilities for each part of the site;
- (o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and

- (p) Any existing data that describes the stormwater runoff at the site.
- (2) Land development activities meeting Condition A, B, or C below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth below as applicable:
- (a) Condition A: Stormwater runoff from land development activities discharging a pollutant of concern to either impaired water identified on the DEC's 303(d) list of impaired waters, or such superseding list as may be prepared by DEC, or a total maximum daily load designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
 - (b) Condition B: Stormwater runoff from land development activities disturbing five or more acres.
 - (c) Condition C: Stormwater runoff from land development activity disturbing at least one but less than five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.
- (3) SWPPP requirements for Conditions A, B and C:
- (a) All information in Subsection B of this section.
 - (b) Description of each postconstruction stormwater management practice.
 - (c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice.
 - (d) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.
 - (e) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions.
 - (f) Dimensions, material specifications, and installation details for each postconstruction stormwater management practice.
 - (g) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice.
 - (h) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
 - (i) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 138-11.
 - (j) For Condition A, the SWPPP shall be prepared by a certified professional or professional engineer and must be signed by the professional who prepared the plan, who must certify that the design of all stormwater management practices

meet the requirements of this chapter.

- C. Plan certification. The SWPPP shall be prepared by a landscape architect, certified professional, or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this chapter.
- D. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.
- E. Contractor certification.
 - (1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
 - (2) The certification must include the name and title of the person providing the signature, address, and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
 - (3) The certification statement(s) shall become part of the SWPPP for the land development activity.
- F. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 138-10. Performance and design criteria.

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

- A. Technical standards. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with those technical documents shall be presumed to meet the standards imposed by this law:
 - (1) The Design Manual.
 - (2) The Erosion Control Manual.
- B. Equivalence to technical standards. Where stormwater management practices are not in accordance with the technical standards, the applicant or developer must demonstrate equivalence to the technical standards above (Subsection A) and the SWPPP shall be prepared by a licensed professional.
- C. Water quality standards. Any land development activity shall not cause an increase in

turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state.

§ 138-11. Maintenance inspection and repair of stormwater facilities.

- A. Maintenance and inspection during construction.
- (1) The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
 - (2) For land development activities that meet Condition A, B or C of § 138-9B(2)(a), (b), or (c), the applicant or developer shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site logbook.
 - (3) For grading, the applicant, developer or representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment and control practices.
- B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Village to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the Clerk of the County of Nassau after approval by counsel for the Village.
- C. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall be operated and maintained to achieve the goals of this chapter. Proper operation and maintenance also includes, as a minimum, the following:
- (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this chapter.
 - (2) Written procedures for operation and maintenance and training new maintenance personnel.
 - (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 138-10C.
- D. Maintenance agreements. The Village shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners or benefited landowners and recorded in the office of the Clerk of the County of Nassau as a deed

restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of this chapter. The Village or another municipal entity, in lieu of a maintenance agreement, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 138-12. Construction inspection.

A. Erosion and sediment control inspection.

(1) The SMO may require such inspections as he deems necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the SWPPP as approved. To obtain inspections, the applicant shall notify the SMO at least 48 hours before any of the following, and/or as otherwise required by the SMO:

- (a) Start of construction.
- (b) Installation of sediment and erosion control measures.
- (c) Completion of site clearing.
- (d) Completion of rough grading.
- (e) Completion of final grading.
- (f) Close of the construction season.
- (g) Completion of final landscaping.
- (h) Successful establishment of landscaping in public areas.

(2) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until all violations are corrected and all work previously completed has received approval by the SMO.

B. Stormwater management practice inspections. The SMO is responsible for conducting inspections of SMPs. All applicants are required to submit as-built plans for any SMPs located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

C. Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspections of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher-than-usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of

state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other SMPs. This inspection shall be done by a professional engineer or a certified professional in erosion control.

- D. Submission of reports. The SMO may require monitoring and reporting from entities subject to this chapter as necessary to determine compliance with this chapter.
- E. Right-of-entry for inspection. To the maximum extent permitted by law, when any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Village the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection B.

§ 138-13. Performance guarantee; maintenance guarantee; recordkeeping.

- A. Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village in its approval of the SWPP, the Village may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit, in its discretion and in a form approved by the Village Attorney, from a financial or surety institution approved by the Board of Trustees which guarantees satisfactory completion of the project and names the Village as the beneficiary. The security shall be in an amount to be determined by Village based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Village, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Village. Per annum interest on cash escrow deposits, if any, shall be reinvested in the account until the surety is released from liability.
- B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Village with a cash escrow, a maintenance bond, or an irrevocable letter of credit in a form approved by the Village Attorney from a financial institution or surety approved by the Board of Trustees to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Village may draw upon the escrow, bond, or account, from time to time, to cover the costs of proper operation and maintenance, including engineering and inspection costs. To the extent that such escrow, bond, or letter of credit, because of such draw, is no

longer sufficient to ensure the proper operation and maintenance of the facilities, the Village may require an additional escrow, bond, or letter of credit.

- C. Recordkeeping. The Village may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

§ 138-14. Fees for services.

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

§ 138-15. Enforcement; penalties for offenses.

- A. Notice of violation. When the SMO, his designee, or other designee of the Board of Trustees determines that a land development activity is not being carried out in accordance with the requirements of this chapter, he may issue a written notice of violation to the landowner and/or developer. The notice of violation shall contain:
 - (1) The name and address of the landowner, developer or applicant.
 - (2) The address, when available, or a description of the building, structure, or land upon which the violation is occurring.
 - (3) A statement specifying the nature of the violation.
 - (4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action.
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
 - (6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.
- B. Stop-work orders. The Building Inspector, his designee, or other designee of the Board of Trustees, may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Village confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.
- C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by law.

- D. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed 15 days, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$1,000 nor more than \$750 or imprisonment for a period not to exceed 15 days, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$1,500 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both. Violations of this chapter shall be not be deemed misdemeanors. Each week's continued violation shall constitute a separate additional violation.
- E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the SMO may prohibit the occupancy of said building or land.
- F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition or to such other condition as shall best protect the property and the adjacent properties from the problems of erosion and sediment deposits off the land that may be required by virtue of the actions of the violator, all in the discretion of the SMO. In the event that restoration is not undertaken within a reasonable time after notice, the SMO may either:
- (1) Direct that the remediation and/or restoration work be performed with Village personnel and/or third-party contractors and the cost thereof shall constitute a lien, charge, and levy upon the real property whereupon the violation exists until it is paid or otherwise satisfied or discharged and shall be collected by the Village Treasurer. Such charge shall include, among other things, administrative, legal, and actual expenses incurred by the Village, and shall be collected in the same manner provided by law for the collection of delinquent taxes; or
 - (2) Seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property, at the cost and expense, including those of the litigation and the fees of witnesses and attorneys, of the violator.

§ 138-16. Violations deemed a public nuisance.

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

§ 138-17. Remedies not exclusive.

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

§ 138-18. Severability.

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

Chapter 141

STREETS AND SIDEWALKS

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Art. 5 of the 1974 General Code. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 145.

Vehicles and traffic — See Ch. 164.

§ 141-1. Definitions.

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

STREET — Includes any street, highway, road, avenue, lane, court, place or drive which appears on the Official Map of the Village.

VILLAGE STREET — Includes any street, highway, road, avenue, lane, court, place or drive which is owned and maintained by the Village.

§ 141-2. Fires in streets or public places.

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

§ 141-3. Deposit of materials.

- A. No person, firm or corporation, unless with the consent and under the supervision of the Street Commissioner of the Village, shall cause or permit any accumulation of sand, gravel, cinder, topsoil, mud, swimming pool water, sewage, earth or material to be placed, deposited, tracked or flowed upon any street in the Village.
- B. No person or persons shall litter, throw, place, deposit or discard, or suffer or permit any servant, employee or persons in his or her charge to litter, throw, place, deposit or discard, any ashes, garbage, tin cans, waste, wastepaper or refuse matter of any kind upon any street or public grounds in the Village.

§ 141-4. Occupying or opening streets; moving buildings.

- A. No person shall leave or deposit any material of any kind for building or other purposes in any Village street or other public place in the Village or dig or cause to be dug any excavation, trench or other opening in any Village street, sidewalk or other public place in said Village for any purpose; or dig or remove or cause to be removed therefrom any stone, earth, sand or gravel; or take up or destroy any pavement, crosswalk, drain, sewer or any part thereof; or erect or lay or cause to be erected or laid any telegraph, telephone, electric light or other pole or any drain, conduit or other pipe under, in, upon or over any Village

street or other public place in the Village; or move or cause to be moved or assist in moving any buildings into, along or across any such Village street or other public place without having first obtained written permission for that purpose from the Village Clerk, conditioned upon the doing of such work under the supervision of the Street Commissioner; upon keeping clear at all times a sufficient and safe passageway for all pedestrians and vehicular traffic; upon proper guarding of the same, both by night and day, so as to prevent accidents or danger; upon complete restoration of said street, sidewalk or public place to its original condition; and upon indemnifying the Village from all damage or loss.

- B. Such permit for the opening of a Village street shall provide that the party making the opening shall backfill and puddle or cause to be backfilled and puddled the opening and shall place thereon such temporary pavement as shall be approved by the Street Commissioner, which pavement shall be cared for by the applicant until such time as the Street Commissioner shall decide that proper settlement to allow the laying of a permanent pavement has taken place. The party making the opening shall notify the Street Commissioner when said opening has been backfilled or temporarily paved.
- C. The Village reserves the right to repair and resurface all openings in a Village street at any time for the purposes of health and safety and to recover the costs for the same from the deposit hereinafter required.
- D. Each applicant for a permit to open a Village street, before the issuance of a permit, shall submit a written application indicating the square foot area of the street opening and shall pay a fee and deposit to the Village Clerk in the amounts required by § 65-6 of Chapter 65, Fees and Deposits.

Chapter 145

SUBDIVISION OF LAND

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

GENERAL REFERENCES

Planning Board — See Ch. 23, Art. II.
Building construction — See Ch. 32.
Environmental quality review — See Ch. 51.
Excavation, filling and topsoil removal — See Ch. 60.
Fees and deposits — See Ch. 65.
Freshwater wetlands — See Ch. 74.
Illicit discharges, activities and connections — See Ch. 80.
Sewage disposal systems — See Ch. 131.
Stormwater management and erosion and sediment control — See Ch. 138.
Streets and sidewalks — See Ch. 141.
Zoning — See Ch. 175.

Part 1 Applicability

[Adopted 10-18-1974 by L.L. No. 2-1974 as Art. 21 of the 1974 General Code]

ARTICLE I Approval Required; Exceptions

§ 145-1. Planning Board approval required.

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

§ 145-2. Exceptions.

The foregoing provisions of § 145-1 of this Part 1 shall not apply to, and there is no prohibition against, transfer of land between owners of contiguous property within the Village, provided that:

- A. Such transfer is a transfer by sale, gift, exchange, offer or contract by which the land so transferred becomes part of the identical ownership of land contiguous thereto;
- B. No new lot is created by such transfer; and
- C. Such transfer does not create any lot sizes, setbacks or uses which do not conform to the requirements of Chapter 175, Zoning, as it then exists, in all respects.

Part 2
Rules and Regulations

[Adopted effective 11-27-1960]

ARTICLE II
General Provisions

§ 145-3. Authority.

By authority of Article VI-A of the Village Law,¹ as amended, and the resolution adopted by the Village Board on November 27, 1960, pursuant thereto, the Planning Board and Board of Trustees have adopted these regulations for the subdivision of land within the Village and, pursuant to Section 1610 of the County Government Law of Nassau County, as amended, of land within 300 feet of the boundaries of the Village of Cove Neck.

§ 145-4. Purpose.

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

§ 145-5. Jurisdiction.

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

§ 145-6. Plats straddling municipal boundaries.

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

§ 145-7. Resubdivision.

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

§ 145-8. Word usage and definitions.

1. Editor's Note: See now Art. 7 of the Village Law.

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

BOARD — The Planning Board of the Village of Cove Neck, Nassau County, New York.

CONSTRUCTION PLAN — The maps and engineering drawings, described in § 145-36 of these regulations, accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of these regulations.

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

DEVELOPMENT

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

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

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

ENGINEER — The Engineer of the Village of Cove Neck.

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

MASTER PLAN — The Comprehensive Master Plan for the development of the Village prepared by the Planning Board, pursuant to § 179-gg of the Village Law,² which shows, among other things, desirable streets, parks, public reservations, sites for public buildings and such other features as will provide for the improvement of the Village and its future growth, protection and development, and including any part of such plan separately adopted and any modification or parts thereof.

OFFICIAL MAP — The map established by the Village Board, pursuant to § 179-e of the Village Law,³ showing the streets, highways and parks theretofore laid out, adopted and

2. Editor's Note: See now § 7-722 of the Village Law.

3. Editor's Note: See now § 7-724 of the Village Law.

established by law and any amendments thereto adopted by the Village Board pursuant to § 179-h of the Village Law⁴ or additions thereto resulting from the approval of subdivision plats by the Planning Board and the subsequent filing of such plats pursuant to § 179-m of the Village Law.⁵

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

PLAN, SKETCH — A sketch plan, described in § 145-34 of these regulations, of a preliminary layout to enable the subdivider to discuss informally with the Planning Board and Village officials the form of the proposed subdivision as related to the objectives and requirements of these regulations.

PLAT, SUBDIVISION — The final map or drawing, described in § 145-37 of these regulations, on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, will be submitted by the subdivider to the Clerk of Nassau County for recording in accordance with law.

PRELIMINARY LAYOUT — The preliminary drawing or drawings, described in § 145-35 of these regulations, indicating the proposed manner and/or layout of the subdivision to be submitted to the Planning Board for its consideration.

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

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

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

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

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

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

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

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

SUBDIVISION — The division of any parcel of land into two or more lots, plots or sites or other division of land for immediate or future sale or for building development in such a way as

4. Editor's Note: See now § 7-724 of the Village Law.

5. Editor's Note: See now § 7-732 of the Village Law.

to create one or more new streets or extensions of existing streets or changes in existing street or lot lines. The division and transfer of property between adjacent property owners which does not create a new lot or reduce the size of any existing lot area, dimensions or building setbacks below the minimum requirements for the zoning district in which it is located shall not be considered a subdivision within the meaning of these regulations.

ZONING — Chapter 175, Zoning, of the Code of the Village of Cove Neck, together with any and all amendments thereto.

ARTICLE III
Review and Approval of Plats

§ 145-9. Approval required.

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

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

§ 145-10. Preapplication procedure.

- A. Previous to the filing of an application for conditional approval of the preliminary layout, the subdivider shall meet with the authorized representative of the Board to discuss his sketch plan, which shall comply with the requirements of § 145-34, and the requirements for improvements and public facilities and services. This step does not require formal application, fee or filing of the plat with the Board.
- B. The purpose of the preapplication procedure is to afford the subdivider an opportunity to consult early and informally with the Board's representative before preparation of the preliminary layout and before formal application for its approval, in order to save time and unnecessary expense.
- C. Before preparing a sketch plan or attending the initial conference, the subdivider should familiarize himself with the regulations, standards and requirements contained herein. It is recommended that the subdivider discuss with the Village's authorized representative the requirements as to general layout of streets, lots and reservations and similar matters and, with the Engineer of the Village, street improvements, drainage, sewerage, water and like matters, as well as the availability of existing services. In the case of land within 300 feet of Village boundaries, the subdivider should also consult with such other planning boards as have jurisdiction under Section 1610 of the County Government Law of Nassau County.
- D. The subdivider should also consult with parties potentially interested with him or with the ultimate users of the development with a view to reaching, at this initial stage, firm conclusions regarding the market demand, the suitability of the location of the proposed

subdivision, the most advantageous subdivision plan and the arrangement of streets, lots and other features of the proposed development.

§ 145-11. Preliminary layout procedure.

- A. Application and fee. If the subdivider shall request the consideration of the Board of a preliminary layout, 10 copies of the preliminary layout, which shall in all respects comply with these regulations, shall be presented to the Village Clerk at least 10 days prior to the meeting of the Board at which it is requested to be considered. The preliminary layout shall be accompanied by a fee, payable to the Village of Cove Neck, in the amount appearing in the fee schedule established by the Village Board.⁶ Upon receipt of the preliminary layout and payment of the fee, the Village Clerk shall forthwith deliver the preliminary layout to the Board.
- B. Study of preliminary layout. It is recommended that the subdivider or his representative attend the Board meeting when the preliminary layout is considered. The Board will study the practicability of the preliminary layout, taking into consideration the requirements of Article IV. If, in the opinion of the Board, the size, character, effect on neighboring property or other aspects of the proposed subdivision warrant, the Board may hold an informal public hearing on the preliminary layout.
- C. Staking of proposed streets and field trip. To facilitate study of the preliminary layout in the field, the Board may require the subdivider to stake certain roads at intervals of 50 feet along their center lines. Each stake shall be marked for ready identification on the preliminary layout and shall show approximate height of proposed cut and fill at that point. The Board will schedule a field trip to the site of the proposed subdivision, which the subdivider should attend.
- D. Action on preliminary layout. Following review of the preliminary layout and other material submitted in accordance with these regulations, and discussion with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him, the Board shall authorize the preparation of the subdivision plat in accordance with the preliminary layout as submitted or modified by the Board. If the preliminary layout is entirely unsatisfactory, the Board shall either authorize the preparation of the subdivision plat in accordance with the preliminary layout with suggested modifications by the Board or reject the preliminary layout entirely, giving the reasons therefor.
- E. Notation of action. The action of the Board shall be noted on two copies of the preliminary layout, referenced and attached to any changes or conditions required. One copy shall be returned to the subdivider and the other copy retained by the Board.
- F. Effect of authorization. Authorization shall be deemed a tentative approval of the design submitted on the preliminary layout as a guide to the subdivider in the preparation of the subdivision plat.

§ 145-12. Subdivision plat procedure.

⁶. Editor's Note: See Ch. 65, Fees and Deposits.

- A. Subdivision plat requirements. The subdivision plat shall conform substantially to the preliminary layout as tentatively approved by the Board and to the requirements of § 145-37. If desired by the subdivider, the subdivision plat may constitute only that portion of the approved preliminary layout which he proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these regulations and provided, further, that such portion abuts at least one street duly placed upon the Official Map, which street shall be improved to the satisfaction of the Board.
- B. Number of copies and time for submitting application. Ten copies of the subdivision plat, together with 10 copies of the construction plans and all other items required by these regulations, shall be prepared as specified in § 145-37 and shall be submitted to the Board within six months after the date of authorization of preparation of the subdivision plat. Otherwise such authorization shall expire, unless an extension of time is applied for and granted, in writing, by the Board.
- C. Application and submission date. Application for approval of the subdivision plat shall be submitted by the owner or by his duly authorized agent, in writing, to the Board at least 10 days prior to the meeting at which it is to be considered. The subdivision plat shall be deemed to be officially submitted on the date of the meeting of the Board at which the subdivider shall have submitted the required application, together with the subdivision plat, construction plans and all other items required by these regulations, including formal offers of cession in form as required by § 145-31B.
- D. Endorsement of State Department of Health and public districts. Proposed water supply and sewerage service facilities in the subdivision shall be approved by the New York State Department of Health, pursuant to § 1116 of the Public Health Law, and by any water, water supply, drainage, improvement or sewer district having jurisdiction. Application for approval of plans for water supply and sewerage facilities may be filed with the Nassau County Department of Health. Endorsement of approval shall be obtained by the subdivider and submitted to the Board with the application for approval of the subdivision plat.
- E. Endorsement of Commissioner of Public Works. Pursuant to § 334-a of the Real Property Law, the Board will not consider approval of a subdivision plat unless the Commissioner of Public Works of Nassau County has endorsed on the plat a statement that he has approved the plans for grades of the streets shown on such map and the drainage thereof. In the event that separate and distinct plans for grading and drainage are required by said Commissioner, a copy of such plans shall be submitted to the Board with the application for approval of the subdivision plat.
- F. Approval by other planning authorities. Pursuant to Section 1610 of the County Government Law of Nassau County, the planning authority of each incorporated village adjacent to the Village of Cove Neck and the Nassau County Planning Commission, where adjacent territory is unincorporated, have the power and authority to approve plats within the Village and within 300 feet of the boundary thereof. When a proposed subdivision lies wholly or partially within 300 feet of the Village boundaries, the subdivider shall obtain the approval of the planning authority of the adjacent incorporated village and/or of the unincorporated territory, as the case may be, before the Board approves the subdivision plat.

- G. Public hearing. Upon receipt of the application and all accompanying material, the Board shall advertise and hold a public hearing on the proposed subdivision. The Board shall submit notice to the official Village newspaper for publication, shall mail notices to abutting property owners and shall file a copy of the subdivision plat and construction plans with the Village Clerk for public review prior to the hearing. At the hearing, the Board shall give opportunity to any interested person to examine or comment upon the subdivision plat and construction plans.
- H. Action on subdivision plat. After the public hearing, the Board will consider the matter and, within 45 days after the official submission date, will approve, modify and approve, or disapprove the subdivision application by resolution which will set forth in detail any conditions to which approval is subject, or reasons for disapproval.
- I. Revision of subdivision plat. The subdivider will be given a copy of the Board's resolution, and, in the event that modifications are required, he shall revise the subdivision plat and construction plans to conform thereto.

§ 145-13. Performance bond; signing and filing of subdivision plat.

- A. Performance bond. See § 145-25.
- B. Signing of subdivision plat. After completion of the final subdivision plat for recording and of construction plans in accordance with the Board's resolution, the original tracing and two prints of each shall be submitted to the Board for final review within the time specified in said resolution. Approval of the subdivision plat shall be endorsed thereon as follows:
 - (1) When a bond is filed. Approval of the plat shall be endorsed thereon after the bond has been approved and filed and all of the conditions of the Board's resolution pertaining to the plat have been satisfied.
 - (2) When no bond is filed. Approval of the plat shall be endorsed thereon after all conditions of the Board's resolution have been satisfied and all required improvements completed to the satisfaction of the Board.
- C. Number of copies to be signed. Approval of the Board will be noted on the plat, and the Chairman and Secretary of the Board or, in the absence of the Chairman, the Vice Chairman will sign the tracing cloth original of the subdivision plat, which will be returned to the subdivider, and one print of the plat, which will be retained by the Board.
- D. Filing plat with County Clerk. In accordance with the Village Law, the approved subdivision plat shall be filed by the subdivider with the Nassau County Clerk, Division of Land Records, within 90 days of the date of signing. The approval of any plat not so filed shall expire 90 days from the date of signing by the Board.
- E. Submission of copies of filed maps. The subdivider shall submit two copies of the subdivision plat, containing the endorsement of the Nassau County Clerk, to the Secretary of the Board within 30 days of the date of filing.
- F. Plat void if revised after signature. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been granted by the Board and endorsed, in writing, on the plat. In the event that any subdivision plat, when recorded, contains any

such changes, the plat shall be considered null and void, and the Board shall institute proceedings to have said plat stricken from the records of the County Clerk. Any erasures made on a plat prior to its signing shall be initialed by the Chairman or Vice Chairman of the Board at the time of signing.

§ 145-14. Partitioning.

- A. Application for approval. The procedure for approval of a partitioning and/or the development thereof, as defined herein, shall be the same as that for a subdivision. In cases where the Board finds, after study of the sketch plan, that the proposed lots would each front on a street duly placed on the Official Map, which street is improved to the satisfaction of the Board, and would meet the lot size requirements of Chapter 175, Zoning, and the objectives of these regulations and that such lots would not be directly related to a drainageway, as later defined in this subsection, the Board may waive the requirements for submission and approval of a preliminary layout and authorize the subdividing owner to prepare a subdivision plat for approval of the Board and for recording upon fulfillment of the requirements of the applicable sections of these regulations and the conditions stipulated in such waiver and authorization, if any. The drainageway referred to above is defined to mean the lands required for the installation of storm areas, drainage ditches, or drainage systems, including land required along a stream or watercourse for protecting the channel and providing for the flow of water therein to safeguard the public against flood and/or to conserve the water supply.
- B. Waiver of filing. See § 145-39.

§ 145-15. Development of previously filed plats.

The procedure for approval of the development, as defined in § 145-8, of a plat entirely or partially undeveloped and which has been filed in the office of the Clerk of Nassau County prior to the appointment of the Board and the grant to such Board of authority to approve plats shall be the same as that for a subdivision, pursuant to § 179-k of the Village Law.⁷

ARTICLE IV
Design Standards

§ 145-16. General requirements.

- A. Considerations. In considering applications for subdivision of land and/or development, the Board shall be guided by the standards set forth herein. Said standards shall be deemed to be minimum requirements for the convenience, health, safety and welfare of the Village.
- B. Character of land. Land to be subdivided and/or developed shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Land subject to such hazards shall not be subdivided nor developed for residential purposes nor for such other uses as may increase danger to health, life or property or aggravate a flood hazard, but such land may be set aside for such uses as shall not involve such danger nor produce unsatisfactory living conditions.

⁷. Editor's Note: See now § 7-728 of the Village Law.

- C. Conformance to Master Plan and Official Map. Subdivisions and/or developments shall conform to the Official Map and shall be properly related to the proposals shown on the Master Plan. The plat shall include all streets, shown on the said plan and map, which are within the site and such other streets as the Board may require.
- D. Frontage on improved street. The area proposed to be subdivided and/or developed shall have frontage on and direct access to a street duly placed on the Official Map, and, if such street is private, it shall be improved to the satisfaction of the Board or there shall be a bond held by the Village covering such improvement.
- E. Preservation of natural cover. Land to be subdivided and/or developed shall be laid out and improved in reasonable conformity to existing topography, in order to minimize grading, cut and fill and to retain, insofar as possible, the natural contours, limit stormwater runoff and conserve the natural cover and soil. No topsoil, sand or gravel shall be removed from any lots shown on any subdivision plat except for the purpose of improving such lots and for the laying out of streets shown thereon. Topsoil so removed shall be restored to a depth of six inches and properly seeded and fertilized on the areas of such lots not occupied by buildings or structures. No excess topsoil so removed shall be disposed of outside of the boundaries of the Village except upon the approval of the Board of Trustees of the Village.
- F. Preservation of existing natural features. Existing natural features that enhance the attractiveness of the site and which would add value to residential or other development or to the Village as a whole, such as trees, watercourses, ponds and similar irreplaceable assets, shall be preserved insofar as possible by harmonious design of the subdivision. The Board may make reasonable modifications in standards for layout of streets to accomplish such purposes as well as the objectives noted in Subsection E.

§ 145-17. Streets.

- A. General. The arrangement, character, extent, width, grade and location of all streets shall conform to the Master Plan and Official Map and shall be considered in their relation to existing and planned streets, to existing topography and natural features, to public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by such streets.
- B. Relation to topography. Street layouts and grades shall be related appropriately to the existing topography, and streets shall be arranged to obtain as many as possible of the building sites at or above the grades of the streets. Steep grades shall be avoided, as well as combinations of steep grades and curves.
- C. Arrangement. Where proposed streets are not shown on the Master Plan or Official Map, such streets shall be of sufficient width, suitably located and adequately constructed to accommodate the prospective traffic and to facilitate drainage and to afford access for fire-fighting, snow removal and road maintenance equipment. Such streets shall be coordinated so as to compose a convenient system and to cause no undue hardship to adjoining properties.
- D. Arrangements. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient

movement of traffic, effective fire protection or efficient provision of utilities and also where such continuation is in accordance with the Master Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary circular turnaround shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued.

E. Intersections.

- (1) Street jogs with center-line offsets of less than 125 feet shall not be permitted except with the approval of the Board.
- (2) Intersections of streets shall be at angles as close to 90° as possible. Toward this end, an oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Where three or more streets intersect, a turning circle or other special treatment may be required by the Board. Wherever two streets intersect at an angle smaller than 75°, the right-of-way returns and the relation of the gutter grades shall be given special treatment, as determined by the Board, and islands to channelize traffic may be required.
- (3) Intersections of major streets by other streets shall be at least 800 feet apart, if possible. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Master Plan or at other important traffic intersections. A distance at least equal to the minimum required lot depth plus 25 feet shall be maintained between center lines of offset intersecting streets. Grades shall be limited to no more than 2% within 50 feet of an intersection.

F. Treatment along major arterial streets. Where a subdivision abuts or contains an existing or proposed major arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

G. Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required by the zoning, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations.

H. Dead-end streets.

- (1) Where a street does not extend to the boundary of the subdivision and its continuation is not required by the Board for access to adjoining property, its terminus shall normally not be nearer to such boundary than 100 feet or the minimum lot depth prescribed by Chapter 175, Zoning, whichever is greater. However, the Board shall require the reservation of a twenty-foot-wide easement to accommodate drainage facilities, pedestrian traffic or utilities.
- (2) For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited in length to 900 feet and shall be provided

at the closed end with a turnaround having an outside roadway diameter of at least 80 feet and a street property line diameter of at least 100 feet. In zoning districts, however, which permit lots of less than one acre, the minimum outside roadway diameter shall be increased to 100 feet and the diameter at the property line shall be increased to 120 feet. Where it is impossible to subdivide a property except by a dead-end road which is longer than 900 feet, the Board may permit a greater length, provided that a divided roadway with center mall is constructed in a seventy-foot right-of-way (or greater width, if required) in such a manner that either side of the roadway could be used, in emergencies, for two-way traffic.

- I. Design standards for streets. Streets shall meet the design standards set forth below. In cases where street classification is not shown on the Master Plan or Official Map, the Board shall determine the type of each street. Standards do not cover major streets which would be built by the state or county.
 - (1) Widths. Generally, for streets not shown on the Master Plan, the width shall be not less than the following:
 - (a) Local street: 50 feet.
 - (b) Secondary street: 60 feet.
 - (c) Major street: 80 feet.
 - (d) Marginal access street: 40 feet.
 - (2) Grades.
 - (a) Grades of all streets shall be the reasonable minimum and, unless warranted by extenuating circumstances, shall be as follows:
 - [1] Local and marginal streets: not less than 1.0% or more than 8%.
 - [2] Secondary and major streets: not less than 1.0% or more than 5%.
 - (b) Gradients shall be used to facilitate surface drainage to proper natural or artificial outlets.
 - (c) Changes in grade. All changes in street grades shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance, as approved by the Board.
 - (3) Tangents. A tangent at least 100 feet in length shall be introduced between reverse curves on all streets, except where a greater length is required by the Board.
 - (4) Curves. When the alignment of the street changes more than 10°, the tangents shall be connected by a curve with a radius of not less than 200 feet, unless a greater radius is required by the Board to ensure a proper sight distance.
- J. Reserve strips. Reserve strips controlling access to streets shall be prohibited except where their control is placed in the Village under conditions approved by the Board.
- K. Property lines at intersections. Property lines at intersections shall be established in such a

manner as to place within the street right-of-way the triangular area which is formed by the street lines extended and a straight line adjoining points on said street lines 30 feet distant from their point of intersection.

- L. Street names. All streets shall be named, and such names shall be approved by the Board. Names shall be sufficiently different in sound and in spelling from other street names in the Village or adjoining municipalities so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name. In general, street names shall conform to the following classifications:
 - (1) Road: major or secondary street.
 - (2) Drive or lane: local residential street, except as follows:
 - (a) Court or place: permanent dead-end street.
 - (b) Circle: street that returns to its starting point or a street both ends of which intersect another street at different locations.

§ 145-18. Easements.

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

§ 145-19. Blocks.

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

§ 145-20. Lots.

- A. General. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- B. Dimensions and corner lots. Lot area and dimensions shall conform to the requirements of Chapter 175, Zoning, and Health Department regulations. Corner lots for residential use shall have extra width to permit compliance with the front yard setback from both streets. Where lots are more than double the minimum area required by Chapter 175, Zoning, the Board may require that such lots shall be of such dimensions and arrangement as will allow further subdivision and the opening of future streets where necessary to serve potential lots, all in compliance with Chapter 175, Zoning, and these regulations. Generally the depth of a lot shall not exceed 2 1/2 times the width.
- C. Arrangement and access.
 - (1) The lot arrangement shall be such that there will be no foreseeable difficulty, for reasons of topography or other conditions, in obtaining building permits to build on all lots in compliance with applicable regulations and in providing, by means of a street approved by the Board and upon which each lot fronts, safe driveway access to buildings on such lots from an improved street duly placed on the Official Map.
 - (2) Access across a watercourse. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure of design approved by the Engineer.
- D. Lot lines and setbacks. Side lot lines shall be substantially at right angles to straight streets and radial to curved street lines. Lot lines shall coincide with municipal boundary lines rather than cross them. Where extra width has been dedicated for widening an existing street, lots shall begin at such extra width line, and lot dimensions and setbacks shall be measured from such line. The Board may, whenever it deems such lines desirable or necessary, require the showing on the plat of specific setback lines which may vary from lot to lot, provided that the front setback shall be not less than the zoning requirement nor more than 20% greater than the zoning setback.
- E. Double frontage. Double-frontage lots, other than corner lots, shall be avoided except where deemed essential by the Board in order to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. An easement or reserve strip at least 20 feet in width and across which there shall be no right of access shall be provided along the line of lots abutting such traffic artery or other disadvantageous use, and such easement shall be planted and maintained as may be approved by the Board.

ARTICLE V
Improvements

§ 145-21. Installation or performance bond required.

Pursuant to § 179-1 of the Village Law,⁸ before the approval by the Board of a plat or the

⁸. Editor's Note: See now § 7-730 of the Village Law.

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

§ 145-22. Construction plans.

- A. Approval required before construction. The subdivider shall have prepared at his expense construction plans, described in § 145-36, for all required improvements. No improvements, development or construction work of any kind shall be commenced until after said plans have been approved by the Board in accordance with these regulations and by the appropriate county or state or local agencies having jurisdiction pursuant to law and such approvals have been endorsed on said plans or drawings.
- B. Modifications. If at any time before or during the construction of the required improvements the Engineer finds or it is demonstrated to his satisfaction that unforeseen conditions make it necessary to modify the location or design of such required improvements or to provide additional improvements, the Engineer may require or authorize such modifications upon written request of the subdivider, provided that such modifications are within the spirit and intent of the Board's approval and do not extend to the waiver or substantial alteration of the function of any improvement required by the Board. The Engineer shall issue any authorization under this subsection in writing and shall transmit a copy of such authorization to the Board for its records.

§ 145-23. Standards and specifications.

All required improvements shall be installed in accordance with approved construction plans and shall conform to the Village construction standards and specifications and shall be approved by the Engineer as to design and specifications. A booklet containing the Village construction standards and specifications is available at the office of the Village Clerk.

§ 145-24. Required improvements.

- A. Monuments. Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shall be required by the Engineer. The monuments shall be of such material, size and length as may be approved by the Engineer. Monuments shall be set three inches above ground surface.
- B. Grading. All streets shall be graded, within right-of-way lines, in accordance with approved construction plans. The grading of lots shall be done only in accordance with approved construction plans. In all grading work the subdivider shall be required to proceed in such manner as will minimize any disturbance to and preserve undamaged, insofar as possible, existing trees, natural cover and soil.

- C. Street paving. All streets shall be paved in accordance with the Village construction standards and specifications heretofore referred to in § 145-23.
- (1) Underground utilities. If placed in the street right-of-way, underground utilities required by the Board shall be placed between the paved roadway and street line, where possible, to simplify location and repair. Underground service connections to the property line of each lot shall be installed at the subdivider's expense, where the Board considers such appropriate, before the street is paved.
 - (2) Public utilities. Where utilities required by the Board are to be installed by a public utility company, the Board may accept assurance from said company, in writing, that such installation will be furnished by the company within a specified period of time and in accordance with the approved construction plans. The Board may require that all public utilities in easement areas be provided along rear lot lines.
- D. Drainage improvements.
- (1) Spring and surface water. The subdivider may be required by the Board to carry away any spring or surface water that may exist either previous to, or as a result of, the subdivision or development. Such drainage facilities shall be located in street rights-of-way where feasible or in perpetual unobstructed easements.
 - (2) Drainage and upstream development. A drainageway, culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision or development. The Engineer shall determine the design and necessary size of the facility based on runoff anticipated from a ten-year storm under conditions of maximum potential watershed development permitted under existing zoning therein.
 - (3) Drainage downstream. The Engineer shall also determine the effect of each proposed subdivision or development on existing downstream drainage facilities outside the subdivision or development. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a ten-year storm, the Engineer shall notify the Board and the Village Trustees of such potential. In such case, the Board may disapprove such subdivision or development until provision, satisfactory to the Engineer and the Village Trustees, has been made for the improvement of said potential condition.
 - (4) Nassau County requirements. The subdivider will be required to install such facilities for the drainage of streets as may be required by the Commissioner of Public Works of Nassau County. Any storage basins required by the Nassau County Department of Public Works and any other drainage facilities required to be installed shall be constructed and completed by the subdivider. All such drainage structures shall be maintained by the subdivider in good operating condition until such time as the land is released.
- E. Culverts and bridges. All required culverts and bridges, if any, shall be constructed in accordance with approved construction plans and shall conform to the standards and specifications of the Village or the county or state agency having jurisdiction.

- F. Curbs, gutters and sidewalks. Where deemed necessary and required by the Board, the subdivider shall install curbs, gutters and sidewalks or walkways in accordance with Village standards and specifications.
- G. Street trees. The Board may require the planting of new street trees in a subdivision which lacks or is deemed deficient in trees. Such trees shall be of a size and type approved by the Board and shall be planted in a manner and location prescribed by the Board.
- H. Street signs. Street signs of a type approved by the Board shall be provided by the subdivider and placed at all intersections in locations, within street lines, approved by the Engineer.
- I. Streetlights and fire alarm devices. Where required by the Board, streetlighting fixtures, of a design approved by the Board or other municipal agency having jurisdiction, shall be placed in a manner and location approved by the Board. The Board may require the installation of fire alarm signal devices.
- J. Water supply and sanitary sewers. Where required by the Board, the subdivider shall install water mains and fire hydrants and/or sanitary sewers of a type and in a manner prescribed by the regulations of the agency having jurisdiction. In cases where sanitary sewerage is not available to a subdivision or development, the subdivider shall install individual sewage disposal systems in accordance with regulations of the New York State Department of Health.
- K. Waiver of required improvements. The Board may waive, pursuant to § 179-1 of the Village Law,⁹ for such period as it may determine, the provision of any or all such improvements as in its judgment of the special circumstances of a particular plat are not requisite in the interests of the public health, safety and general welfare. In the case of any waiver granted, the Board shall enter upon its records the reason or reasons why the particular improvement is not necessary, and it shall attach appropriate conditions or require such guaranties as may be deemed necessary to protect the public interest and achieve the objectives of these regulations.
- L. Estimated cost of improvements. The subdivider shall submit his engineer's estimate of the full cost of all required improvements to be installed by the subdivider, and the Board may request the Engineer to check the cost estimates for accuracy.

§ 145-25. Performance guaranties.

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

- A. Completion of improvements. The subdivider shall complete all required improvements to the satisfaction of the Board before the Board signs the plat and before any building permits will be issued. The subdivider shall file with the Village a bond in an amount determined by the Board to be adequate to assure the preservation of existing topographic and natural assets, pursuant to § 145-24B, as well as the satisfactory condition of the subdivision improvements for a period of one year following their completion. Such bond

9. Editor's Note: See now § 7-730 of the Village Law.

shall be satisfactory to the Village Attorney as to form, sufficiency and manner of execution and to the Village Board as to surety. Such bond shall be released only by the Board of Trustees when all requirements have been satisfactorily met.

B. Performance bond.

- (1) If the subdivider is required to post a performance bond to insure the completion of required improvements, he shall file with the Village Clerk a performance bond to cover the cost of required improvements in an amount set by the Board. Such bond shall comply with the requirements of § 179-1 of the Village Law¹⁰ and shall be satisfactory to the Village Attorney as to form, sufficiency and manner of execution and to the Board as to the surety.
- (2) A period of one year, or such other period as the Board may deem appropriate, not to exceed three years, within which required improvements must be completed shall be set forth in the bond.
- (3) The bond surety may be in cash or partly in cash and partly guaranteed by a surety company acceptable to the Board, but in the latter case not less than 25% shall be in cash. The cash surety shall become immediately available to the Village on the date when improvements are required to be completed for application toward the completion of such required improvements as have not been completed on said date. The bond shall provide that an amount in cash, deemed adequate by the Board, shall be retained for a period of one year from the date of completion of the required improvements.
- (4) All required improvements shall be completed to the satisfaction of the Engineer and the Board within the time stipulated in the Board's resolution. The bond shall be released only by the Board of Trustees when all required improvements have been completed to its satisfaction.

C. Subdivider's responsibility. If the Engineer or other authorized inspector finds, upon inspection, that any of the required improvements have not been constructed in accordance with approved construction plans and the Village standards and specifications, the subdivider shall be responsible for the completion of such improvements to the satisfaction of the Board. Wherever the cost of improvements is covered by a performance bond, the subdivider and the bonding company shall be severally and jointly liable for completing said improvements to the satisfaction of the Board.

D. Failure to complete improvements. For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the Board in its resolution approving the plat, the approval shall be deemed to have expired. In cases where a performance bond has been posted and required improvements have not been completed within the term of such bond, the Village Trustees may thereupon declare said performance bond to be in default.

§ 145-26. Inspections.

10. Editor's Note: See now § 7-730 of the Village Law.

- A. General requirements. The Board shall provide for the inspection of required improvements during construction to ensure their satisfactory completion. The subdivider shall pay to the Village an inspection fee in accordance with a fee schedule fixed by the Board¹¹ and at such time as may be stated in its resolution. The subdivision plat shall not be signed by the Board until such fee has been paid.
- B. Timing of inspection. In order to facilitate inspection of required improvements during construction, the subdivider shall notify the Engineer at least three days before he proceeds with each of the following stages of construction:
 - (1) Grading of streets and/or lots.
 - (2) Before backfilling of underground utilities and/or drainage facilities.
 - (3) Before paving or surface treatment.
 - (4) After completion of all improvements.
- C. Copy of contract specifications. Prior to the start of construction of any required improvements, the subdivider shall furnish to the Engineer a copy of the specifications included in any contract entered into by the subdivider for such construction.
- D. Supervision of construction. The construction of all required improvements shall be supervised by a registered professional engineer employed by the subdivider. After completion of construction said engineer shall certify to the Board that all required improvements have been constructed as required and approved by the Board or as such requirements have been modified under § 145-22B.
- E. Reports. The Engineer shall make reports to the Board after each inspection. If the Engineer or his authorized inspector finds, upon inspection, that any of the required improvements have not been constructed in accordance with the approved construction plans and/or the Village standards and specifications, he shall inform the subdivider and the Board in writing.
- F. Responsibility for completion. The subdivider is solely responsible for completion of required improvements in accordance with the approved plans. See § 145-25C. In the event that the Engineer or his authorized representative is unable to carry out inspection of required improvements during construction, the subdivider and the bonding company, if any, shall not in any way be relieved of their responsibilities for satisfactory completion of required improvements.
- G. Certificates of completion. The Board shall not give final approval of required improvements, nor recommend to the Board of Trustees the release of a bond, until the Engineer has submitted a report stating that all required improvements have been satisfactorily completed and until the subdivider's engineer or surveyor has furnished to the Engineer a certified set of record drawings, in the same detail required for construction plans described in § 145-36, showing all improvements as constructed and a statement certifying that all improvements conform to such record drawings and the standards and

11. Editor's Note: See Ch. 65, Fees and Deposits.

specifications of the agency having jurisdiction.

ARTICLE VI
Reservations and Dedications

§ 145-27. General requirements.

Pursuant to § 179-1 of the Village Law,¹² before the approval of a plat or plan of development by the Board, such plat or plan shall show, in proper cases and when required by the Board, a park or parks suitably located for playground or other recreation purposes. Reservation and/or dedication of land for street purposes, drainageways and easements also may be required by the Board and by county or state agencies having jurisdiction. Any land offered for dedication or reserved by the owner for a particular purpose and all easements shall be shown and appropriately marked on the plat or plan of development.

§ 145-28. Recreation areas and public uses.

- A. Features shown on Master Plan. Where a proposed park, playground, school or other public use is shown on the Master Plan in a location which is entirely or partially within a subdivision or development, the Board shall require the dedication or reservation of such area within the subdivision.
- B. Recreation area not shown on Master Plan. In cases where the Master Plan does not show a recreation area within a proposed subdivision and the Board deems that recreation space would be desirable and appropriate, the Board may require the dedication or reservation of designated sites for park, playground or other recreation purposes. Such sites shall be of suitable size, dimension, topography, location and general character for the particular purposes envisioned by the Board. In no case shall the Board require that more than 10% of the gross area of the subdivision be dedicated or reserved for recreation purposes. In calculating such percentage, the Board may give due credit for open areas reserved, by covenants in all deeds, for the common use of all property owners in the proposed subdivision.
 - (1) Minimum size of recreation area. Land in subdivisions dedicated or reserved for recreation purposes generally shall have an area of at least five acres. When a proposed subdivision is too small to require such an area, the Board may require that the recreation area be located on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than three acres be dedicated or reserved for recreation purposes if the Board deems it unlikely that additional lands can be secured to increase such area.
 - (2) Recreation sites. Land offered for dedication or reservation for recreation purposes shall be of a character, shape and location suitable for such purposes. In the case of a play field or playground, the land shall be relatively level and dry, and no dimension of the site shall be less than 200 feet. Generally, a recreation site shall have a frontage of at least 200 feet on one or more streets.

12. Editor's Note: See now § 7-730 of the Village Law.

- C. Waiver on land for recreation. In cases where the Board finds that, due to the size, topography or location of the subdivision or for other reasons, a requirement that land be dedicated or reserved for recreation would be unreasonable or undesirable, the Board may waive such requirement, subject to the condition that the subdivider shall, in lieu of such dedication or reservation, pay to the Village in cash an amount as provided in Chapter 65, Fees and Deposits, for each proposed lot in the subdivision. Such moneys shall be deposited in a special Village recreation site and improvement fund. [Amended 11-24-1969 by L.L. No. 1-1969]
- D. Public use not shown on Master Plan. The Board may require that land in a subdivision be temporarily reserved for a public school or other essential community facility, although not shown on the Master Plan, when the Board deems it desirable and appropriate. In such cases, if the agency having jurisdiction does not acquire such land within two years after the date of the signing of the plat by the Board, the subdivider, upon written notice to the Board, shall, 30 days after such notice, be relieved of the responsibility of further reservation of said land for said public purpose.

§ 145-29. Streets.

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

§ 145-30. Storage basins, easements and natural features; other open land uses.

- A. Storage basins and easements. Where land is required by the county or Village for storage basins and easements, such land shall be offered for dedication to Nassau County or the Village, as the case may be.
- B. Easements. Easements for drainageways, utilities, pedestrian and/or emergency access and for planting strips shall be provided by the subdivider in the location and at the width required by the Board. Generally, easements for drainage and utilities shall be unobstructed and perpetual, and easements for planting strips shall be perpetual.
- C. Preservation of natural features. The subdivider shall reserve and may offer for dedication for open recreational purposes existing natural features when the Board finds that such features, such as large trees, wooded areas, watercourses, ponds, historic sites, vistas or other irreplaceable assets, enhance the attractiveness of the site and will add value to residential or other development or to the Village as a whole. Whatever of such natural features, in the opinion of the Board, should be offered for dedication to public uses shall be offered for dedication to the Village or other appropriate authority, except when, after approval of the Board pursuant to § 145-31A, such features are deeded to a property owners' association membership running with all of the land in the subdivision and

preserving such features.

- D. Other open land use. None of the sections of this Article VI shall be construed as preventing a subdivider or developer from reserving other land for open recreational purposes in addition to the requirements of this article.

§ 145-31. Ownership to be clearly established; offers of cession; acceptance by Village.

- A. Responsibility for reservations. In any case where title to streets or other reservations is not offered for dedication to the Village, the ownership shall be clearly established in a manner satisfactory to the Board in order to ensure the continued maintenance and responsibility for such reservation.
- B. Offers of cession. Pursuant to § 179-m of the Village Law,¹³ with respect to streets and parks, the subdividing owner may add, as a part of the plat, a notation, if he so desires, to the effect that no offer of dedication of such streets or parks or any of them is made to the public. Formal offer of cession to the Village of all streets and parks not so marked with such notation on the plat shall be filed by the owner with the Board prior to approval of the plat by the Board.
- C. Acceptance by the Village. Acceptance of any offer of streets, parks, recreation or other land shall rest with the Village Board of Trustees. In the event that the subdivider elects not to file the subdivision plat in the office of the County Clerk within the ninety-day period required by law, then such formal offer of cession shall be deemed to be void. The approval by the Board of a plat shall not be deemed to constitute or imply acceptance by the Village of any street, park or other open space shown on said plat. The Board may require said plat to be endorsed with appropriate notes to this effect.

§ 145-32. Restrictions imposed by subdivider.

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

ARTICLE VII
Specifications for Maps and Plans

§ 145-33. General requirements.

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

§ 145-34. Sketch plan.

13. Editor's Note: See now § 7-732 of the Village Law.

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

- A. Boundary survey of the property and municipal boundaries, if any, within 300 feet of the property.
- B. Contour lines at intervals of no more than 10 feet (may be obtained from field survey or county topographic maps at contour interval of two feet).
- C. Sketch of:
 - (1) Proposed layout of lots and streets.
 - (2) Existing streets and natural features.
 - (3) Existing permanent buildings and structures.
 - (4) Such other features as the subdivider may deem pertinent or the Board may require.
- D. If the sketch plan covers only a part of the subdividing owner's entire holding, a sketch map of the entire tract (may be shown on the Village Tax Map or on a print of a county topographic map), at a scale of not less than one inch equals 400 feet, showing the platted area with its proposed streets and the probable future street, lot and drainage systems in the entire tract.

§ 145-35. Preliminary layout and topographic map.

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

- (9) Existing and proposed easements, if any, with designation of the purposes therefor.
 - (10) Any land intended to be dedicated for public use or reserved in the deeds for the use of property owners in the subdivision, as well as any land which the owner may propose to reserve, with designation of the purposes therefor.
 - (11) Preliminary cross sections and center-line profiles for each proposed street and preliminary designs for all improvements, including any bridges or culverts that may be required.
 - (12) Plans for water supply and sewage disposal.
 - (13) Preliminary plan for surface drainage of the subdivision.
 - (14) Results of test hole borings and percolation or other tests, when required by the Board.
 - (15) Where the preliminary layout covers only a part of the owner's entire holding, a sketch of the prospective future street system of the submitted part shall be furnished, and the street system of the submitted part will be considered by the Board in the light of adjustments and connections with future streets in the unsubmitted part.
- B. Topographic map. The subdivider shall prepare and submit to the Board, with his application for conditional approval of the preliminary layout, a map showing the topography for the area covered by the proposed subdivision and such surrounding area as the Engineer may designate as necessary to determine drainage requirements. The map shall show:
- (1) Contour interval. On the topographic map the contour interval shall be not more than five feet for land with a natural slope of 10% or greater and not greater than two feet for less steeply sloping land.
 - (2) Watercourses and drainage. The topographic map shall show existing watercourses, drainageways, streams and ponds.
 - (3) Natural features. The natural features, if any, mentioned in §§ 145-16F and 145-30C, including single trees with a diameter of eight inches or more, shall be shown on the topographic map.
 - (4) Streets. The location of existing and proposed streets shall be shown on the topographic map, and the boundary line of property proposed to be subdivided.
 - (5) Preparation of map.
 - (a) The topographic map shall be prepared by a professional engineer or land surveyor duly licensed by the State of New York. The name, address and signature of such engineer or surveyor shall appear upon said map, as well as identifying title of the subdivision, date, North point and graphic scale.
 - (b) In appropriate cases and when approved by the Engineer as being sufficient for the particular situation, the Board may accept a reproduction, enlarged to the required scale, of the county topographic map in lieu of the above requirements.

A map so prepared shall be properly identified, as required above, and shall bear an appropriate description of the method of reproduction. The Board may designate such of the above information as it will require the subdivider to show upon the reproduced map.

§ 145-36. Construction plans.

- A. General. Construction plans shall be prepared for all required improvements and submitted to the Board with application for approval of the subdivision plat. All engineering drawings and designs shall be prepared by a licensed professional engineer, whose name, address and signature shall appear upon such plans and drawings. When feasible, the scale of construction plans shall be the same as that of the plat, and plan sheets shall not exceed 36 inches by 48 inches.
- B. Information shown. The construction plans shall show:
- (1) Typical cross sections and profiles of all proposed streets, showing existing and proposed grades as approved by the Engineer. The cross sections shall show pavements and, where required, gutters, curbs and sidewalks.
 - (2) Profiles along the center lines of streets showing existing and proposed elevations. Where a proposed street intersects an existing street, the elevation along the center line of the existing street within 100 feet of the intersection shall be shown. All elevations shall be referred to Nassau County datum.
 - (3) A grading plan showing present and proposed contours at intervals as per § 145-35B(1), referenced to Nassau County datum, together with natural features required to be preserved, if any. The Board may require, where steep slopes exist, that present elevations along all proposed streets shall be shown every 100 feet at five points on a line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, each property line and points 25 feet inside each property line.
 - (4) Plans and profiles showing the location and a typical section of street pavements, including manholes and catch basins; the location of street trees, streetlighting standards and street signs; the location, size and invert elevations of existing and proposed sanitary sewers, stormwater drains and fire hydrants; the exact location and size of all water mains, gas lines or other underground utilities or structures; and detailed description of all other required improvements.
 - (5) Location, size, elevation and other appropriate description of any existing facilities and utilities at the point of connection to proposed facilities and utilities within the subdivision.
 - (6) All specifications and references required by the Village's construction standards and specifications.

§ 145-37. Subdivision plat.

- A. General. The subdivision plat shall be drawn in ink on tracing cloth, on a sheet or sheets

which shall not exceed 36 inches by 48 inches, at a convenient scale which shall be not less than one inch equals 100 feet, and oriented with the North point at the top of the map. When more than one sheet is required, an index sheet of the same size shall be prepared at a convenient scale to show the entire subdivision, with lot and block numbers clearly legible.

- B. Information to be shown on the plat. The subdivision plat shall show the following:
- (1) Subdivision name, graphic scale, North point and date.
 - (2) The location and dimensions of all boundary lines of the property proposed to be subdivided, the name and address of the record owner or owners of the land to be subdivided and the name and address of the subdivider, if other than the owner.
 - (3) The location and name of streets surrounding or adjacent to the proposed subdivision, the lines of adjacent properties and the names of the owners of record or the names of existing adjoining developments.
 - (4) The location, name and width of all existing and proposed streets.
 - (5) The lines, dimensions and areas of all proposed or existing lots and proposed block, lot and section numbers as assigned by the Assessors' office.
 - (6) The location, width and purpose of all proposed or existing easements.
 - (7) The lines, dimensions and areas of all property intended to be dedicated for public use or reserved in the deeds of property owners in the subdivision, as well as any land which the owner may propose to reserve, with designation of the purposes thereof.
 - (8) The location and identification of existing watercourses, bodies of water and natural features (described in §§ 145-16F and 145-30C) and, subject to the discretion of the Board, contours at such interval as it may require.
 - (9) Sufficient data acceptable to the Engineer to determine readily the location, bearing and length of each boundary line, street line and lot line and to reproduce such lines upon the ground. The lengths of all straight lines, the deflection angles, radii, lengths of curves and central angles of all curves, tangent distances and tangent bearings for each street and each lot shall be given. All dimensions shall be shown in feet and hundredths of a foot.
 - (10) Permanent reference monuments.
 - (11) Name, address and signature of the licensed professional engineer or surveyor making the plat.
- C. Notations on the plat. The following notations shall be shown on the subdivision plat:
- (1) Endorsement of approval by the New York State Department of Health.
 - (2) Endorsement of approval by the Commissioner of Public Works of Nassau County.
 - (3) Endorsement of approval by other planning agencies, if any, having jurisdiction.
 - (4) Treasurer of Nassau County as to payment of taxes.

- (5) Town Receiver of Taxes as to payment of taxes.
 - (6) Engineer in the Department of Assessment certifying location on Nassau County Land Map.
 - (7) Treasurer of Village as to payment of taxes.
- D. Accompanying material. When submitted to the Board with application for approval, the subdivision plat shall be accompanied by the following:
- (1) Certificate of title showing the ownership of the land to be vested in the subdivider or other applicant for plat approval.
 - (2) A certificate of the licensed engineer or surveyor making such plat survey to the effect that the plat is correct and that the error of closure does not exceed such amount as is required by the Engineer.
 - (3) A statement duly acknowledged before an officer authorized to take acknowledgment of deeds and signed by the owner or owners of the property to the effect that the subdivision shown on the plat is made with his or their free consent and in accordance with his or their desires.
 - (4) All offers of dedication and covenants governing the maintenance of undedicated open space, which shall bear the certificate of approval of the Village Attorney as to their legal sufficiency.
 - (5) A copy of such private deed restrictions, including building setback lines, as may be imposed upon the property as a condition to sale, together with a statement of any restrictions previously imposed which may affect the title to the land being subdivided. Such restrictions shall be satisfactory to the Board and shall provide, in the case of any lot intended for residential use, against further division thereof by the grantee without approval by the Board.
 - (6) Such other items or certificates of approval by proper public authorities as may have been required by the Board.
 - (7) Stamped envelopes addressed to each of the owners of property abutting or across the street from the subdivision and containing a form letter and a copy of the notice of public hearing (to be published in the official Village newspaper) on forms provided by the Board.
 - (8) An approved stormwater management pollution prevention plan (SWPPP) consistent with the requirements of Chapter 138, Stormwater Management and Erosion and Sediment Control, shall be required for preliminary and final subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards of Chapter 138, Stormwater Management and Erosion and Sediment Control. The approved subdivision plat shall be consistent with the provisions of Chapter 138, Stormwater Management and Erosion and Sediment Control. [Added 5-9-2007 by L.L. No. 3-2007]

ARTICLE VIII

Administration and Enforcement

§ 145-38. Minimum requirements.

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

§ 145-39. Variances or waivers.

- A. Special circumstances; hardship. Where the Board finds that, because of special circumstances of a particular plat, extraordinary hardships, not of the owner's or subdivider's making, may result from strict compliance with these regulations, it may vary or waive any of the regulations so that substantial justice may be done and the public interest secured, provided that such variation or waiver shall comply with Chapter 175, Zoning, and will not have the effect of nullifying the intent and purpose of the Master Plan, Official Map or these regulations.
- B. Conditions. In granting any variance or waiver, the Board shall set forth such findings in its resolution of approval and such conditions as will substantially secure the objectives of the standards or requirements so varied or modified.

§ 145-40. Penalties for offenses.

Any person, firm or corporation found guilty of the violation of these regulations shall be subject to the penalties set forth in Village Ordinance.¹⁴

§ 145-41. Effective date.

These subdivision regulations shall become effective on November 27, 1960, and shall remain in force until modified, amended or rescinded by the Board.

14. Editor's Note: See Ch. 1, General Provisions, Art. II.

Chapter 150

TAXATION

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

ARTICLE I

Utility Tax

[Adopted 12-9-1971 by L.L. No. 1-1971]

§ 150-1. Declaration of policy.

- A. It is hereby declared to be the policy of the Incorporated Village of Cove Neck (herein referred to as the "Village") to impose a tax on gross income or gross operating income of utilities arising from transactions originating and consummated within the territorial limits of the Village, as authorized by § 6-640 of the Village Law of the State of New York.¹
- B. In connection with and in furtherance of this policy, this Village shall levy and collect a tax such as was and is imposed by, and not inconsistent with, § 186-a of the Tax Law of the State of New York, as the same was in effect on January 1, 1959, except that the rate thereof shall not exceed 1% of the gross income or of the gross operating income of the utilities affected by this article.

§ 150-2. Purpose.

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

§ 150-3. Definitions.

The definitions set forth in § 186-a of said Tax Law, as modified therein, and in § 6-640 of said Village Law,² insofar as the same are applicable hereto, shall apply, as appropriate, to this article, and in addition the following terms shall have the meanings indicated:

TREASURER — The Treasurer of the Village.

VILLAGE — The Incorporated Village of Cove Neck.

§ 150-4. Applicability of state law.

Except as hereinafter provided, all the provisions of § 186-a of said Tax Law of the State of New

1. Editor's Note: Section 6-640 of the Village Law was repealed by L. 1972, c. 892. See now § 5-530 of the Village Law.

2. Editor's Note: Section 6-640 of the Village Law was repealed by L. 1972, c. 892. See now § 5-530 of the Village Law.

York, so far as the same are made applicable, with such limitations as are set forth in § 6-640 of said Village Law,³ and such modifications as may be necessary in order to adapt such taxes to local conditions, shall apply to the taxes authorized by and shall be a part of this article.

§ 150-5. Imposition of tax.

Pursuant to the authority granted by § 6-640 of the Village Law of the State of New York,⁴ from on and after June 1, 1971, or as soon thereafter as this article shall become effective, there is hereby imposed:

- A. A tax equal to 1% of the gross income of every utility doing business in the Village which is subject to the supervision of the New York State Department of Public Service and which has an annual gross income in excess of \$500, except motor carriers or brokers subject to such supervision under Article 3-B of the Public Service Law⁵ and except persons providing cable television service.
- B. A tax equal to 1% of the gross operating income of every other utility doing business in the Village which has an annual gross operating income in excess of \$500, except persons providing cable television service.

§ 150-6. Scope.

This article and the tax imposed thereby shall:

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

§ 150-7. Disposition of revenues.

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

§ 150-8. Authority of Treasurer; rules and regulations.

The Treasurer shall be the chief enforcement officer of this article and shall make and be responsible for all collections hereunder. The Treasurer shall also have the power and authority to make any rules or regulations or directives, not inconsistent with law, which, in his discretion,

3. Editor's Note: Section 6-640 of the Village Law was repealed by L. 1972, c. 892. See now § 5-530 of the Village Law.

4. Editor's Note: Section 6-640 of the Village Law was repealed by L. 1972, c. 892. See now § 5-530 of the Village Law.

5. Editor's Note: Article 3-B of the Public Service Law was repealed by L. 1970, c. 267. See now Transportation Law § 240 et seq.

are reasonably necessary to facilitate the administration of this article and the collection of the taxes imposed hereby. Copies of all such rules and regulations and directives, as may from time to time be promulgated, shall be sent by registered mail to all utilities subject to this article which register as such with the Treasurer. All such rules, regulations and directives shall be deemed a part of this article.

§ 150-9. Tax returns and payment.

- A. Time of filing. Every utility subject to a tax hereunder shall file, on or before December 25 and June 25, a return for the six calendar months preceding each return date, including any period for which the tax imposed hereby or any amendment hereof is effective.
- B. Returns. Returns shall be filed with the Treasurer in such form as is used by the filing utility for other municipalities in Nassau County, New York, or as the Treasurer shall otherwise require and shall show, as a minimum, the gross taxable income or operating income, as the case may be, for the period covered by the return and such other information or data as the Treasurer may from time to time require. Every return shall be certified as true by a duly authorized and qualified officer of the utility filing the return, with a statement that the certification is made as if under oath and subject to penalties for perjury.
- C. Time of payment. At the time of filing a return as required by this article, each utility so required to file a return shall pay to the Treasurer the tax imposed hereby for the period covered by such return. Such tax shall be due and payable at the time of the filing of the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

§ 150-10. Penalties and interest.

Any utility subject to the tax hereunder failing to file a return or a corrected return or to pay any tax or any portion thereof within the time required by this article shall be subject to a penalty of 5% of the amount of tax due, plus 1% of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed or such tax became due, but the Treasurer, if satisfied that the delay was excusable, may remit all or any portion of such penalty.

§ 150-11. Tax to be part of operating cost.

The tax imposed by this article shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others but shall constitute a part of the operating costs of such utility.

§ 150-12. Failure to file or incorrect returns.

In case any return filed pursuant to this article shall be insufficient or unsatisfactory to the Treasurer, or if no return is made or if no tax is paid, the Treasurer shall proceed and shall have the remedies as set forth in Subdivision 6 of § 186-a of said Tax Law in the same manner as if the Treasurer were the Tax Commission in said Subdivision 6.

§ 150-13. Notices.

Any notice authorized or required under this article may be given in the manner and with the effect set forth in Subdivision 8 of § 186-a of said Tax Law.

§ 150-14. Refunds.

- A. If, within one year from the giving of notice of any determination or assessment of any tax or penalty, the person liable for the tax shall make application for a refund thereof and the Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Treasurer as hereinbefore provided unless the Treasurer, after a hearing as hereinabove provided or of his own motion, shall have reduced the tax or penalty or it shall have been established in a proceeding in the manner provided in the Civil Practice Law and Rules that such determination was erroneous or illegal.
- B. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of, and the Treasurer may receive additional evidence with respect thereto.
- C. After making his determination, the Treasurer shall give notice thereof to the person interested, who shall be entitled to commence a proceeding to review such determination, in accordance with the provisions of the following section hereof.

§ 150-15. Review of proceedings for refunds.

Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof shall have been duly made to the Treasurer and he shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that such proceeding is instituted within 90 days after the giving of the notice of such denial, that a final determination of tax due was not previously made and that an undertaking is filed with the Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding is dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

§ 150-16. Limitation on additional tax.

Except in the case of a willfully false or fraudulent return with the intent to evade the tax, no assessment or additional tax shall be made with respect to taxes imposed under this article after the expiration of more than three years from the date of filing of a return, provided that where no return has been filed as required hereby, the tax may be assessed at any time.

§ 150-17. Powers of Treasurer.

In addition to any other powers herein given the Treasurer, and in order to further ensure payment of the tax imposed hereby, he shall have the power to:

- A. Prescribe the form of all reports and returns required to be made hereunder.

- B. Take testimony and proofs, under oath, with reference to any matter hereby entrusted to him.
- C. Subpoena and require the attendance of witnesses and the production of books, papers, records and documents.

§ 150-18. Enforcement.

Whenever any person shall fail to pay any tax or penalty imposed by this article, the Village Attorney shall, upon the request of the Treasurer, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Treasurer. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by § 186-a of said Tax Law are made a lien.

ARTICLE II
Collection of Property Taxes
[Adopted 8-14-1994 by L.L. No. 1-1994]

§ 150-19. Enforcement.

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

§ 150-20. Filing with state.

Upon adoption, and no later than October 1, 1994, a copy of this article shall be filed with the New York State Board of Equalization and Assessment.⁷

§ 150-21. When effective.

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

⁶. Editor's Note: See Chapter 532 of the Laws of 1994.

⁷. Editor's Note: Now the State Board of Real Property Services.

Chapter 156

TOWING

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Art. 4 of the 1974 General Code. Amendments noted where applicable.]

GENERAL REFERENCES

Fees and deposits — See Ch. 65.
Vehicles and traffic — See Ch. 164.

§ 156-1. Removal of vehicle from scene of accident.

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

§ 156-2. Unlawful solicitation.

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

§ 156-3. Rules and regulations.

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

Chapter 164

VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Arts. 2, 3 and 22 of the 1974 General Code. Amendments noted where applicable.]

GENERAL REFERENCES

Noise — See Ch. 100.
Parades — See Ch. 108.
Towing — See Ch. 156.

ARTICLE I Traffic Regulations

§ 164-1. Definitions.

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

§ 164-2. Stop intersections.

The following highways are hereby designated through highways and all vehicles approaching said through highways as below specified shall come to a full stop in accordance with the stop signs posted at these locations:

- A. Cove Neck Road is hereby designated as a through highway and stop signs shall be posted at the following intersecting roadways entering thereon controlling traffic as indicated:
 - (1) Northwestbound on Tiffany Road.
 - (2) Westbound on Tennis Court Road.
 - (3) Westbound on Gracewood Court.
 - (4) Southwestbound on Sagamore Hill Road.
- B. The following intersections are hereby designated as stop intersections and stop signs shall be posted at the following roadways controlling traffic as indicated:
 - (1) Cove Road and Cove Neck Road, controlling southwestbound traffic on Cove Neck Road.
 - (2) Elfland Court and Tennis Court Road, controlling southbound traffic on Elfland Court.
 - (3) Tennis Court Road and Elfland Court, controlling westbound traffic on Tennis Court Road.

§ 164-3. Speed limit. [Amended 10-10-2012 by L.L. No. 4-2012]

Thirty miles per hour is hereby established as the maximum speed at which vehicles may proceed on all public and private highways within the corporate limits of the Village, except for Tennis Court Road, Elfland Court, Gracewood Court, and Cove Neck Road northerly from its intersection with Sagamore Hill Road to its northerly terminus, where the maximum speed within the corporate limits of the Village for these designated roads shall be 25 miles per hour.

§ 164-4. Parking, standing and stopping.

- A. Application of section. The provisions of this section shall apply except:
- (1) When it is necessary to stop a vehicle because of an accidental or temporary disability or to avoid conflict with other traffic;
 - (2) In compliance with the directions of a police officer or official control device; or
 - (3) When temporary permission has been issued by the Mayor or Deputy Mayor and filed with the Police Department for the parking of vehicles incidental to a meeting or gathering at a particular location in the Village.
- B. Parking, standing and parking prohibited. The parking, standing and stopping of vehicles is hereby prohibited on all public and private highways within the Incorporated Village.

§ 164-5. Removal and storage of vehicles.

- A. When any vehicle is parked or abandoned on any highway within this Village, said vehicle may be removed by the Police Department.
- B. After removal of any vehicle as provided in this section, the Police Department may store such vehicle in a suitable place at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon the payment to the Police Department of the amount of all expenses actually and necessarily incurred in effecting such removal and storage.
- C. The Police Department shall without delay report the removal and the disposition of any vehicles removed as provided in this section to the Village Clerk, and it shall be the duty of the Police Department to ascertain to the extent possible the owner of the vehicle or the person having charge of the same and notify him of the removal and disposition of such vehicle and the amount which will be required to redeem the same.

§ 164-6. Pavement markings.

Pavement markings in accordance with the standards and specifications established by the State Traffic Commission shall be applied on all highways and streets maintained by the Village.

§ 164-7. Heavy trucking.

- A. It shall be unlawful for any person to operate or move or cause or knowingly permit to be operated or moved on or over any of the following streets, highways or avenues owned or maintained by the Village (hereinafter referred to as "Village street") any motor vehicle,

truck, tractor, trailer or any other machinery whose weight alone or in combination with the weight of its load shall exceed 10 tons without first obtaining a permit for each vehicle from the Village Street Commissioner upon written application therefor stating the name of the owner, the character of the vehicle, its weight, its proposed load, the name of the Village street over which the passage is proposed and the day or days and any time of such proposed passage:

(1) Cove Neck Road north of its intersection with Sagamore Hill Road.

B. Said permit shall not be issued unless and until there has been deposited with the Village the following:

(1) A cash deposit made to the Village Street Commissioner for deposit with the Village Treasurer in amounts required by § 65-7 of Chapter 65, Fees and Deposits, such amount to be measured and/or multiplied by:

(a) The linear feet of that portion of the Village street to be traveled upon by each vehicle;

(b) The number of vehicles;

(c) The number of days each vehicle will operate on any Village street.

(2) A form of agreement, duly executed and acknowledged before a notary public, in a form satisfactory to the Village's Street Commissioner, which by its terms shall provide that:

(a) The permittee shall, within 10 days after the receipt of any written notice of any damage caused by any of his vehicles to said Village street, cause the same to be repaired to the reasonable satisfaction of the Village's Street Commissioner; and

(b) In the event that the permittee shall fail to repair any damage caused by his vehicle to any Village street as provided in Subsection B(2)(a) above, the Village shall have the absolute right to use all or a portion of said cash deposit to repair said Village street and restore the same to its original condition.

C. The cash deposit or the remaining portion thereof shall be returned to the permittee by the Village Treasurer after the Village Street Commissioner has certified in writing that each Village street used by the permittee's vehicle is in, or has been restored to, its original condition before such use.

D. The regulations established in this section shall not be construed to prevent the casual delivery or pickup of merchandise, refuse or other property along Village streets from which such vehicles are otherwise excluded.

ARTICLE II Traffic Violations Bureau

§ 164-8. Establishment.

The Village Justice is hereby authorized to establish a Traffic Violations Bureau for the Village

subject to the limitations hereinafter set forth.

§ 164-9. Authority.

The Traffic Violations Bureau when so established shall be authorized to dispose of violations of traffic laws, ordinances, rules and regulations relating to parking only, as follows:

- A. By permitting a person charged with a parking violation to answer within a period of 20 days at the Traffic Violations Bureau, either in person or by written power of attorney in the form hereinafter set forth, by paying the fine designated by the Village Justice for such violation and, in writing, waiving a hearing in court, pleading guilty to the charge, and authorizing the person in charge of the Traffic Violations Bureau to make such a plea and pay such a fine in court.
- B. Acceptance of the prescribed fine and power of attorney by the Traffic Violations Bureau shall be deemed complete satisfaction for the violation, and the violator shall be given a receipt which so states.

§ 164-10. Summons.

- A. Any summons charging a parking violation may be served upon the violator in person or may be affixed to the motor vehicle involved in the violation.
- B. If, in any parking violation case where the summons was affixed to the motor vehicle and not served personally, no one answers as hereinabove provided within the time designated in the summons, the Traffic Violations Bureau shall send a letter by certified mail, return receipt requested, to the registered owner of such vehicle as disclosed by the records of the Department of Motor Vehicles enclosing a copy of the summons and warning the registered owner that he will be held responsible for the appearance of the offender and directing the registered owner to answer the summons in the manner hereinabove provided within a designated time which shall be not less than six days from the date of mailing of said letter.
- C. If any person served personally with a summons under this article, or if any registered owner of the motor vehicle involved who is served and notified as provided in Subsection B of this section, does not answer as hereinabove provided within the designated time, the Traffic Violations Bureau shall cause a complaint to be entered against him forthwith and shall apply for a warrant to be issued for his arrest and appearance before the court.
- D. The Traffic Violations Bureau shall perform such other or additional duties as shall be prescribed by law, by the Village Justice or the Board of Trustees of the Village.

§ 164-11. Form of power of attorney.

The power of attorney referred to in this Code shall be in the following form:

POWER OF ATTORNEY

The undersigned hereby acknowledges service of the summons herein, waives his right to be represented by an attorney and waives a hearing in Court, pleads guilty to the offense charged in said summons and authorizes the Clerk of the Traffic Violations Bureau of the Incorporated Village of Cove Neck to appear in Court for me, to make such plea of guilty on my behalf and to pay the prescribed fine using the money enclosed.

Signed _____
Print your name _____
Address _____

§ 164-12. Right to counsel and to appear in court.

Nothing contained in this article shall be deemed to authorize the Traffic Violations Bureau to deprive a person of his right to counsel or to prevent him from exercising his right to appear in court to answer to, explain, or defend any charge of a violation of any traffic law, ordinance, rule or regulation.

ARTICLE III Operation of Vehicles

§ 164-13. Definitions.

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

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

PRIVATE ROAD AND PUBLIC ROAD — Any paved or unpaved lane, road or right-of-way which appears on the Official Map of the Village or has been duly approved by the Village Planning Board.

UNLICENSED MINOR — Any person under the age of 21 who is not duly licensed to operate a motor vehicle in the State of New York.

UNREGISTERED MOTOR VEHICLE — A motor vehicle which is not registered in accordance with New York State Motor Vehicle Law¹ for operation on public highways.

§ 164-14. Operation of unregistered vehicles; operation of vehicles by unlicensed minors.

1. Editor's Note: See now the State Vehicle and Traffic Law.

No person shall operate an unregistered motor vehicle and no unlicensed minor shall operate any motor vehicle:

- A. On any public road in the Village;
- B. Without written permission on the property of another person; or
- C. On any private road unless with the written consent of all the owners or owner thereof.

§ 164-15. Impoundment of vehicle operated by unlicensed minor.

If a motor vehicle is operated by an unlicensed minor in violation of § 164-14 of this article, any police officer shall, upon the written complaint of any resident of the Village or upon said police officer witnessing such violation, impound the particular motor vehicle involved in such violation and store the same with the Police Department.

§ 164-16. Recovery of impounded vehicle; fines and storage fees.

- A. When a motor vehicle is impounded pursuant to this article, the owner may redeem the same from the Police Department upon the payment of fine of \$50 plus \$2 for each day or fraction thereof said vehicle is stored by the Police Department. The fifty-dollar fine and storage fee shall become the property of the Village 30 days after the payment of the same unless before such time the owner of said vehicle makes an application to the Village Court requesting a hearing concerning said violation. If after said hearing the Village Court decides said vehicle was used in violation of this article the fine and storage fee shall become Village property. If the Village Court finds that said motor vehicle was not used in violation of this article said fine and storage fee shall be returned to the owner of said motor vehicle.
- B. If an unregistered impounded motor vehicle is not redeemed within 60 days from the time it is impounded, the Police Department shall mail a notice to the owner thereof by certified mail, return receipt requested, advising him that the Village, after 30 days from the date of said notice, shall sell said motor vehicle at public auction and retain that portion of the proceeds therefrom needed for the payment of the aforementioned fine of \$50 and storage fee of \$2 per day. Any surplus moneys remaining after the payment of said fine and storage fee shall be returned to the former owner of said motor vehicle.

Chapter 169

WATERWAYS

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 10-18-1974 by L.L. No. 2-1974 as Art. 24 of the 1974 General Code; amended in its entirety 5-15-1991 by L.L. No. 1-1991. Subsequent amendments noted where applicable.]

§ 169-1. Purpose.

The following regulations are necessary in order to protect and secure navigation, bathing, fishing and other recreational uses and the natural beauty and healthful, safe, full and proper enjoyment of the waters and ecological resources bounding the Village by the inhabitants of the Village and the community; to secure safety from flood, fire, panic, explosions and other dangers; to protect the inhabitants of the Village from unreasonable odors, smoke, vapor, gas, dust, pollution, garbage, effluents, noise and vibrations; to promote and protect the good order, peace, health, safety, morals and general welfare of the inhabitants of the Village and the community; and to protect and secure the property of the same.

§ 169-2. Applicability.

Except when prohibited by reason of laws of the United States or the state or where otherwise expressly provided herein, the following provisions of this chapter shall apply to all waters within the Village and to all waters bounding and adjacent to the Village to a distance of 1,500 feet from the shore of the Village.

§ 169-3. Definitions.

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

ANCHOR OR ANCHORING — The attachment of, or to attach, a vessel to the ground by means of tackle so designed that, when such attachment is terminated, the tackle in its entirety is removed from the ground and taken under the control of the vessel.

DOCK — Includes a public or privately owned structure approved by the United States Army Corps of Engineers, extending from the shoreline into a body of water, used for the purpose of mooring vessels and the receiving and discharging of passengers from vessels.

ENFORCING OFFICERS — The Harbormaster, any Nassau County or Village police officer, or any enforcement officer as defined in § 169-9A of this chapter.

FLOATS OR PIERS — Structures which extend seaward of the high tide line on or above the water to provide access to boats, or for fishing or swimming.

HARBORMASTER — The Harbormaster appointed by the Board of Trustees.

MOOR OR MOORING (WHEN USED AS A VERB) — The attachment of, or to attach, a

vessel to a pier or dock or other structure or the attachment of, or to attach, a vessel to the ground by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains attached to the ground and is not taken under the control of the vessel.

MUFFLER — A device for reducing the operating noise level of an internal combustion engine by cooling exhaust gases.

OWNER — Includes the person under whose name the vessel was last registered in accordance with the provisions of the Federal Boating Act of 1958 or the laws of the State of New York, if requiring registration, and in any other case the last known owner or the person who claims lawful possession of such vessel by virtue of legal title or equitable interest therein which entitled him to such possession.

PRIVATE MARINA — Includes bulkheads approved by the United States Army Corps of Engineers which form a boat basin for the purpose of mooring vessels and receiving and discharging of passengers from vessels.

RULES AND REGULATIONS — The rules and regulations promulgated by the Board of Trustees.

SKIN DIVING — Includes any person using any underwater breathing apparatus similar in function to an aqua lung, but shall not include bona fide salvage operations displaying proper signals.

VESSEL — Includes a vessel commonly known as a houseboat, a duck blind, a raft, a jet ski and every vessel or floating craft, except boats normally propelled solely by hand.

§ 169-4. Duties of Harbormaster; mooring permits.

- A. The Harbormaster shall:
 - (1) Enforce all provisions of this chapter and all rules and regulations promulgated hereunder for all moorings.
 - (2) Cause to be installed buoys, signs and markers.
- B. The Harbormaster is hereby authorized to issue mooring permits and designate the location and types of mooring upon approval of the Board of Trustees of the written application by the owner, charterer or operator responsible for a vessel. The mooring permit shall not extend beyond the end of the calendar year in which the permit is issued.
- C. Each vessel governed by a mooring permit shall display a current identification as specified by the Harbormaster, and no vessel shall be attached to a mooring, singly or in a raft, unless evidence of the issuance of such permit is displayed.

§ 169-5. Anchoring and mooring.

- A. No vessel shall anchor or moor in such a manner as to obstruct or render hazardous access to or from a dock or private marina except when such vessel is compelled so to anchor or moor as a result of a temporary disability or emergency arising out of the perils of the sea and then only during such period of emergency or disability.

- B. No person shall moor any vessel at a mooring detached from and within 1,500 feet of the shore or in such a manner as to obstruct or render hazardous access to or from a dock or private marina unless:
 - (1) Such vessel is compelled so to moor owing to temporary disability and then only during the period of its temporary disability; or
 - (2) Such vessel is compelled so to moor temporarily owing to an emergency arising out of the perils of the sea and then only during such period of emergency;
 - (3) Such vessel is moored at a mooring the location of which either is approved specifically by the Board of Trustees or is on a mooring plan approved by the Board of Trustees.
- C. All floats shall be anchored or moored in such a way as to be secure at all times and under all conditions.

§ 169-6. Sanitation and hazards to navigation.

- A. Sanitation. No person shall cast, deposit, dump, discharge or place, or cause or suffer to be cast, deposited, dumped, discharged or placed, any oil, garbage, or refuse matter of any kind into any waters or on any beach below the high water mark. Vessels with facilities for living on board shall be equipped with operating sanitation devices meeting all applicable governmental regulations.
- B. Hazards to navigation. Any vessel (including for the purposes of this section a vessel propelled solely by hand) or any other object which becomes a menace to navigation or unseaworthy or sinks, grounds or becomes otherwise disabled shall be removed by the owner or person in charge thereof on order of any enforcing officer described in § 169-9 of this chapter. If said vessel or other object is not removed after an order so to remove it, it may be removed by or at the direction of such enforcing officer at the expense of the owner or person in charge of said vessel, to be enforced by civil suit, such expense to be in addition to such penalties as may be prescribed or imposed under this Code or the laws of the State of New York.

§ 169-7. Speed and operation of vessels.

- A. No person shall operate or drive any vessel (except vessels being exclusively propelled by wind and sail) at a greater speed than five miles per hour when within 500 feet of the shore or within a mooring area designated by the Board of Trustees.
- B. No person shall operate or drive any vessel propelled other than by hand within 100 feet of any life lines or bathing float.
- C. Every person operating or driving a vessel and every person riding water skis, a surfboard or similar device shall at all times operate the same in a manner (including, without limitation, the throwing of its wake) so as not to disturb or endanger the property of another or the life or limb of any persons or so as to interfere with the free and proper use of the water by others.
- D. No person shall operate or drive any vessel while in an intoxicated condition or while

impaired by being under the influence of drugs.

- E. No person shall operate or drive a vessel propelled wholly or partly by an internal combustion engine operated by gas, gasoline, naphtha, diesel oil or other substance without having the exhaust from the engine run through a muffler or so controlled by the introduction of water into the exhaust pipe or line as to muffle the noise of exhaust in a reasonable manner.
- F. No person shall operate, drive, moor or anchor any dredge or any vessel in connection with, or in the pursuit of, any business operated for profit (except as otherwise may be specifically permitted by Chapter 175, Zoning, and except those vessels and persons engaged in the cultivation or harvesting of shellfish) within the waters to which this chapter is applicable without having first obtained a written permit from the Board of Trustees.
 - (1) Upon receipt of any such application the Board of Trustees may, in its discretion, call a hearing open to the public for the consideration thereof and may at such hearing take such testimony and receive such exhibits from such witnesses as it may deem necessary or advisable to assist in its determination with respect to the application.
 - (2) The Board of Trustees may grant such a permit, permanently or temporarily, if it finds affirmatively that the proposed operation and business protect and secure the inhabitants of the Village and the community from unreasonable odors, smoke, vapor, gas, dust, noise and vibrations; that they protect and secure the property of the Village and its inhabitants from damage and injury; that they are consistent with and protect the good order, peace, health, safety, morals and general welfare of the inhabitants of the Village and the community; that they do not create problems relating to obstructions to navigation; and that they do not spoil or threaten to spoil the natural beauty and healthful, safe, full and proper enjoyment of the waters by the inhabitants of the Village and the community. If the Board of Trustees shall determine to grant such permit, it shall state therein such restrictions and conditions (including, without limitation, time limits and duration of the stay when a vessel is used or occupied as living or sleeping quarters and other limits and restrictions as to hours, days, months, extent and area of operation) as it may deem necessary to protect and secure all of the same.

§ 169-8. Aquatic events.

- A. Aquatic events. Anything herein contained to the contrary notwithstanding, the Board of Trustees may in its discretion issue special permits for aquatic events, boat races or other similar events under proper supervision in limited areas for limited periods, after prior approval by the United States Coast Guard.
- B. Skin diving.
 - (1) No skin diving shall be undertaken in any waters where the same may interfere with reasonable and proper operation of vessels.
 - (2) No person shall engage in skin diving without a person of at least 16 years of age other than the skin diver in a position as lookout.

- (3) No person shall use, operate or discharge under water any spear, spear gun or similar weapon or apparatus in all waters bounding the Village for a distance of 1,500 feet from the Village shoreline.

C. Water skis and surfboards.

- (1) No person shall operate a vessel for towing a person on water skis, a surfboard or similar device unless there is in such vessel a person other than the operator who is at least 10 years old or has been awarded a boat safety certificate by the State of New York in a position to observe the progress of the person being towed.
- (2) No person shall ride on water skis, a surfboard or similar device or use or operate a vessel to tow a person thereon between the period from sunset to one hour after sunrise.

§ 169-9. Enforcement.

A. Enforcement officers. Any member of the Board of Trustees, any duly authorized officer or agent of the Board of Trustees, the Harbormaster or any of his duly appointed deputies, any police officer or bay constable, and any member of the Marine Division of the Nassau County Police Department (each of whom is hereinafter referred to as "such enforcing officer") is hereby empowered to enforce the provisions of this chapter.

B. Authority of enforcement officers.

- (1) Every person in charge of or who owns, charters or is operating a vessel shall at all times obey the lawful orders of any such enforcing officer. For the purposes of this subsection, "vessel" shall include a vessel propelled solely by hand.
- (2) Any vessel or float anchored or moored or attached to another vessel in violation of any part of this chapter shall be removed or detached, as the case may be, by the owner, charterer or person in charge thereof on order of any such enforcing officer. If any such vessel or float is not removed after an order so to remove it, the same may be removed by or at the expense of the owner, charterer or person in charge of said vessel or float, to be enforced by civil suit, such expense to be in addition to such penalties as may be prescribed by or imposed under this Code of the Village or the laws of the State of New York.
- (3) Any such enforcing officer shall have the right to stop any vessel, to board, enter upon and inspect any vessel for any of the following purposes:
 - (a) To determine whether such vessel is subject to the provisions of this chapter;
 - (b) To ensure compliance therewith;
 - (c) To enforce the same; and
 - (d) To issue summons or other process for any violation thereof.

§ 169-10. Rules, regulations and fees.

The Board of Trustees is authorized by resolution to promulgate rules, regulations and mooring

fees and such other administrative fees as it may determine are necessary and proper for the administration and enforcement of this chapter.

§ 169-11. Compliance with state and federal laws.

All vessels operating within the waters regulated pursuant to this chapter shall comply with all applicable laws, rules and regulations of the state and federal governments.

Chapter 175

ZONING

[HISTORY: Adopted by the Board of Trustees of the Village of Cove Neck 4-13-1928, as amended through 1962. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Board of Appeals — See Ch. 23, Art. I
Planning Board — See Ch. 23, Art. II.
Building construction — See Ch. 32.
Environmental quality review — See Ch. 51.
Excavation, filling and topsoil removal — See Ch. 60.
Fees and deposits — See Ch. 65.
Freshwater wetlands — See Ch. 74.
Outdoor lighting — See Ch. 90.
Stormwater management — See Ch. 138.
Subdivision of land — See Ch. 145.

ARTICLE I

Title and Purpose

§ 175-1. Short title.

This chapter shall be known as and may be cited as the "Incorporated Village of Cove Neck Zoning Ordinance of 1962."

§ 175-2. Purpose.

There is hereby established a comprehensive zoning plan for the Incorporated Village of Cove Neck, Nassau County, New York (hereinafter referred to as the "Village"), which plan is set forth in the text, maps and schedules which constitute this chapter. Said plan is adopted for the protection and promotion of the public health, safety, morals and general welfare of the community as follows:

- A. To guide the future growth and development of the Village in accordance with a comprehensive plan of land use and population density that represents the most beneficial and convenient relationships among the various areas within the Village, considering the suitability of each area for such uses, as indicated by existing conditions, trends in population and mode of living, and having regard for the use of land and building development, considering such conditions and trends both within the Village and with respect to the relation of the Village to areas outside thereof.
- B. To provide adequate light, air, and privacy; to secure safety from fire, panic, flood, and other danger; and to prevent overcrowding of the land and undue congestion of population.
- C. To protect the character and the social and economic stability of all parts of the Village and to encourage the orderly and beneficial development of all parts of the Village.
- D. To protect and conserve the value of land throughout the Village and the value of buildings

appropriate to the various districts established by this chapter.

- E. To bring about the gradual conformity of the uses of land and buildings throughout the Village through the comprehensive zoning plan set forth in this chapter and to minimize the conflicts among the uses of land and buildings.
- F. To promote the most beneficial relation between the uses of land and buildings and the circulation of traffic throughout the Village, having particular regard to the avoidance of congestion in the streets and the provision of safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and buildings throughout the Village.
- G. To limit development to an amount equal to the availability and capacity of public facilities and services.
- H. To prevent the pollution of streams and ponds, to safeguard the water table, and to encourage the wise use and sound management of the natural resources throughout the Village in order to preserve the integrity, stability and beauty of the community.

ARTICLE II Word Usage and Definitions

§ 175-3. Word usage.

- A. All words used in the present tense include the future tense, all words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. Unless otherwise specified, all distances shall be measured horizontally. The word "Village" means the Incorporated Village of Cove Neck, Nassau County, New York.
- B. The term "Village Board" means the Mayor and Board of Trustees of the Village; the term "Board of Appeals" means the Zoning Board of Appeals of the Village; the term "Planning Board" means the Planning Board of the Village; the term "Building Inspector" means the Building Inspector of the Village; the term "Village Plan" means the plan adopted by the Village Planning Board pursuant to § 179-gg of the Village Law.¹ The word "shall" is mandatory and not directory.

§ 175-4. Definitions.

- A. Terms, phrases and words used in this chapter and not defined herein shall have the meaning given in the New York State Building Construction Code, Sections A108-3, B108-3 and C108-3.²
- B. For the purpose of this chapter, certain words and terms used herein are defined as follows:

ACCESSORY BUILDINGS AND USES — A use or building which is subordinate and accessory to the principal use or building on the same lot and which is used for purposes

1. Editor's Note: See now § 7-722 of the Village Law.

2. Editor's Note: See now the New York State Uniform Fire Prevention and Building Code.

customarily incidental to those of the principal use or building and not used for overnight occupancy by humans, such as and including a private garage, paved area used principally as a recreational area, private swimming pool and appurtenant bathhouse, private tool house, private children's playhouse, private tennis house, tennis court, patio, deck, disk-type satellite antenna having a diameter over five feet, paddock, private riding ring, private stable, and a noncommercial greenhouse and an accessory dwelling, as defined below. [Amended 9-11-1985 by L.L. No. 2-1985; 11-23-1999 by L.L. No. 1-1999]

ACCESSORY DWELLING — A detached accessory building legally existing prior to September 11, 1985, used as a single-family dwelling on a lot which contains a principal building. [Added 9-11-1985 by L.L. No. 2-1985]

ALTER — To change or rearrange the structural part or the exit facilities of a structure or to move a building from one location or position to another.

AREA, BUILDING — The total area of a lot covered by all buildings thereon, both principal and accessory, measured by the exterior dimensions of such buildings, but not including uncovered porches, steps, and terraces.

AREA, FLOOR — The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior face of exterior walls or from the center line of walls separating two buildings, and excluding breezeway and garage areas, and basement and attic floor areas used only for accessory uses.

BASEMENT — That portion of a building wholly or partly underground which extends no more than four feet above the adjoining finished grade.

BUILDING — Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

BUILDING, PRINCIPAL — A building in which is conducted the main or principal use of the lot on which said building is situated.

CAMP — Any area of land or water, including any building or structure, or group of buildings or structures, used for temporary living, camping and/or sports and recreation purposes or activities but excluding municipally owned areas and buildings or structures used by a municipality for such recreation purposes.

CAMP, DAY — Any camp as defined in this chapter offering day care, instruction, recreation, play or sports for adults or children and not qualifying as a private school as herein set forth.

COVERAGE — That percentage of the lot area covered by the combined area of all buildings or structures on the lot.

DECK — An outdoor, open, wooden platform either attached to or adjoining an accessory building or principal building, primarily used for outdoor living. [Added 11-23-1999 by L.L. No. 1-1999]

DWELLING — A detached building designed or used exclusively as living quarters for one family. The term shall not be deemed to include an automobile court, motel, boardinghouse or rooming house, mobile house trailer, tourist home, or tent.

DWELLING, ONE-FAMILY — A dwelling containing one dwelling unit only.

DWELLING UNIT — A building or portion thereof providing complete housekeeping facilities for one family.

FAMILY — One or more persons occupying a dwelling unit and living as a single housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond.

FARM, FARM USE OR CUSTOMARY FARM OCCUPATION — A farm or farm use shall be the use of a parcel of land either as a principal or accessory use for the purpose of producing agricultural, horticultural, floricultural, vegetable or fruit products of the soil, livestock and meats, poultry, eggs, dairy products, nuts, honey or wool and hides, but shall not include the breeding, raising or maintaining of fur-bearing animals, riding academies, livery stables or animal kennels. A garden, accessory to a residential use, shall not be deemed a farm or farm use. A customary farm occupation shall be the conducting of usual farm activities and shall include the processing of the products of only the farm on which such processing is conducted.

FILED MAP — A map, survey or plot with respect to land within the Village filed in the County Clerk's office of Nassau County pursuant to law.

FRONTAGE — The extent of a building or a lot along a street.

GARAGE, PRIVATE — An accessory building or part of a main building used primarily for the permitted storage of motor vehicles.

GRADE, FINISHED — The finished grade of any point along the wall of a building shall be the elevation of the completed surfaces of lawns, walks and roads adjoining the wall at that point.

HEIGHT OF BUILDING — The vertical distance from the average established grade in front of the lot or from the average natural grade at the building line, if higher, to the level of the highest point of the roof, if the roof is flat, or to the mean level between the eaves and the highest point of the roof, if the roof is of any other type. When a lot fronts on two or more streets of different levels, the lower street, or the average elevation of the lot with regard to the abutting streets, may be taken as the base for measuring the height of the building.

HOME OCCUPATION — An accessory use of a character customarily conducted entirely within a dwelling by the residents thereof, using only customary home appliances, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character thereof, does not have any exterior evidence of such secondary use other than a small nameplate not over two square feet in area, and which does not involve the keeping of a stock-in-trade. The conducting of a clinic, hospital, barbershop, beauty parlor, photographer salon, tea room, tourist home, real estate office, animal hospital, dancing instruction, music instruction, band instrument instruction in groups, convalescent home, funeral home, stores of any kind, or any similar use shall not be deemed to be a home occupation.

LOT — A parcel of land, not divided by streets, devoted or to be devoted to a particular use, or occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this chapter, and having its principal frontage on a street or on such other means of access as may be deemed in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for a building or buildings on such land.

LOT AREA — The total horizontal area included within lot boundaries, excluding any part of an access road which is not a driveway for single use in connection with the lot.

LOT, CORNER — A lot of which at least two adjacent sides each abut for a distance of 50 feet or more on streets or public places. Any other lot is an interior lot. The owner, when first applying for a building permit, shall designate which of the two streets is to be the principal frontage for the purpose of establishing the front, rear and side yard requirements of the lot.

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

LOT LINE — The property lines bounding a lot as defined herein.

LOT LINE, FRONT — In the case of a lot abutting upon only one street, the line separating the lot from the street. In the case of any other lot, the owner shall, for the purpose of this chapter, have the privilege of electing any street lot line as the front lot line.

LOT LINE, REAR — The lot line which is generally opposite the front lot line. If the rear lot line is less than 10 feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.

LOT LINE, SIDE — The property line or lines extending from the front lot line to the rear lot line.

LOT, THROUGH — A lot having frontage on two parallel or approximately parallel streets and extending from street to street. The front yard regulations shall apply on each street.

LOT WIDTH — The horizontal distance between the side lot lines, measured at right angles to the lot depth.

NONCONFORMING USE — A use of a building or of land that does not conform to the regulations as to use in the district in which it is situated, which use was lawful at the time this chapter or amendments thereto became effective.

OFFICIAL MAP — The map established by the Village Board pursuant to § 179-e of the Village Law and any amendments thereto,³ adopted by the Village Board pursuant to § 179-h of the Village Law,⁴ or additions thereto resulting from the approval of subdivision plats by the Planning Board and the subsequent filing of such plats pursuant to § 179-m of the Village Law.⁵

PARKING AREA — An off-street area containing one or more parking spaces, with passageways and driveways appurtenant thereto. In general, there shall be an average of about 350 square feet of parking area per parking space.

PARKING SPACE — An off-street space available for the parking of one motor vehicle on a transient basis and having a width of nine feet and an area of not less than 190 square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and

3. Editor's Note: See now § 7-724 of the Village Law.

4. Editor's Note: See now § 7-724 of the Village Law.

5. Editor's Note: See now § 7-732 of the Village Law.

having direct usable access to a street.

PATIO — A paved, brick or gravel uncovered area, adjoining an accessory building or principal building, primarily used for outdoor activity. [Added 11-23-1999 by L.L. No. 1-1999]

SCHOOL, PRIVATE

- (1) Includes the following: parochial or church-conducted primary and secondary schools, (private) nursery, kindergarten, primary and secondary schools either chartered by the Regents of the University of the State of New York or approved by and under the supervision of the New York State Department of Education or chartered by a special act of the Legislature, which parochial and private primary schools shall furnish academic instruction as required by § 3204 of the Education Law, and all of which enumerated schools shall have curricula similar to those of public schools approved by said Board or said Department and give regular instruction to pupils five days a week (holidays in any week, customary holiday periods and temporary closings for emergencies excepted) for not less than nine consecutive months in each school year but which schools shall be conducted only during the period between September 1 and July 1 of each school year (a period coextensive with the period during which public schools are required to be in session) and all of which secondary schools shall give Regents examinations.
- (2) The foregoing enumeration shall in no case include schools, though chartered, giving special or limited instruction, namely: trade schools, business schools or vocational schools, such as, but not limited to, music schools, dramatic schools, art schools, automobile driving schools, real estate and insurance schools, radio and television schools, beauty culture and massage schools, charm schools, fashion schools, interior decorating schools, swimming schools, dancing schools, barber schools and other similar types of schools.

SIGN — Any device for visual communication which is used for the purpose of bringing the subject thereof (other than the location of a residence) to the attention of the public. [Amended 9-24-2009 by L.L. No. 2-2009]

SIGN, ADVERTISING — Any sign advertising the sale of goods, the performance of service, or the name or location of a proprietor. Billboards and similar signs shall be included in the term "advertising sign." Legally permitted real estate signs shall not be included in the term "advertising sign." [Amended 9-24-2009 by L.L. No. 2-2009]

SIGN, ANNOUNCEMENT — Any sign used to announce the ownership, private restriction, or the use of the lot upon which displayed for a professional office, home occupation, or religious, charitable, or other institutional use.⁶ [Amended 9-24-2009 by L.L. No. 2-2009]

SIGN, OFFICIAL ROAD — Any sign erected by a Village, town, county or state agency and used to inform, control or direct traffic on a street. [Amended 9-24-2009 by L.L. No. 2-2009]

SIGN, REAL ESTATE — Any sign used to advertise the sale, lease, rental, availability or

⁶. Editor's Note: The former definition of "sign, business," which immediately followed this definition, was repealed 9-24-2009 by L.L. No. 2-2009.

location of real estate. [Amended 9-24-2009 by L.L. No. 2-2009]

SIGN, REAL ESTATE DEVELOPMENT — A real estate sign used to advertise the sale or lease of building lots or buildings, part of a subdivision, or other real estate development and located within the boundaries of such subdivision or development. [Amended 9-24-2009 by L.L. No. 2-2009]

SIGN SIZE — The area which results by multiplying the outside dimensions of a sign, not including the vertical, horizontal or diagonal supports which may affix the sign to the ground or to a structure or building. Where the sign consists of individual letters or symbols attached to or painted on a building, the area shall be considered to be that of the smallest rectangle which encompasses all of the letters or symbols.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. A basement shall be counted as a story if the ceiling is more than four feet above the level from which the height of the building is measured or if it is used for business purposes or for dwelling purposes by other than a janitor or watchman.

STORY, HALF — A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of such story.

STREET — A way which is an existing state, county or Village highway or a way shown upon a subdivision plat approved by the Planning Board, as provided by law, or on a plat duly filed and recorded in the office of the County Clerk.

STRUCTURE — Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. The term "structure" shall be construed as if followed by the words "or part thereof." [Amended 11-23-1999 by L.L. No. 1-1999]

SWIMMING POOL — Any artificial body of water or receptacle for water having a depth at any point greater than 18 inches and used or intended to be used for swimming or bathing and permanently constructed, installed or maintained in or above the ground out of doors.

TERRACE — An unroofed flat platform of earth with or without a surface material or retaining walls.

USE — The specific purpose for which land, water, or a building or structure is designed, arranged, or intended or for which it is or may be occupied or maintained.

YARD — An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as may be specifically authorized in this chapter. In measuring a yard, as hereinafter provided, the line of a building shall be deemed to mean a line parallel to the nearest lot line, drawn from a point of a building or the point of a group of buildings nearest to such lot line, and the measurement shall be taken at right angles from the line of the building as defined herein to the nearest lot line.

YARD, FRONT — A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building.

YARD, REAR — A yard extending across the full width of the lot and lying between the rear

line of the lot and the nearest line of the building.

YARD, SIDE — A yard between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard or, in the absence of either of such yards, to the front and rear lot line as the case may be.

ARTICLE III Establishment of Districts

§ 175-5. District classification.

The Village is hereby divided into the following classes of districts:

- R-4A One-Family Rural Residence District (four acres)
- R-2A One-Family Residence District (two acres)

§ 175-6. Zoning Map.

Said districts are bounded and defined as shown on a series of maps procured from the Nassau County Land and Tax Map Department, adopted collectively as the Zoning District Map of the Incorporated Village of Cove Neck on June 11, 1962, and certified by the Village Clerk (an extract of which map appears at the end of this chapter for information only) and which map, with all explanatory matter thereon, is hereby made a part of this chapter.

§ 175-7. Interpretation of district boundaries.

Where uncertainty exists as to the location of any boundaries shown on the Zoning Map, the following rules shall apply:

- A. District boundary lines are intended to follow streets, rights-of-way, watercourses, or lot lines, or be parallel or perpendicular thereto, unless such district boundary lines are fixed by dimensions or are otherwise shown on the Zoning District Map above referred to.
- B. Where district boundaries are indicated as following approximately streets, rights-of-way, or watercourses, the center lines thereof shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they approximately follow the edge of lakes, ponds, reservoirs or other bodies of water, the mean high water lines thereof shall be construed to be the district boundaries.
- D. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.
- E. If the district classification of any land is in question, it shall be deemed to be in the more restrictive adjoining district.

§ 175-8. Order of restrictiveness.

Where districts are referred to as "more restrictive" or "less restrictive," the designation shall

refer to the order in which the districts are named above, the first name being the more restrictive.

§ 175-9. Lots in two districts.

Where a lot in one ownership of record is divided by district boundary lines, regulations for the less restricted portion or portions of such lot shall not extend into the more restricted portion or portions.

**ARTICLE IV
Regulations**

§ 175-10. Applicability and interpretation.

- A. No building shall be erected, moved, altered, rebuilt or enlarged nor shall any land, water or building be used, designed or arranged to be used for any purpose except in conformity with this chapter.
- B. In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public health, safety, morals, comfort, convenience and general welfare. This chapter shall not be deemed to affect in any manner whatsoever any easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land or upon the erection, construction, establishment, moving, alteration or enlargement of buildings than is imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations or by easements or covenants or agreements, the provisions of this chapter shall prevail.
- C. The provisions of this chapter shall be subject to such exceptions, additions or modifications as herein provided by the following regulations.

§ 175-11. Lots.

- A. Lot for every building. Every building hereafter erected shall be located on a lot as herein defined, and, except as herein provided, there shall be not more than one main building and its accessory buildings on one lot.
- B. Yard and open space for every building. No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building. No yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.
- C. Subdivision of a lot. Where a lot is formed hereafter from the part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this chapter with respect to the existing building and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection, alteration or use of a building on the new lot thus created unless it complies with all the provisions of this chapter.

- D. Irregularly shaped lots. Where a question exists as to the proper application of any of the requirements of this chapter to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the Board of Appeals shall determine how the requirements of this chapter shall be applied.
- E. Lots under water or subject to flooding. No more than 10% of the minimum area requirement of a lot may be fulfilled by land which is under water or subject to periodic flooding. Land which is under water that is open to use by persons other than the owner of the lot shall be excluded entirely from the computation of the minimum area of that lot. For the purposes of this subsection, land in the bed of a stream not exceeding five feet in width at mean water level and land in any pond not exceeding 150 square feet in area shall not be considered as under water.
- F. Required street frontage. No building permit shall be issued for any structure unless the lot upon which that structure is to be built has the required frontage of at least 50 feet on a street or highway as defined in § 179-o of the Village Law,⁷ which street or highway shall have been suitably improved or a bond posted therefor to the satisfaction of the Village Board or Planning Board as provided in the Village Law.
- G. New buildings on lots less than the minimum area. A building permit may be issued for the erection, alteration or use of a building on a lot or parcel for which a valid conveyance has been recorded prior to the adoption of this chapter notwithstanding that the area of such lot or parcel is less than that required for the district in which such parcel or lot lies, provided that all yard setbacks and other requirements which are in effect at the time of the obtaining of the building permit are complied with, insofar as such is feasible, and provided that the owner of such a lot or parcel does not own other lots or parcels contiguous thereto. If this is the case, such other lots or parcels, or so much thereof as might be necessary, shall be combined with the original lot or parcel to make a single conforming lot or parcel, whereupon a building permit may be issued, but only for such combined lots or parcels even though their total is less in area than required by this chapter for the district in which they lie.

§ 175-12. Yards, yard improvements, building projections and setbacks. ⁸

- A. Porches. No porch may project into any required yard. Any two-story or any enclosed porch, or one having a roof and capable of being enclosed, shall be considered a part of the building in determining the yard requirements or amount of lot coverage.
- B. Projecting horizontal architectural features. Architectural features, such as windowsills, belt courses, chimneys, cornices, eaves or bay windows, shall not project more than three feet into any required yard. The sum of any bay window projections on any wall shall not exceed 1/4 the length of any said wall.
- C. Fire escapes. Open fire escapes may extend into any required yard not more than six feet.

7. Editor's Note: See now § 7-736 of the Village Law.

8. Editor's Note: Original Sec. 412.01, Terraces, which appeared at the beginning of this section, was deleted 11-23-1999 by L.L. No. 1-1999.

- D. Walls and fences. [Amended 4-5-1988 by L.L. No. 1-1988]
- (1) The yard requirements of this chapter shall not be deemed to prohibit any necessary retaining wall nor to prohibit any fence or wall, provided that no fence or wall shall exceed 6 1/2 feet in height, measured above the original grade, or the modified grade as shown on a duly approved site plan, prior to construction or erection of the wall or fence.
 - (2) No wall or fence shall be constructed or erected until a building permit for such structure is issued in accordance with Article V and the proposed structure has received site plan and architectural approval in accordance with § 175-15 of this article. Site plan and architectural review shall specifically address, but is not limited to, height, width, design, style, location and materials of any proposed wall or fence.
- E. Corner lots. On a corner lot there shall be provided a side yard on the side street equal in depth to the required front yard on said lot.
- F. Visibility at intersections. On a corner lot no fence, wall, hedge or other structure or planting more than three feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are 30 feet distant from the point of intersection measured along said street lines. The height of three feet shall be measured above the road surface at the nearest edge of road traveled way. This subsection shall not apply to existing trees, provided that no branches are closer than six feet to the ground.
- G. Projecting features above the roof level. The height limitations of this chapter shall not apply to church spires, belfries, cupolas and domes not used for human occupancy nor to chimneys, ventilators, skylights, water tanks, bulkheads, or similar features and necessary mechanical appurtenances usually carried above the roof level of the building to which attached. These features, however, shall be erected only to a height necessary to accomplish the purpose they are intended to serve. The total area covered by such features shall not exceed 15% of the area of the roof on which they are located, and in the case of communication receiving antennas they shall not exceed 30 feet in height above the roof level.

§ 175-13. Minimum dwelling unit size.

No dwelling unit created subsequent to the adoption of this chapter shall have a habitable floor area of less than that required in § 175-18. Such habitable floor area shall include all floor area used for human occupancy within the exterior walls of the buildings but shall not include open porches or breezeways, basements, uninhabitable or unfinished attic space or space with a headroom of less than seven feet six inches. No private college, university or school shall have a usable floor area less than that set forth in Subsection 12 of § 175-18 hereof.

§ 175-14. Accessory dwellings. [Added 9-11-1985 by L.L. No. 2-1985]

- A. No accessory dwelling shall hereafter be erected, created or enlarged and no existing structure shall hereafter be converted into an accessory dwelling.
- B. An accessory dwelling legally existing prior to September 11, 1985, may be rented or

occupied by persons other than bona fide domestic employees provided the lot on which it is located has additional area so as to allocate to the principal dwelling and every accessory dwelling the minimum lot area for each dwelling as required for the district in which the lot is located.

- C. Existing accessory dwellings not complying with the provisions of Subsection B above shall not be rented and shall be occupied only by bona fide domestic employees and their immediate families, including, without limitation, gardeners, chauffeurs and caretakers regularly employed in the principal building or on the premises by the occupant of such principal building, provided that such work or employment constitutes the employee's principal occupation at all times during such period of occupancy, and an immediate family member of the occupant of the principal building and his spouse and children. An immediate family member shall only include a parent, grandparent, spouse, child, sibling, grandchild and great grandchildren. [Amended 11-14-2001 by L.L. No. 2-2001]

§ 175-15. Architectural review. [Added 9-11-1985 by L.L. No. 2-1985; amended 7-23-1996 by L.L. No. 1-1996]

A. Purpose and legislative findings.

- (1) Purpose. It is the purpose of this section to provide for architectural review of new construction and alterations, renovations and additions to existing construction in the Village, along with the impact said construction will have on the property site and surrounding community. This review was adopted to preserve, maintain and encourage the rich architectural heritage and history of the Village. The guidelines and procedures in this review will assist property owners to construct and maintain their homes and accessory structures respecting the Village's environment and its unique character and rural quality, while permitting the reasonable use of their property.
 - (a) The goal of this section is the harmonious blending of new construction and growth with the retention of the underlying architectural harmony and diverse historic and traditional styles of the Village, to promote the general welfare of the community and preserve real estate property values.
 - (b) Since Cove Neck is the home for Sagamore Hill, the residence of President Theodore Roosevelt while in office as the 26th President of the United States, and since it is an extremely important international historic site and since the area of the residence and grounds is a major portion of the Village, it is the purpose of this section to preserve the historic character surrounding this valuable pristine national treasure. It is the purpose of this section to ensure that new construction in the Village is of the same historic and traditional character as existed at the time Sagamore Hill was constructed.
- (2) Legislative findings. In furtherance of the above purpose the Village Board of Trustees makes the following findings:
 - (a) The encouragement of building design, architectural features and construction details that possess the common character and spirit of the historic and

traditional heritage of the Village is in consonance with the Village community.

- (b) In order to accomplish the objectives of this section, the review process will not only consider building design but other elements the Board deems appropriate, including the impact of the new construction to the property site and to existing neighboring structures and the community as a whole.
- (c) Building design, architectural features, stylistic forms and construction details which are visually distasteful, inappropriate, or disruptive or exhibit excessive similarity or dissimilarity in relation to the property site, the existing neighboring structures or the community are incompatible with and not in consonance with the traditional and historic character of the Village and surrounding community.
- (d) The fostering of excellence and resourcefulness in building design, aesthetics, and appearances which are appropriate to the site and the traditional and historic surrounding community will promote the health, safety and welfare of the community.

B. Establishment of a Site and Architectural Review Board.

- (1) There is created a Site and Architectural Review Board which will consist of three members and one alternate member.
- (2) The members and alternate member will be appointed by the Mayor, subject to the consent of the Board of Trustees. The term of office of each member will be for a three-year term and staggered, except that for the initial appointments, one member will be appointed for a three-year term, one member will be appointed for a two-year term, and one member will be appointed for a one-year term. The alternate member will be appointed for a one-year term or such term that the Board of Trustees deems appropriate. Thereafter, upon expiration of each member's term, the member will be appointed for a three-year term.
- (3) A member of the Site and Architectural Review Board may also simultaneously serve as a member of the Planning Board. The alternate member may attend all functions of the Board and may serve and vote in all matters in the absence of any member.
- (4) The Board of Trustees will have the power to remove any member of the Board for cause prior to the expiration of his term. Vacancies will be filled by the Mayor for the unexpired term.
- (5) The Mayor will appoint a Chairman for a term of not to exceed three years.
- (6) The Board of Trustees may designate or retain one or more architects, engineers, designers or technically skilled individuals to advise and participate in the Site and Architectural Review Board proceedings, including review of plans and deliberations. The designated technical advisor will not vote in regard to any application, unless he is an appointed member of the Board.
- (7) The Board of Trustees, after a public hearing, may adopt, amend, or repeal rules, regulations, design standards, procedures and fees that are necessary and reasonable

for the implementation, interpretation, administration and enforcement of the provisions of this section. The action of the Board of Trustees will be deemed effective upon filing with the Village Clerk.

- (8) Until such time as the Site and Architectural Review Board has been fully appointed and constituted, all powers granted hereunder and all the functions and duties to be performed pursuant to the provisions of this section will be vested in a representative of the Planning Board or such other individual designated by the Board of Trustees.
- C. Meetings of the Board. Meetings of the Site and Architectural Review Board will be held at the call of the Chairman and at such other times as the Board will determine. The meetings of the Board will be open to the public. Two members of the Board, including the alternate member, will constitute a quorum for the transaction of business. The Board will keep minutes of its proceedings, and the vote of each member which will be filed with the Village Clerk. All decisions of the Site and Architectural Review Board will be filed in the office of the Village Clerk and will be a public record.
- D. Jurisdiction and referral procedures.
- (1) Jurisdiction.
 - (a) The provisions of this section that require review and approval of the Site and Architectural Review Board will apply to the following construction, provided a building permit or a permit under Chapter 60, Excavation, Filling and Topsoil Removal, of this Code is required:
 - [1] Construction of a single-family residence and any accessory building;
 - [2] Alteration, addition, renovation and modification to a single-family dwelling or an accessory building;
 - [3] Grading, earth removal or other activities to property that require a permit under Chapter 60 of this Code;
 - [4] Fencing and retaining or decorative walls;
 - [5] Structures exceeding six feet in height or with greater than 60 square feet in linear area;
 - [6] Mailboxes;
 - [7] Satellite dishes;
 - [8] Outdoor lighting; and
 - [9] Construction of alternative energy equipment facilities and structures relating thereto and alterations, additions or modifications to existing alternative energy equipment facilities and structures relating thereto. Alternative energy shall include but not be limited to solar, wind, geothermal, biofuel and other renewable energy sources. [Added 4-12-2011 by L.L. No. 4-2011]
 - (b) For the purposes of this section, the definition of accessory building in § 175-4

will control and includes, but is not limited to, a swimming pool, cabana, tennis court, stable, garage, greenhouse, and storage shed.

- (2) Referral procedures. An applicant for a building permit shall file with the Building Inspector the required building permit application on the prescribed forms with the appropriate fee and the required accompanying plans and supporting documents for the proposed construction in accordance with the adopted rules and regulations of the Village.
- (3) After determining that the application and supporting plans are complete and in proper form and the required fee paid, the Building Inspector, within seven days of such determination, will refer the application to the Site and Architectural Review Board for its consideration. The Site and Architectural Review Board will meet and review the matter within 30 business days from the referral of a Building Inspector of a completed application. The Site and Architectural Review Board will render a decision within 60 business days from this referral either approving, disapproving or approving with modifications.
- (4) The Architectural Site and Review Board may require changes or modifications in building and site plans as a condition of approval and require adherence to the plans as a condition to the issuance of the building permit.
- (5) No building permit will be issued by the Building Inspector unless the construction has been approved by the Site and Architectural Review Board.
- (6) If 60 business days have passed since a completed application has been duly referred to the Board and the Board has not acted on the application, the Building Inspector is authorized to issue a building permit, provided the application conforms to all other provisions of applicable local laws and ordinances.
- (7) The Building Inspector shall not issue a building permit for construction that has been approved by the Board unless the plans for such construction have been changed to embody all modifications in design, appearance or location that the Board imposed as a condition of approval.
- (8) A preliminary conference may be held between the Board and the applicant prior to the preparation and submission of a formal application. The purpose of such a conference is to enable the applicant to inform the Board of his proposal and to allow an informal opportunity to review preliminary design concepts, construction details, siting problems and other concerns or issues before a formal submission.

E. Standards for Board action.

- (1) In reviewing each application, the Board will take into consideration the traditional concepts of building design of proportion, scale, balance, rhythm, similarity, dissimilarity and order and determine whether the proposed construction meets the purposes and objectives of this section as defined by the below standards.
 - (a) Scale is a measure of the relative or apparent size of a building or any architectural element in relation to the dimensions of the human body. The scale of a building is important to determine whether the construction is compatible

with its setting and adjacent buildings. A stark contrast of scale between adjacent buildings is visually disruptive, while a similarity and consistent scale provide a fundamental relatedness. Traditional scale shall be encouraged. Scale should also be considered to be space between buildings, natural setting, and existing and proposed landscaping, all of which should accentuate the rural aspects of the Village.

- (b) Proportion is the relation of one dimension of an element to another. The overall object of considering proportion is to achieve the creation of visual architectural order through the coordination or repetition of traditional design. Visual chaos caused by the combination of many different or unrelated shapes is to be discouraged.
 - (c) Balance is the weighing of the visual elements of the building design to achieve a traditional symmetry or an asymmetrical dynamic balance that is in keeping with the character of existing improvements and surrounding structures.
 - (d) Rhythm is the visual movement of the regular recurrence of the building elements in alternation with opposite or different building elements. Designs should encourage a traditional rhythm that creates interest and not one of monotonous repetition.
 - (e) Order is the visual relationship between the parts of a building and their combination to form a unified design concept. Order should be encouraged to create a skillful and pleasing variation of the architectural emphasis and size.
- (2) The insertion of new construction and an addition or alteration into an established community will emphasize a design that strengthens the physical and visual harmony to achieve a sense of order and compatibility. Building design that does not relate to the surrounding neighboring buildings or the existing elements of the natural terrain of the Village is to be discouraged.
 - (3) Adherence to the above design principals will preserve the rural character of the Village; ensure that all new buildings and structures are compatible with the buildings and structures located on adjacent property and in harmony with the Village; encourage new buildings and structures that reflect in quality design the traditions and historic character of the Village; and foster a relatedness of character and sense of place among all new buildings based on historic and traditional forms.
 - (4) The Board may approve, or approve subject to modifications, any application referred to it upon the Board's finding that the construction is in accordance with the approved plan and is in harmony with the intent of this section.
- F. Appeals. Any person aggrieved by any action of the Board may request, within 30 days of the filing of the Board's decision, formal written findings of fact. In the event of such a request, the Board shall make such findings of fact within 30 business days after the request is filed with the Village Clerk. The decision of the Board may be appealed to the Board of Zoning Appeals of the Village of Cove Neck in accordance with its rules within 30 days after the filing in the office of the Village Clerk of the decision of the Board and the formal written findings of fact.

- G. Fees. The Board of Trustees may fix and provide for a filing fee and such other fees to defer or pay for all necessary and reasonable cost or expenses involved in reviewing each application, including compensation to professionals providing technical advisory services to the Board.

§ 175-16. Schedules of regulations.

- A. The following schedules of regulations list and define the use of land and buildings, the height of buildings, the yards and other open space to be provided in connection with buildings, the area of lots, and other matters.
- B. Only those uses listed for each district as being permitted shall be permitted. A use not listed specifically or by reference as being permitted in a district shall be deemed a nonpermitted use in that district.

§ 175-17. Schedule of uses for all rural and residence districts.

- A. Permitted principal uses.

- (1) Detached single-family dwelling.
- (2) Church for public worship and other strictly religious uses and in accordance with the discipline, rules and usages of the religious corporation which will own, support and maintain such church and the ecclesiastical governing body, if any, to which such corporation is subject, the membership of which church shall be at least partially composed of Village inhabitants, said use to be subject to the applicable standards and requirements set forth in § 175-19A to I, inclusive, and § 175-20B hereof. Such use shall include accessory uses on the same lot and customarily incidental and subordinate to such use as a church.
- (3) Pumping, storage, sale and distribution of water, including water towers when approved by and made subject to conditions imposed by the Board of Trustees after written application thereto and the issuance of a permit.
- (4) Indoor tennis court nonprofit club with respect to a tennis court building in existence at the time of the enactment of this chapter.
- (5) Public primary and secondary schools and other schools conducted by trustees of school districts under the Education Law with customary accessory use.
- (6) State universities, colleges and schools and community colleges, with customary accessory uses, conducted in accordance with the provisions of the Education Law.
- (7) Private colleges and universities, chartered by the Regents of the University of the State of New York or by special act of the Legislature, including accessory uses on the same lot and customarily incidental and subordinate to the main use, subject to the applicable standards and requirements set forth in § 175-19A to I, inclusive, and § 175-20A hereof.
- (8) Private schools as hereinbefore defined, including accessory uses on the same lot and customarily incidental and subordinate to such use as a school, subject to the

applicable standards and requirements set forth in § 175-19A to I, inclusive, and § 175-20A hereof. Such permitted private schools shall in no event be deemed to include any camp or day camp as hereinbefore defined, which said use is hereby expressly prohibited.

- B. Permitted accessory uses; provided, however, that with respect to the uses enumerated in Subsection B(1) through (6) there shall be no display of produce, stock or merchandise visible from any street, and provided, further, that with respect to the uses enumerated in Subsection B(1), (2), (3) and (4) all buildings or structures shall be set back at least 75 feet from each boundary line of the lot and at least 100 feet from the street line.
- (1) Agriculture, including berries, fruit and garden produce.
 - (2) Dairying.
 - (3) Poultry.
 - (4) Breeding of game, birds, horses and livestock.
 - (5) Horticulture, including noncommercial greenhouses, provided that no fertilizer is stored within 100 feet from any such boundary line unless kept in airtight storage.
 - (6) Oystering and clamming in the waters within the boundaries of the Village.
 - (7) The carrying on of a home occupation by a person residing in the dwelling unit in which such home occupation is carried on, provided that there is no display of goods or advertising visible from any street, that no assistant is employed and that no mechanical or electrical equipment is used except ordinary equipment and provided that the space so used does not occupy more than 1/4 of the total floor area of the dwelling unit and provided, further, that such home occupation is not carried on in any accessory building.
 - (8) Real estate activities of an owner or of his duly authorized agent in connection with his property within the Village.
 - (9) The office or studio of a physician, surgeon, architect, dentist, teacher, painter or sculptor, musician, financial manager, lawyer or engineer residing in the dwelling unit in which such office or studio is located, provided there is no display or advertising on the premises in connection with such use except for a professional nameplate not over one square foot in area, provided that said nameplate shall comply with the provisions of § 175-21 of this chapter, provided, also, that such studio or office does not occupy more space than the equivalent of 1/3 of the area of one floor of such dwelling and that such use is merely incidental to the use of such dwelling unit primarily for residential purposes; provided, however, that any such musician's studio is equipped and used in such a manner that sounds therefrom are not unduly annoying to other persons on nearby premises or public places, and provided, further, that no assistants, whether paid or not, may participate in such use, except that one assistant may be employed if the nature of the profession is such as to require an assistant, and provided, further, that no use shall be made of more than one building in connection with such professional use, and provided, further, that such professional use by the artist shall not be deemed to include the right to engage in wholesale or

retail trade, as such term is ordinarily understood. [Amended 3-15-1990 by L.L. No. 2-1990]

- (10) Private tennis court or swimming pool provided such facilities conform to the side and rear yard requirements for a main building of the district in which located.
 - (11) Private garage for noncommercial passenger vehicles used by occupants of the premises and commercially licensed vehicles used for agricultural and horticultural purposes on the premises.
 - (12) A beach, boathouse, wharf, pier or private bathhouse, sea walls, retaining walls and jetties for the use of the owner of the residential lot on which located.
- C. No use carried on as a business shall be permitted in any accessory building. The renting to a tenant of any accessory building alone and not in conjunction with the principal building or principal use shall constitute a prohibited business use.

§ 175-18. Schedule of rural and residence district standards. [Amended 5-26-2004 by L.L. No. 2-2004]

Standards shown are minimum requirements unless otherwise indicated. Dimensions are in feet unless otherwise indicated.

	R-4A	R-2A
1. Lot area	4 acres	2 acres
2. Street frontage	50	50
3. Street frontage on circumference of cul-de-sac	90	90
4. Lot width ¹	300	200
5. Lot depth	300	250
6. Front yard: ²		
Main building	75	60
Accessory building	100	80
7. Side yard:		
Main building	60	40
Accessory building	40	40
8. Rear yard:		
Main building	60	40
Accessory building	40	40
9. Maximum height: ³		
Main building	35	35
Accessory building with roof having a pitch of	22	22

six vertical over 12 horizontal or steeper		
All other accessory buildings	15	15
10. Habitable floor area per dwelling unit (square feet)		
Principal dwelling:		
1 story	2,000	1,200
1 1/2 stories	2,400	1,500
2 stories	2,800	1,800
Accessory building	900	900
11. Maximum building coverage (all buildings)	15%	15%
12. Usable minimum floor areas for churches, clubs classrooms in private colleges, universities and schools	25 square feet for each occupant as aforesaid of each of said buildings	

NOTES:

- ¹ Within any residence district, no part of any dwelling or other structure housing a main use, and no part of any residence structure, shall be erected on that part of a lot where the lot width is less than the minimum requirement for the district in which it is located. No part of a lot having a width less than 1/2 the minimum required width for the district may be counted as a part of the required minimum lot area.
- ² On streets with less than a fifty-foot right-of-way, all buildings shall be set back a distance, measured from the center line of the existing roadway, of at least the required front yard plus 25 feet.
- ³ Except as provided in §§ 175-12G and 175-20B(2).

§ 175-19. Procedure for uses subject to additional standards.

A. General provision.

- (1) The uses for which conformance to additional standards is required by this chapter shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein in addition to all other requirements of this chapter.
- (2) All uses listed as subject to additional standards are declared to possess characteristics of such unique and distinct form that each specific use shall be considered as an individual case, and they shall conform to the following general requirements as well as the pertinent specific requirements.

B. General requirements for uses under § 175-20.

- (1) The location and size of the use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it, and the location

of the site with respect to streets giving access to it shall be such that it will be in harmony with the appropriate and orderly development of the neighborhood in which it is proposed to be located and shall accord with and promote the purposes set forth in § 177 of the Village Law.⁹

- (2) The operation in connection with any such use shall not be more objectionable to nearby properties, by reason of noise, vibration, excessive light, smoke, gas, fumes, odor or other atmospheric pollutant, than would be the operation of any other permitted use in the same zoning district.
- (3) The entrance and exit drives shall be laid out so that there is maximum safety for vehicular traffic and pedestrians.
- (4) Buffer planting, walls and fences shall be required, where necessary, to protect adjoining residential properties. Such planting shall be specified in detail when a plan is approved.
- (5) Exterior lighting shall be so installed and arranged as to reflect light away from adjoining streets and to prevent any nuisance to property in adjoining residence districts.¹⁰

C. Application for a building or use permit; required map and plan. An application for a building or use permit involving a use subject to additional standards shall be made to the Building Inspector. An area map, showing the location of the property with respect to surrounding property, streets and other important features, and a plan for the proposed development shall be submitted with an application for a building or use permit. The plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, topography, special features, and any other pertinent information, including such information about neighboring properties as may be necessary to determine that the requirements of this chapter are met.

- (1) Every application made pursuant to this section for a building or use permit shall contain and conform to the following regulations:
 - (a) The person, firm or corporation for whom or for which the use is intended shall be the owner or the contract vendee of the fee title of the lot or premises on which the use is sought at the time application is made.
 - (b) The application shall be in writing and shall be made and be verified by the fee owner of the lot or premises.
 - (c) The name and address of the owner.
 - (d) If a firm or corporation, the full name and residence of each member of the firm or that of the principal officer of the corporation, as the case may be.
 - (e) Land and tax map description and the area of the lot or premises.

9. Editor's Note: See now § 7-704 of the Village Law.

10. Editor's Note: See also Ch. 90, Outdoor Lighting.

- (f) Description of existing structures and uses.
 - (g) Distance from public water supply.
 - (h) Statement of proposed use.
 - (i) Period of time for which the building or use permit is requested.
 - (j) Accompanying said verified application, which shall be construed as constituting a part thereof, shall be submitted:
 - [1] A site plan showing the location and uses of existing buildings, structures, facilities and open spaces on the lot or premises, including, but not limiting the foregoing, parking areas, sports and recreational areas, driveways, walks, means of water supply, buildings and structures on adjoining premises with 200 feet of the subject lot or premises, streets and highways and the width thereof abutting the subject lot or premises.
 - [2] A site plan showing all existing buildings and facilities to be retained and all future proposed buildings, structures, facilities, open spaces and their uses on the lot or premises, including, but not limiting the foregoing, parking areas, sports and recreational areas, driveways, walks, and landscaping. Dimensions and distances shall be set forth on the plan.
 - [3] A statement setting forth all present and proposed future uses of the buildings, structures and facilities.
 - [4] When buildings and structures are to be erected or altered, a certificate of the Building Inspector that an application has been filed for a building permit and that the plans, specifications and facilities comply with all laws, ordinances and regulations applicable to the intended use.
 - [5] Where no buildings or structures are to be erected, a certificate of the Building Inspector that an application has been filed for a use permit and that the existing buildings, structures and facilities comply with all laws, ordinances and regulations applicable to the intended use.
 - (k) No use of the lot or premises or buildings, structures or facilities thereon, nor the erection or alteration of any building, structure or facility other than as shown on the site plan and/or described in the statement approved by the Board of Appeals in the granting of a building or use permit, shall be made except on application to the Board of Appeals to amend said site plan and statement, and any amendment of said site plan and statement shall be acted upon in the same manner as an original application for a building or use permit under this section.
- (2) The Board of Appeals, in authorizing the issuance of any building or use permit under this section, may provide that said permit shall be temporary and fix the term thereof. Any application for a renewal of a temporary permit shall be acted upon in the same manner as an original application.
- D. Referral of application to Board of Appeals. Each application for a building or use permit involving a use subject to additional standards and requirements, together with the required

map and plan, shall be referred to the Board of Appeals by the Building Inspector. No action shall be taken by the Building Inspector regarding the issuance of such permit applied for until the Board of Appeals has rendered its decision and order made thereon after public notice and hearing.

- E. Board of Appeals report; considerations and scope. In making its decision and order, the Board of Appeals shall be subject to and bound by all the requirements and standards set forth in this chapter. Said decision and order shall state whether or not the specific and general standards and requirements have been met by the applicant and shall include appropriate and reasonable conditions and safeguards which the Board of Appeals itself deems necessary to impose in any case to assure continual conformance with all applicable requirements.
- F. Action by Building Inspector. If the decision and order of the Board of Appeals indicate that all applicable requirements have been met and the Building Inspector has determined that all other applicable requirements and laws have been complied with, he shall issue the building or use permit for which application has been made, in accordance with Subsection B of this section. The Building Inspector may include such conditions and safeguards in the building or use permit and certificate of occupancy as have been imposed by the Board of Appeals in its decision and order. If the Board of Appeals shall make a finding in its decision that any of the applicable requirements have not been met, the Building Inspector shall consequently not issue the building or use permit for which the application has been made.
- G. Expiration of building permits. A building or use permit issued for a use subject to additional standards shall be deemed to authorize only that particular use, and such permit shall be considered null and void if any other use shall be made or within one year from the date of issue all improvements required for said use are not completed, unless otherwise provided in the Building Inspector's approval of said use.
- H. Revocation of building permits. A building or use permit issued for a use subject to additional standards may be revoked by the Building Inspector if it is found and determined that there has been a failure of compliance with any one of the terms, conditions, limitations and requirements imposed by said permit.
- I. Existing violations. No building or use permit shall be issued for a use subject to additional standards for a property where there is an existing violation of this chapter.

§ 175-20. Requirements for uses subject to additional standards.

- A. Schools.
 - (1) Private primary or grade schools as defined herein. The lot for any such school shall have an area of at least 10 acres. Such lot shall have a frontage of at least 200 feet on a suitably improved public street. No such school shall be designed, erected, altered or used for more than 300 pupils.
 - (2) The lot for any parochial or private secondary, junior high or high school shall have an area of at least 15 acres, plus one acre for each 100 pupils, or major portion thereof, in excess of 250 pupils. Such lot shall have a frontage of at least 400 feet on a

suitably improved public street. No private or parochial junior high or high school shall be designed, erected, altered, or used for more than 300 students.

- (3) The lot for any parochial or private university or college shall have an area of at least 25 acres, plus five acres for each 100 pupils, or major portion thereof, in excess of 200 pupils. Such a lot shall have a frontage of at least 500 feet on a suitably improved public street. No private or parochial university or college shall be designed, erected, altered or used for more than 500 pupils.
- (4) All buildings shall be located at least 200 feet from street lines and at least 100 feet from all other property lines. Grandstands, gymnasiums, central heating plants, and similar buildings shall be set back at least 200 feet from all property lines. The distance between buildings shall be at least twice the height of the taller building. Total coverage of the site by all buildings shall be limited to 20%. Dormitories and single-family dwellings shall be permitted as accessory buildings, provided that the minimum area of the lot shall be increased by at least 1,000 square feet for each dormitory bed and by at least the minimum lot area of the applicable zoning district for each single-family dwelling. Use of such dormitories or dwellings shall be limited exclusively to students, teachers or other members of the staff of the school or college, and a dormitory or dwelling shall not subsequently be sold or rented as a private residence or for any other legal use, unless the building and any required lot surrounding it shall meet all regulations of the district in which it is located.
- (5) One off-street parking space shall be provided for each teacher or other member of any private school or university or college staff and one additional space for each five students. For auditoriums, gymnasiums, grandstands and other gathering places, one off-street parking space shall be provided for each three seats.
- (6) A school site shall contain suitably designed and improved outdoor playground or play field areas of the following size:

School	Minimum Playground Size	Minimum Area of Playground per 100 Students
Primary	3 acres	
Junior or senior high (secondary)	5 acres	1.5 acres
College or university	5 acres	2 acres

- (7) Such playgrounds or play fields shall be located no closer than 150 feet to any property line.

B. Churches as referred to in § 175-17A(2).

- (1) **Building area.** All buildings, including accessory buildings, shall not cover more than 10% of the area of the lot.

- (2) Height. The height of any principal building shall not exceed 25 feet. The height of any accessory building shall not exceed 20 feet, except an accessory building may be 25 feet in height provided that it shall be a distance of at least 100 feet from the main building.
- (3) Yards. Each lot shall have front, side and rear yards not less than the depths and width following:
 - (a) Front yard depth: 110 feet.
 - (b) Side yard width: each 50 feet for a one-story principal building; each 70 feet for a two- or more story building; however, when a side yard abuts a street line the width shall be 110 feet.
 - (c) Rear yard depth: 50 feet for a one-story principal building; 70 feet for a two-story principal building.
- (4) Parking area. Off-street parking on the lot shall be provided in a paved area equal in area to one times the area of the buildings. Such parking area may extend into the side and rear yards but shall be distant not less than 30 feet from any lot line and 20 feet from any street line.
- (5) Screen. Where a parking area abuts a property line a screen of evergreen shrubs four feet in height and 20 feet in width shall be installed along said lines.
- (6) Marginal roadway. A marginal roadway 50 feet in width in the front yard and in any side yard abutting a street shall be provided. Said marginal roadway shall extend from the road or street line into the front and side yard and shall be separated from the street by a mall 10 feet in width. No more than two openings in the mall for access shall be made on any one street. The mall shall be curbed, the pavement in the roadway shall be 30 feet in width, and a sidewalk four feet in width shall be constructed along the inner side of the marginal roadway. All work and construction hereinabove set forth shall be in accordance with Village specifications and regulations.

§ 175-21. Signs. [Amended 9-24-2009 by L.L. No. 2-2009]

A. Real estate signs.

- (1) No real estate sign shall be permitted within the Village without a current valid permit and must be maintained in accordance with the provisions herein.
 - (a) Only one real estate sign shall be permitted on each property within the Village that is being offered for sale.
 - (b) Sign shall be rectangular in shape, no larger than one foot high and two feet wide in size, and no higher than six feet from grade. No sign may be affixed to a tree.
 - (c) Only "For Sale" may appear on the sign. The word "Realtor" and the realtor's telephone number may appear, provided that the homeowner has listed the

property with a licensed real estate broker. The sign shall only have a white background with black letters or numerals. No other words, symbols, numerals, images, names, colors, designs or borders shall be permitted.

- (d) The sign shall be located within the boundaries of the property for sale and not within the public roadway, shoulder of the road or within any right-of-way in the Village.
 - (e) No ancillary or additional signs, balloons, bows, ribbons, advertising, leaflets, or other attachments may be attached to the sign or post. The sign may not be illuminated in any manner.
- (2) Procedures.
- (a) The Building Inspector shall issue a permit for erection of a real estate sign upon submission of a completed application with location of sign noted on survey and payment of the applicable fee.
 - (b) The permit shall be effective for 120 days from the date of issuance and may be renewed for an additional 90 days upon the payment of the renewal fee.
 - (c) If a sign permit application is made by any person other than the record owner of the premises, the application shall be consented to by the owner.
 - (d) The sign permit fee shall be fixed from time to time, by resolution of the Board of Trustees.
 - (e) The permit shall terminate and expire upon the execution of a contract of sale, the termination of a listing agreement with a real estate broker, or upon the expiration of the permit, whichever occurs earliest. The sign must be removed within 24 hours after termination or expiration of the permit.
- (3) Open house signs. Only one sign announcing a bona fide "open house" shall be permitted on the owner's property and may displayed only during the limited hours of a bona fide open house, but in no event longer than six hours. No open house signs shall be displayed or permitted on any roadway, shoulder of the road or within any right-of-way in the Village.
- B. Advertising signs. No advertising signs shall be permitted in the Village, unless authorized by the Board of Trustees.
- C. Announcement signs. Only two announcement signs that are visible from the street shall be permitted to be maintained per property, or per driveway, if there is more than one driveway servicing the property. Each announcement sign shall not exceed four square feet in size. Announcement signs shall only contain information relevant to the property location, ownership, or identity of the occupant, no additional information shall be permitted.
- D. Real estate development signs. Real estate development signs are permitted only when authorized and approved by the Planning Board. The Planning Board may limit the number of signs and restrict the individual sign's size, location, wording and style, including materials.

- E. Sagamore Hill National Historic Site. The provisions of § 175-21A through D shall not apply to or be deemed to restrict or prohibit the lawful posting of signs by the United States Government at the Sagamore Hill National Historic Site.

§ 175-22. Nonconforming uses and buildings.

- A. Continuing existing uses. Except as otherwise provided in this section, the lawfully permitted use of land or buildings existing at the time of the adoption of this chapter may be continued although such use does not conform to the standards specified in this chapter for the district in which such land or building is located. Said uses shall be deemed nonconforming uses.
- B. Nonconforming use of land. Where no building is involved, the nonconforming use of land may be continued; provided, however, that no such nonconforming use shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this chapter, unless specifically allowed by other provisions in this chapter, nor shall any such nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this chapter, provided, further, that if such nonconforming use of land, or any portion thereof, ceases for any reason for any continuous period of more than six months, or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this chapter. No nonconforming use of land shall be changed to another nonconforming use.
- C. Nonconforming use of buildings.
 - (1) A building or structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged or extended unless the use therein is changed to a conforming use.
 - (2) Such nonconforming building shall not be structurally altered to an extent greater than 50% of its actual value as determined by the County Board of Assessors, unless such alterations are required by law; provided, however, that such maintenance and repair work as is required to keep a nonconforming building or structure in sound condition shall be permitted, and provided further that any such nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of the adoption of this chapter.
 - (3) A nonconforming use of a building may be changed only to a conforming use.
 - (4) If any nonconforming use of a building ceases for any reason for a continuous period of more than six months or is changed to a conforming use, or if the building in or on which such use is conducted or maintained is moved for any distance whatever for any reason, then any future use of such building shall be in conformity with the standards specified by this chapter for the district in which such building is located.
 - (5) If any building in which any nonconforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building was located and the subsequent use of any building thereon shall be in conformity with the standards specified by this chapter for the district in which such land or building is

located.

- D. Nonconformity other than use. A building that is conforming in use but does not conform to the height, yard or land coverage requirements of this chapter shall not be considered to be nonconforming within the meaning of Subsection C. No permit shall be issued that will result in the increase of any nonconformity in height, yard space or land coverage.
- E. Restoration of damaged buildings. If any building legally nonconforming in use shall be destroyed by any means, it may be repaired or reconstructed to the same size and on the same location, or at the location specified for new buildings in the district in which such use is located. All repairs or reconstruction for such nonconforming use shall be started within one year of the date on which the destruction occurred.
- F. Nonconforming signs. Regardless of any other provisions of this chapter, every sign which, after the adoption of this chapter, may exist as a nonconforming use in any district shall be discontinued and removed or changed to conform to the standards of said district within a period of six months from the date of adoption of this chapter.

ARTICLE V

Administration and Enforcement

§ 175-23. Enforcement.

- A. No officer or employee of the Village shall issue, grant or approve any permit, license, certificate or other authorization for any construction, reconstruction, alteration, enlargement or moving of any building or structure or for any use of land or building that would not be in full compliance with the provisions of this chapter. Any such permit, license, certificate or other authorization issued, granted or approved in violation of the provisions of this chapter shall be null and void and of no effect, without the necessity of any proceedings for revocation or nullification thereof.
- B. This chapter shall be enforced by the Building Inspector.

§ 175-24. Building permits.

- A. No building or structure shall be erected, enlarged, altered or moved until a permit therefor has been issued by the Building Inspector. Except upon a written authorization of the Board of Appeals, under circumstances set forth in § 175-27B(3), no building permit or certificate of occupancy shall be issued for any building or structure where said construction, addition, alteration, moving, or use thereof would be in violation of any of the provisions of this chapter.
- B. There shall be submitted with all applications for building permits, except those for signs, two copies of a layout or plot plan drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings existing and the lines within which the building or structure shall be erected or altered, the existing and intended use of each building or part of the building, and such other information with regard to the lot and neighboring lots that may be necessary to determine and provide for the enforcement of this chapter. One copy of such plan shall be returned to the owner when such plans shall have been approved by the

Building Inspector. All dimensions shown on this plan relating to the location and size of the lot to be built upon shall be based on an actual survey, and the lot shall be staked out on the ground before construction is started so that the Building Inspector may determine by measurement in the field that the yard requirements for the district in which the use is located have been met.

- C. A building permit shall be void if construction is not started within a period of 12 months or not completed within a period of two years of the date of said permit.
- D. No building permit shall be issued for a use listed in § 175-17 as subject to additional standards except in conformity with the procedure set forth in § 175-19.
- E. Any building, extension or alteration for which a permit has been duly granted, the construction of which has been started before the effective date of this chapter or of an amendment thereto, and the ground story framework of which, including the second tier of beams, has been completed within one year after the adoption of this chapter or amendment thereto may be completed in accordance with plans on file with the Building Inspector, provided that such construction is diligently prosecuted and the building is completed within two years of the adoption of this chapter or an amendment thereto. If any of the requirements shall not have been fulfilled within the prescribed period, or if the building operations are discontinued for a period of six months, any other construction shall be in conformity with the provisions of this chapter.
- F. Whenever the Village Board, by resolution, authorizes a public hearing on a proposed amendment to this chapter, and for a period of 60 days following the date of such resolution, no building or structure shall be erected, enlarged, or altered and no permit shall be issued for the erection, enlargement or alteration of any building or structure or for the occupancy of any land or building in any manner that would be contrary to the provisions of the proposed amendment.

§ 175-25. Certificates of occupancy.

- A. It shall be unlawful for an owner to use or permit the use of any building or premises, or part thereof, hereinafter created, erected, changed, converted or enlarged, wholly or partly, in its use or structure until a certificate of occupancy shall have been issued by the Building Inspector. Such certificate shall state that such building or premises, or part thereof, and the proposed use thereof are in complete conformity with the provisions of this chapter. It shall be the duty of the Building Inspector to issue a certificate of occupancy, provided that the building and the proposed use of the building or premises conform to all the requirements herein set forth. A certificate of occupancy shall be applied for coincident with an application for a building permit.
- B. Under such rules and regulations as may be established by the Village Board, a temporary certificate of occupancy for part of a building may be issued.
- C. A certificate of occupancy shall be deemed to authorize and is required for both initial and continued occupancy and use of the building or land to which it applies and shall continue in effect as long as such building and the use thereof or of such land are in full conformity with the provisions of this chapter and any requirements made pursuant thereto.

- D. A copy of a certificate of occupancy shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected. Upon request from the owner, and by payment by him to the Village of a fee of \$5,¹¹ the Building Inspector shall issue a certificate of occupancy for any building or premises, certifying, after inspection, that the extent and kind of use and disposition conform to the provisions of this chapter.

§ 175-26. Remedies.

- A. Penalties for offenses. [Amended 7-22-1986 by L.L. No. 1-1986]

- (1) Any owner, lessee, contractor, agent or individual, whether a person, partnership or corporation, shall be guilty of an offense if he:
 - (a) Occupies, uses or maintains, or causes or permits to be occupied, used or maintained, or erects, enlarges, alters or converts, or causes or permits to be erected, enlarged, altered or converted, any building, structure or part thereof or any land in the Village except in conformity with the provisions of this chapter or a decision of the Board of Zoning Appeals or Planning Board; or
 - (b) In any manner violates, or allows, causes, permits, takes part in or assists in a violation of, any provision of this chapter or of any regulation, order or ruling promulgated hereunder.
- (2) A person convicted of an offense shall be guilty of a violation as defined in the Penal Law.
- (3) A violation of two or more sections of this chapter, or provisions within a section, shall be separate and distinct offenses for which a fine may be levied.
- (4) Each and every week a violation exists or continues shall constitute a separate and distinct violation, conviction for which shall be an additional offense.
- (5) Each violation of this chapter shall be punishable by:
 - (a) A fine not to exceed \$350 or a term of imprisonment not to exceed five days, or both, for a conviction of a first offense.
 - (b) A fine not to exceed \$700 but not less than \$350 or a term of imprisonment not to exceed 10 days, or both, for the conviction of a second offense, both of which were committed within a five-year period.
 - (c) A fine not to exceed \$1,000 but not less than \$700 or a term of imprisonment not to exceed 15 days, or both, for the conviction of a third or subsequent offense, all of which were committed within a five-year period.
- (6) If any person fails to abate any such violation of this chapter within 10 calendar days after written notice has been served personally upon said person, or within 20 days after written notice has been sent to said person by certified mail at said person's home or business address, said person shall be subject to a civil penalty of \$250 for

11. Editor's Note: See also Ch. 65, Fees and Deposits.

each and every day that said violation continues, recoverable by suit brought by the Village.

- (7) Any violation of this chapter may be enjoined pursuant to Subsection B below or other provisions of law.
- B. Any building erected, constructed, altered, converted, enlarged, moved, or used contrary to any of the provisions of this chapter, and any use of any land or any building which is conducted, operated or maintained contrary to any of the provisions of this chapter, shall be and the same is hereby declared to be unlawful. The appropriate Village authorities may institute an action to prevent, enjoin, abate, or remove such erection, construction, alteration, enlargement, conversion or use in violation of any of the provisions of this chapter.
- C. The remedies provided for herein are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

§ 175-27. Board of Appeals.

- A. Organization. A Board of Appeals, as heretofore established by the Village Board, is hereby maintained.
- B. Powers and duties.
 - (1) General. The Board of Appeals shall have all the powers and duties prescribed by Village Law and by this chapter, which powers and duties are summarized and more particularly specified as follows, provided that none of the following sections shall be deemed to limit any of the power of the Board of Appeals that is conferred by the Village Law.
 - (2) Interpretation and referral. On appeal from an order, requirement, decision or determination made by an administrative official, or on request from any official or agency of the Village, the Board of Appeals shall have authority to decide any question involving the interpretation of any provision of this chapter, including determination of the exact application of the rules specified in § 175-7. The Board of Appeals is authorized and empowered to hear and decide all applications for permits involving any use subject to specific standards referred to it under § 175-19D hereof.
 - (3) Variance or adjustment. Where the strict application of any of the requirements of this chapter, in the case of an exceptionally irregular, narrow, shallow, or steep lot or other exceptional physical conditions, would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case, the Board of Appeals shall have the power, upon appeal, to vary or adjust the strict application of the regulations or provisions of this chapter. No adjustment in the strict application of any provisions of this chapter shall be granted by the Board of Appeals unless it finds that:
 - (a) There are special circumstances or conditions, fully described in the findings of the Board of Appeals, applying to the building or land for which the adjustment is sought, which circumstances or conditions are peculiar to such land or

building and do not apply generally to land or buildings in the neighborhood.

- (b) For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the particular application of the conditions of this chapter would deprive the applicant of the reasonable use of such land or building, and the granting of the adjustment is necessary for the reasonable use of the land or building, and the adjustment as granted by the Board is the minimum adjustment that will accomplish the purpose.
 - (c) The granting of the adjustment is in harmony with the general purpose and intent of this chapter and of the land use plan and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (4) Permits for certain signs. In accordance with § 175-21, the Board of Appeals may authorize the issuance of permits for certain signs in districts in which such signs are permitted.
 - (5) Conditions and safeguards. In all cases where the Board of Appeals authorizes the issuance of a building permit or occupancy permit under any of the above powers, it shall be the duty of said Board to impose such conditions and safeguards as may be required to protect the public health, safety, morals and general welfare.
- C. Appeals; how taken to Board of Appeals. All appeals and applications to the Board of Appeals shall be taken in the manner prescribed by law and within such time as shall be prescribed by the Board of Appeals by general rule. All such appeals and applications shall be in writing on forms prescribed by the Board, and each appeal or application shall fully set forth the circumstances of the ease. Every appeal or application shall refer to the specific provision of this chapter involved and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the adjustment that is applied for, and the grounds for which it is claimed that the same should be granted or the use for which a permit is sought. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and the findings on which the decision was based.
- D. Court review; how taken on Board of Appeals actions. Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the Village may apply to the Supreme Court for relief in the manner provided for by law.

§ 175-28. Fees. ¹²

- A. Permit for use subject to additional standards, site plan of development and other applications.
 - (1) Applicants for the issuance of a permit by the Building Inspector for a use subject to additional standards, site plan of development approval by the Planning Board, or application to the Board of Appeals shall pay to the Village a fee determined by the following schedule:

12. Editor's Note: See also Ch. 65, Fees and Deposits.

Type of Application	Amount of Fee for Each Application
Permit for use subject to additional standards	\$50
Site plan of development	\$100
Appeals and all other applications to the Board of Appeals	\$15

- (2) In the case of an application for the extension or renewal of any previously authorized permit for a use subject to additional standards, the fee for such extension or renewal shall be 1/2 the amount required for the original permit.

B. Permit fees not covered by Subsection A above:

- (1) Building permit. Upon the filing of an application for a building permit, the following fees shall be payable:

Estimated Cost of Work, Including Builder's Profit	Fee
Up to \$500	\$5
\$500 to \$1,000	\$10
Each additional \$1,000 or fraction thereof	\$5

- (2) Certificate of occupancy, which shall be payable in advance at the time of the issuance of the building permit or use permit: \$10.

**ARTICLE VI
Amendments**

§ 175-29. Procedure.

The Board of Trustees may from time to time, either on its own motion or on petition, after public notice and hearing, amend, supplement, change, modify or repeal the regulations, restrictions and boundaries herein established pursuant to the provisions of the Village Law of the State of New York, as amended from time to time.

**ARTICLE VII
Regulation of Flood Zones
[Added 7-8-2009 by L.L. No. 1-2009¹³]**

§ 175-30. Findings of facts.

The Board of Trustees of the Village of Cove Neck finds that the potential and/or actual damages

13. Editor's Note: This local law also repealed former Article VII, Regulation of Flood Zones, added 7-20-1987 by L.L. No. 1-1987.

from flooding and erosion may be a problem to the Village residents and that such damages may include destruction or loss of private and public property and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this article is adopted.

§ 175-31. Statement of purpose.

It is the purpose of this article to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 175-32. Objectives.

The objectives of this article are to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. Provide that developers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 175-33. Definitions; word usage.

- A. As used in this article, the following terms shall have the meanings indicated.
- B. Words or phrases used in this article and not specifically defined below shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application. Definitions listed below are limited to the interpretation of this article VII and are not to be deemed applicable to or to be applied to interpreting other articles of this Code.

APPEAL — A request for a review of the local administrator's interpretation of any provision of this article or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO, AH or VO Zone on the Village's Flood Insurance Rate Map (FIRM) with a one-percent-or-greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within the Village subject to a one-percent-or-greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or one-hundred-year floodplain. For purposes of this article, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING — See "structure."

CELLAR — The same meaning as "basement."

COASTAL HIGH HAZARD AREA — An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1-V30, VE, VO or V.

CRAWL SPACE — An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including

but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING

- (1) A non-basement building:
 - (a) Built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and
 - (b) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.
- (2) In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.
- (3) In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

FEDERAL EMERGENCY MANAGEMENT AGENCY — The federal agency that administers the National Flood Insurance Program.

FLOOD or FLOODING

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters;
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1)(a) above.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — The official map for the Village published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY — An examination, evaluation and determination of the flood

hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM) — The official map for the Village, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM) — The official map for the Village, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — See "flood elevation study."

FLOODPLAIN or FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source. (See definition of "flooding.")

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — The same meaning as "regulatory floodway."

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers. The term does not include long-term storage, manufacturing, sales, or service facilities.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a New York State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in the Village with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR — The person appointed by the Board of Trustees to administer and implement this article by granting or denying development permits in accordance with its

provisions. This person may be the Building Inspector, Code Enforcement Officer, or Village Engineer.

LOWEST FLOOR — lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "recreational vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale, if permitted in the future.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME — Has the same meaning as "manufactured home," if permitted in the future.

NEW CONSTRUCTION — Structure or structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD — The same meaning as "base flood."

PRIMARY FRONTAL DUNE — A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

PRINCIPALLY ABOVE GROUND — At least 51% of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE — A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as

provided in § 175-41B of this article.

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION — The date of permit issuance for new construction and substantial improvements to an existing structure, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE — A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. Substantial improvement includes structures which have incurred "substantial damage," regardless of the actual repair work performed, but does not include:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an "historic structure."

VARIANCE — A grant of relief from the requirements of this article which permits construction or use in a manner that would otherwise be prohibited by this article.

VILLAGE — Incorporated Village of Cove Neck.

§ 175-34. General provisions.

- A. Lands to which this article applies. This article shall apply to all areas of special flood hazard within the jurisdiction of the Village.
- B. Basis for establishing areas of special flood hazard.

- (1) The areas of special flood hazard for the Village, Community Number 360462, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
 - (a) Flood Insurance Rate Map Panel Numbers: 36059C0044G, 36059C0063G, 36059C0132G, and 36059C01515G whose effective date is September 11, 2009, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.
 - (b) A scientific and engineering report entitled "Flood Insurance Study, Nassau County, New York, All Jurisdictions" dated September 11, 2009.
- (2) The above documents are hereby adopted and declared to be a part of this article. The Flood Insurance Study and/or maps are on file at the Office of the Village Attorneys, Humes & Wagner, LLP, 147 Forest Avenue, Locust Valley, New York 11560.

§ 175-35. Interpretation; conflict with other laws.

- A. This article includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. In its interpretation and application, the provisions of this article shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this article are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 175-36. Penalties for noncompliance.

No structure in an area of special flood hazard shall hereafter be or allowed to be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this article and any other applicable regulations. Any infraction of the provisions of this article by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this article for which the developer and/or owner has not applied for and received an approved variance under §§ 175-49 and 175-50 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 175-37. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This

article does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the Village, Board of Trustees, elected or appointed officials, officers, employees, and private contractors retained by the Village, thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

§ 175-38. Administration; designation of local administrator.

The Building Inspector or such other person hereafter appointed by the Board of Trustees by resolution is hereby appointed local administrator to administer and implement this article by granting or denying floodplain development permits in accordance with its provisions.

§ 175-39. Floodplain development permit.

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 175-34B, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee as shall be set by resolution of the Board of Trustees. In addition, the applicant shall be responsible for reimbursing all additional costs incurred by the Village, including, but not limited to, engineering consultants and attorney's fees necessary for review, inspection and approval of this project. The local administrator may require a minimum deposit of \$1,000 to cover these additional costs.

§ 175-40. Application for a permit.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zones V1-V30 or VE, or Zone V if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the

local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

- C. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- D. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 175-43C, Utilities.
- E. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 175-46, Nonresidential structures.
- F. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 175-34B, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- G. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- H. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments, including proposals for manufactured home and recreational vehicle parks and subdivisions, (if permitted in the future) that are greater than either 50 lots or five acres.
- I. In Zones V1-V30 and VE, and also Zone V if base flood elevation are available, designs and specifications, certified by a licensed professional engineer or architect, for any breakaway walls in a proposed structure with design strengths in excess of 20 pounds per square foot.
- J. In Zones V1-V30 and VE, and also Zone V if base flood elevation are available, for all new and substantial improvements to structures, floodplain development permit applications shall be accompanied by design plans and specifications, prepared in sufficient detail to enable independent review of the foundation support and connection components. Said plans and specifications shall be developed or reviewed by a licensed professional engineer or architect, and shall be accompanied by a statement, bearing the signature of the architect or engineer, certifying that the design and methods of construction to be used are in accordance with accepted standards of practice and with all applicable provisions of this article.

§ 175-41. Duties and responsibilities of local administrator.

Duties of the local administrator shall include, but not be limited to the following.

- A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:
- (1) Review all applications for completeness, particularly with the requirements of § 175-40, Application for permit, and for compliance with the provisions and standards of this article.
 - (2) Review subdivision and other proposed new development, including manufactured home parks, if permitted in the future, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of §§ 175-42 through 175-48 of this article and, in particular, § 175-42B, Subdivision proposals.
 - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of §§ 175-42 through 175-48 of this article, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
 - (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.
- B. Use of other flood data.
- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (These areas are designated Zone A or V on the FIRM.) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to § 175-40G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this article.
 - (2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this article.
- C. Alteration of watercourses.
- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director,

Region II, Federal Emergency Management Agency.

- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

D. Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) In Zones V1-V30 and VE, and also Zone V if base flood elevation data are available, upon placement of the lowest floor of a new or substantially improved structure, the permit holder shall submit to the local administrator a certificate of elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns). The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. An elevation certificate must also be submitted for a recreational vehicle if it remains on a site 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (3) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

E. Inspections. The local administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions. The developer's engineer or architect shall certify to the Village that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop-work orders.

- (1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 175-36 of this article.
- (2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this law and/or

the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 175-36 of this article.

G. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in § 175-34B, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this article.
- (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 175-41E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The local administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to § 175-41D(1) and (2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to § 175-41D(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to § 175-49, Variance procedure, and § 175-50, Conditions for variances; and
- (5) Notices required under § 175-41C, Alteration of watercourses.

§ 175-42. General construction standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 175-34B.

A. Coastal high hazard areas. The following requirements apply within Zones V1-V30, VE and V:

- (1) All new construction, including manufactured homes and recreational vehicles on site 180 days or longer and not fully licensed for highway use, shall be located landward of the reach of high tide.
- (2) The use of fill for structural support of buildings, manufactured homes or recreational vehicles on site 180 days or longer is prohibited.
- (3) Man-made alteration of sand dunes which would increase potential flood damage is

prohibited.

- B. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):
- (1) Proposals shall be consistent with the need to minimize flood damage;
 - (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and
 - (3) Adequate drainage shall be provided to reduce exposure to flood damage.
- C. Encroachments.
- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
 - (b) The Village agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village for all costs related to the final map revision.
 - (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 175-34B, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or
 - (b) The Village agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village for all costs related to the final map revisions.

§ 175-43. Standards for all structures.

- A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during

the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) Enclosed areas.
 - (a) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - [2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
 - (b) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.
- (4) Within Zones V1-V30 and VE, and also within Zone V if base flood elevation are available, new construction and substantial improvements shall have the space below the lowest floor either free from obstruction or constructed with non-supporting breakaway walls, open wood lattice-work or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. The enclosed space below the lowest floor shall be used only for parking vehicles, building access or storage. Use of this space for human habitation is expressly prohibited. The construction of stairs, stairwells and elevator shafts are subject to the design requirements for breakaway walls.

C. Utilities.

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic

- loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
 - (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and
 - (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 175-44. Residential structures (except coastal high hazard areas).

- A. Elevation. The following standard's apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 175-42B, Subdivision proposals, and § 175-42C, Encroachments, and § 175-43, Standards for all structures.
- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
 - (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
 - (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 175-34B (at least two feet if no depth number is specified).
 - (4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 175-45. Residential structures (coastal high hazard areas).

The following standards, in addition to the standards in § 175-42A, Coastal high hazard areas, and § 175-42B, Subdivision proposals, and § 175-43, Standards for all structures, apply to new and substantially improved residential structures located in areas of special flood hazard shown as Zones V1-V30, VE or V on the community's Flood Insurance Rate Map designated in § 175-34B.

- A. Elevation. New construction and substantial improvements shall be elevated on pilings,

columns or shear walls such that the bottom of the lowest horizontal structural member supporting the lowest elevated floor (excluding columns, piles, diagonal bracing attached to the piles or columns, grade beams, pile caps and other members designed to either withstand storm action or break away without imparting damaging loads to the structure) is elevated to or above two feet above base flood elevation so as not to impede the flow of water.

B. Determination of loading forces. Structural design shall consider the effects of wind and water loads acting simultaneously during the base flood on all building components.

- (1) The structural design shall be adequate to resist water forces that would occur during the base flood. Horizontal water loads considered shall include inertial and drag forces of waves, current drag forces, and impact forces from waterborne storm debris. Dynamic uplift loads shall also be considered if bulkheads, walls, or other natural or man-made flow obstructions could cause wave run-up beyond the elevation of the base flood.
- (2) Buildings shall be designed and constructed to resist the forces due to wind pressure. Wind forces on the superstructure include windward and leeward forces on vertical walls, uplift on the roof, internal forces when openings allow wind to enter the house, and upward force on the underside of the house when it is exposed. In the design, the wind should be assumed to blow potentially from any lateral direction relative to the house.
- (3) Wind-loading values used shall be those required by the building code.

C. Foundation standards.

- (1) The pilings or column foundation and structure attached thereto shall be adequately anchored to resist flotation, collapse or lateral movement due to the effects of wind and water pressures acting simultaneously on all building components. Foundations must be designed to transfer safely to the underlying soil all loads due to wind, water, dead load, live load and other loads (including uplift due to wind and water).
- (2) Spread footings and fill material shall not be used for structural support of a new building or substantial improvement of an existing structure.

D. Pile foundation design.

- (1) The design ratio of pile spacing to pile diameter shall not be less than 8:1 for individual piles. (This shall not apply to pile clusters located below the design grade.) The maximum center-to-center spacing of wood piles shall not be more than 12 feet on center under load bearing sills, beams, or girders.
- (2) Pilings shall have adequate soil penetration (bearing capacity) to resist the combined wave and wind loads (lateral and uplift) associated with the base flood acting simultaneously with typical structure (live and dead) loads, and shall include consideration of decreased resistance capacity caused by erosion of soil strata surrounding the piles. The minimum penetration for foundation piles is to an elevation of five feet below mean sea level (msl) datum if the BFE is +10 msl or less, or to be at least 10 feet below msl if the BFE is greater than +10 msl.

- (3) Pile foundation analysis shall also include consideration of piles in column action from the bottom of the structure to the stable soil elevation of the site. Pilings may be horizontally or diagonally braced to withstand wind and water forces.
 - (4) The minimum acceptable sizes for timber piles are a tip diameter of eight inches for round timber piles and eight-by-eight inches for square timber piles. All wood piles must be treated in accordance with requirements of EPEE-C3 to minimize decay and damage from fungus.
 - (5) Reinforced concrete piles shall be cast of concrete having a twenty-eight-day ultimate compressive strength of not less than 5,000 pounds per square inch, and shall be reinforced with a minimum of four longitudinal steel bars having a combined area of not less than 1% nor more than 4% of the gross concrete area. Reinforcing for precast piles shall have a concrete cover of not less than 1 1/4 inches for No. 5 bars and smaller and not less than 1 1/2 inches for No. 6 through No. 11 bars. Reinforcement for piles cast in the field shall have a concrete cover of not less than two inches.
 - (6) Piles shall be driven by means of a pile driver or drop hammer, jetted, or augered into place.
 - (7) Additional support for piles in the form of bracing may include lateral or diagonal bracing between piles.
 - (8) When necessary, piles shall be braced at the ground line in both directions by a wood timber grade beam or a reinforced concrete grade beam. These at-grade supports should be securely attached to the piles to provide support even if scoured from beneath.
 - (9) Diagonal bracing between piles, consisting of two-inch-by-eight-inch (minimum) members bolted to the piles, shall be limited in location to below the lowest supporting structural member and above the stable soil elevation, and aligned in the vertical plane along pile rows perpendicular to the shoreline. Galvanized steel rods (minimum diameter 1/2 inch) or cable-type bracing is permitted in any plane.
 - (10) Knee braces, which stiffen both the upper portion of a pile and the beam-to-pile connection, may be used along pile rows perpendicular and parallel to the shoreline. Knee braces shall be two-by-eight lumber bolted to the sides of the pile/beam, or four-by-four or larger braces framed into the pile/beam. Bolting shall consist of two five-eighths-inch galvanized steel bolts (each end) for two-by-eight members, or one five-eighths-inch lag bolt (each end) for square members. Knee braces shall not extend more than three feet below the elevation of the base flood.
- E. Column foundation design. Masonry piers or poured-in-place concrete piers shall be internally reinforced to resist vertical and lateral loads, and be connected with a movement-resisting connection to a pile cap or pile shaft.
- F. Connectors and fasteners. Galvanized metal connectors, wood connectors, or bolts of size and number adequate for the calculated loads must be used to connect adjoining components of a structure. Toe nailing as a principal method of connection is not permitted. All metal connectors and fasteners used in exposed locations shall be steel,

hot-dipped galvanized after fabrication. Connectors in protected interior locations shall be fabricated from galvanized sheet.

- G. Beam-to-pile connections. The primary floor beams or girders shall span the supports in the direction parallel to the flow of potential floodwater and wave action and shall be fastened to the columns or pilings by bolting, with or without cover plates. Concrete members shall be connected by reinforcement, if cast in place, or (of precast) shall be securely connected by bolting and welding. If sills, beams, or girders are attached to wood piling at a notch, a minimum of two five-eighths-inch galvanized steel bolts or two hot-dipped galvanized straps 3/16 inch by four inches by 18 inches each bolted with two one-half-inch lag bolts per beam member shall be used. Notching of pile tops shall be the minimum sufficient to provide ledge support for beam members without unduly weakening pile connections. Piling shall not be notched so that the cross section is reduced below 50%.
- H. Floor and deck connections.
- (1) Wood two-by four-inch (minimum) connectors or metal joist anchors shall be used to tie floor joists to floor beams/girders. These should be installed on alternate floor joists, at a minimum. Cross bridging of all floor joists shall be provided. Such cross bridging may be one-by-three-inch members, placed eight feet on-center maximum, or solid bridging of same depth as joist at same spacing.
 - (2) Plywood should be used for subflooring and attic flooring to provide good torsional resistance in the horizontal plane of the structure. The plywood should not be less than 3/4 inch total thickness, and should be exterior grade and fastened to beams or joists with 8d annular or spiral thread galvanized nails. Such fastening shall be supplemented by the application of waterproof industrial adhesive applied to all bearing surfaces.
- I. Exterior wall connections. All bottom plates shall have any required breaks under a wall stud or an anchor bolt. Approved anchors will be used to secure rafters or joists and top and bottom plates to studs in exterior and bearing walls to form a continuous tie. Continuous fifteen-thirty-seconds-inch-or-thicker plywood sheathing--overlapping the top wall plate and continuing down to the sill, beam, or girder--may be used to provide the continuous tie. If the sheets of plywood are not vertically continuous, then two-by-four nailer blocking shall be provided at all horizontal joints. In lieu of the plywood, galvanized steel rods of one-half-inch diameter or galvanized steel straps not less than one inch wide by 1/16 inch thick may be used to connect from the top wall plate to the sill, beam, or girder. Washers with a minimum diameter of three inches shall be used at each end of the one-half-inch round rods. These anchors shall be installed no more than two feet from each corner rod, no more than four feet on center.
- J. Ceiling joist/rafter connections.
- (1) All ceiling joists or rafters shall be installed in such a manner that the joists provide a continuous tie across the rafters. Ceiling joists and rafters shall be securely fastened at their intersections. A metal or wood connector shall be used at alternate ceiling joist/rafter connections to the wall top plate.
 - (2) Gable roofs shall be additionally stabilized by installing two-by-four blocking on

two-foot centers between the rafters at each gable end. Blocking shall be installed a minimum of eight feet toward the house interior from each gable end.

- K. Projecting members. All cantilevers and other projecting members must be adequately supported and braced to withstand wind and water uplift forces. Roof eave overhangs shall be limited to a maximum of two feet and joist overhangs to a maximum of one foot. Larger overhangs and porches will be permitted if designed or reviewed and certified by a registered professional engineer or architect.
- L. Roof sheathing.
 - (1) Plywood, or other wood material, when used as roof sheathing, shall not be less than 15/32 inch in thickness, and shall be of exterior sheathing grade or equivalent. All attaching devices for sheathing and roof coverings shall be galvanized or be of other suitable corrosion-resistant material.
 - (2) All corners, gable ends, and roof overhangs exceeding six inches shall be reinforced by the application of waterproof industrial adhesive applied to all bearing surfaces of any plywood sheet used in the sheathing of such corner, gable end, or roof overhang.
 - (3) In addition, roofs should be sloped as steeply as practicable to reduce uplift pressures, and special care should be used in securing ridges, hips, valleys, eaves, vents, chimneys, and other points of discontinuity in the roofing surface.
- M. Protection of openings. All exterior glass panels, windows, and doors shall be designed, detailed, and constructed to withstand loads due to the design wind speed of 75 mph. Connections for these elements must be designed to transfer safely the design loads to the supporting structure. Panel widths of multiple panel sliding glass doors shall not exceed three feet.
- N. Breakaway wall design standards.
 - (1) The breakaway wall shall have a design safe loading resistance of not less than 10 and not more than 20 pounds per square foot, with the criterion that the safety of the overall structure at the point of wall failure be confirmed using established procedures. Grade beams shall be installed in both directions for all piles considered to carry the breakaway wall load. Knee braces are required for front row piles that support breakaway walls.
 - (2) Use of breakaway wall strengths in excess of 20 pounds per square foot shall not be permitted unless a registered professional engineer or architect has developed or reviewed the structural design and specifications for the building foundation and breakaway wall components, and certifies that the breakaway walls will fail under water loads less than those that would occur during the base flood; and the elevated portion of the building and supporting foundation system will not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water-loading values used shall be those associated with the base flood. Wind-loading values shall be those required by the building code.

§ 175-46. Nonresidential structures (except coastal high hazard areas).

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 175-42B, Subdivision proposals, and § 175-42C, Encroachments, and § 175-43, Standards for all structures.

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:
 - (1) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (2) Be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood elevation must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in § 175-43C.
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of § 175-46A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 175-47. Nonresidential structures (coastal high hazard areas).

In Zones V1-V30, VE and also Zone V if base flood elevations are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall have the bottom of lowest member of the lowest floor elevated to or above two feet above the base flood elevation. Floodproofing of structures is not an allowable alternative to elevating the lowest floor to two feet above the base flood elevation in Zones V1-V30, VE and V.

§ 175-48. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in § 175-42, General construction standards, and § 175-43, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A. Recreational vehicles.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE, AH, V1-V30, V, and VE shall either:
 - (a) Be on site fewer than 180 consecutive days;
 - (b) Be fully licensed and ready for highway use; or
 - (c) Meet the requirements for manufactured homes in § 175-48B, C and D.
- (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE, AH, V1-V30, V, and VE shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

C. Within Zones A or V, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

D. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 175-34B (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

§ 175-49. Variance procedure.

A. Appeals board.

- (1) The Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this article.
- (2) The Board of Zoning Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this article.
- (3) Those aggrieved by the decision of the Board of Zoning Appeals may appeal such

decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

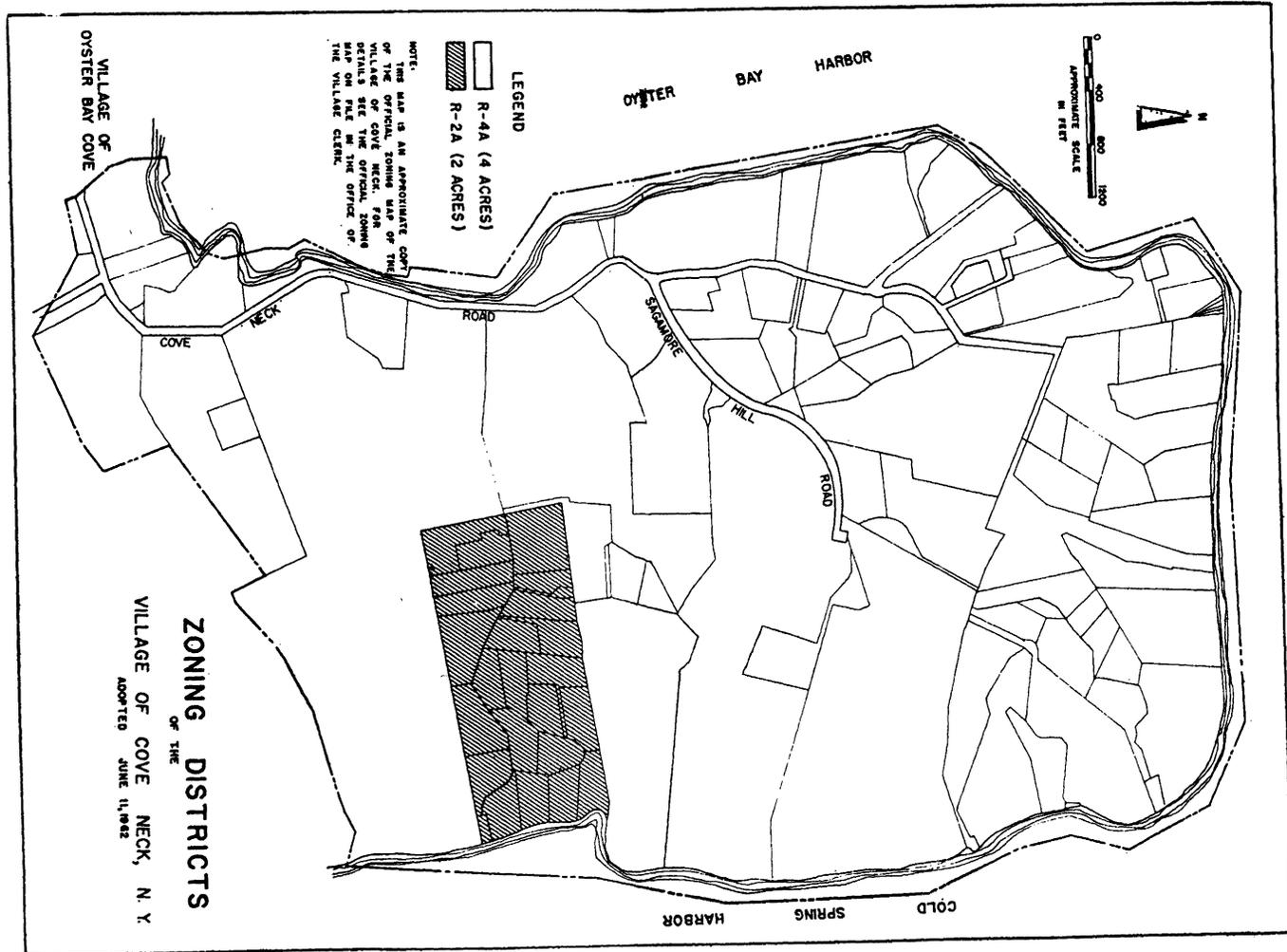
- (4) In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of § 175-49A(4) and the purposes of this article, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- (6) The local administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§ 175-50. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items in Subsection A(4)(a) through (l) in § 175-49 have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure"; and
 - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
 - (1) The criteria of Subsections A, D, E and F of this section are met; and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing articles or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

ZONING

175 Attachment 1



Chapter DL

DISPOSITION LIST

The following is a chronological listing of legislation of the Village of Cove Neck adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Village Clerk. The last legislation reviewed for the original publication of the Code was Local Law No. 2-2001, adopted 11-14-2001.

§ DL-1. Disposition of legislation.

L.L. No.	Adoption Date	Subject	Disposition
1-2002	4-10-2002	Adoption of Code	Ch. 1, Art. I
2-2002	7-10-2002	Outdoor lighting	Ch. 90
3-2002	7-10-2002	Fees and deposits amendment	Ch. 65
1-2004	5-26-2004	Moratorium on subdivision of land	NCM
2-2004	5-26-2004	Zoning amendment	Ch. 175
1-2006	10-24-2006	Fees and deposits	Ch. 65
1-2007	5-9-2007	Stormwater management and erosion and sediment control	Ch. 138
2-2007	5-9-2007	Illicit discharges, activities and connections	Ch. 80
3-2007	5-9-2007	Subdivision of land: rules and regulations amendment	Ch. 145, Part 2
1-2009	7-8-2009	Zoning amendment (flood zones)	Ch. 175
2-2009	9-24-2009	Zoning amendment	Ch. 175
1-2010	9-8-2010	Noise amendment	Ch. 100
1-2011	3-23-2011	Temporary moratorium on subdivision	NCM
2-2011	4-12-2011	Animals amendment	Ch. 15
3-2011	4-12-2011	Animals: wild and domestic waterfowl	Ch. 15, Art. II
4-2011	4-12-2011	Zoning amendment	Ch. 175
5-2011	12-14-2011	Fees and deposits amendment	Ch. 65
1-2012	3-22-2012	Tax levy limit override 2012	NCM

2-2012	6-13-2012	Fees and deposits amendment	Ch. 65
3-2012	9-12-2012	Moratorium on approval and construction of telecommunications facilities	NCM
4-2012	10-10-2012	Vehicles and traffic amendment	Ch. 164
1-2013	3-21-2013	Tax levy limit override 2013	NCM
1-2014	2-20-2014	Tax levy limit override 2014	NCM
2-2014	10-8-2014	Noise amendment	Ch. 100
1-2015	3-31-2015	Tax levy limit override 2015	NCM
2-2015	4-8-2015	Fees and deposits amendment	Ch. 65