

1965 CODE OF GENERAL ORDINANCES

OF THE

VILLAGE OF UPPER NYACK, NEW YORK

RESOLVED: The Board of Trustees of the Incorporated Village of Upper Nyack, Town of Clarkstown, Rockland County, State of New York, after a public hearing duly held, does on this 22nd day of July, 1965, hereby enact and ordain this general ordinance which, except as noted herein, shall contain all of the ordinances of the Village of Upper Nyack.

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ARTICLE I.

TITLE AND SCOPE

- (a) For the better government of the Village, the management of its business, the preservation of the order, peace, health, safety and welfare of its inhabitants and the protection and security of their property, the ordinances of the Village of Upper Nyack are hereby arranged, classified and enacted as the 1965 Code of General Ordinances, Village of Upper Nyack, New York, which supersedes and repeals all ordinances heretofore enacted and adopted except the following, which is hereby continued in full force and effect, to wit:

Zoning Ordinance, adopted January 18, 1962, and all ordinances amending or supplementing the same (under separate cover).

- (b) The repeal of any ordinance or any portion thereof by this or any future enactment shall not affect or impair any act done or right vested or accrued, or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution had or commenced shall remain in full force and effect as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty, or forfeiture either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered shall be discharged or affected by such repeal or alteration but prosecutions and proceedings for such offenses, liabilities, and respects as if such prior ordinance or part thereof had not been repealed or altered.
- (c) The amount of any fees, charges and fines provided for herein may be raised, lowered, discontinued, suspended, or reinstated from time to time, by resolution duly adopted by the Board of Trustees, and such change shall be effective immediately upon adoption.

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ARTICLE II.

CLASSIFICATION OF ORDINANCES

The ordinances are hereby divided into ten chapters, as follows:

- CHAPTER 1. Streets and Sidewalks
- CHAPTER 2. Regulation of Vehicles
- CHAPTER 3. Fire Regulations
- CHAPTER 4. Health and Sanitation
- CHAPTER 5. Public Conduct and Morals
- CHAPTER 6. Peddling, Hawking and Soliciting
- CHAPTER 7. Buildings and Construction
- CHAPTER 8. Waterfront and Waterways, Water Courses, Ponds, etc.
- CHAPTER 9. Taxes and Rents
- CHAPTER 10. Code of Ethics
- CHAPTER 11. Firearms
- CHAPTER 12. Numbering of Buildings and Properties
- CHAPTER 13. Creation of a Records Management Program
- CHAPTER 14. Community Forestry

ARTICLE III.

PENALTIES

Unless otherwise provided herein, or by law or by specific enactment, the penalty for each violation of any ordinance shall be a sum of money not exceeding \$100.00. In addition thereto, unless otherwise provided herein by law, a violation of any ordinance shall constitute and is hereby declared to be disorderly conduct and any person or persons violating the same shall be and is hereby declared a disorderly person.

ARTICLE IV.

DEFINITIONS

In the definition of terms and construction of all ordinances here by enacted or hereafter to be enacted, the following rules shall be observed unless excluded by express provision, or when to do so would be inconsistent with the manifest intent of the ordinance:

- (1) Person. The term “person” includes a corporation, a joint stock association and partnership, as well as an individual.
- (2) Gender. The words of the masculine gender include the feminine and the neuter gender and may refer to a corporation, or to a board or other body or assembly of persons, and when the sense so indicates, the words of the neuter gender may refer to any gender.
- (3) Heretofore and Hereafter. Each of the terms “heretofore” and “hereafter” in any provision of an ordinance relates to the time such provision takes effect.
- (4) Singular and Plural Words. Words in the singular include the plural, and in the plural include the singular.
- (5) Village and Village Officials. Whenever used without modifying words or qualifications “Village” shall mean the Village of Upper Nyack, Rockland County, New York, and the designation of any board, commission, committee, official or agency shall mean that of said Village of Upper Nyack. The words “village board” or “Board of Trustees” shall mean the Board of Trustees of said Village of Upper Nyack.
- (6) Mayor. The word “Mayor” shall be deemed to mean the Mayor of the Village of Upper Nyack, Rockland County, New York, and where an ordinance or section shall direct that an act be performed or decision be made by the Mayor, such expression shall be deemed to include not only the Mayor, but in the absence of the Mayor, the Acting Mayor, or any member of the Board of Trustees designated by the Board of Trustees or the Mayor to perform the act or exercise the discretion referred to; but this provision shall not be constructed to authorize the Mayor or the Board of Trustees to delegate any power or duty on the part of the Mayor to any other person except a member of the Board of Trustees, or except as otherwise provided by law.

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ARTICLE V.

SEPARABILITY

If any article, classification or chapter, ordinance, section, clause or sentence of this Code or any ordinance hereunder, in whole or part, shall be adjudged null and of no effect by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

ARTICLE VI.

EFFECTIVE DATE

This enactment, and every ordinance herein set forth shall take effect and be enforced from and after the earliest period allowed by law.

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ARTICLE VII.

THE ORDINANCES

The Chapters and the Ordinances there under are hereby enacted, classified, and numbered as follows:

CHAPTER 1

STREETS AND SIDEWALKS

- 1.1. Operation of Vehicles on or Across Sidewalks or Streets
 - 1.2. Cleaning Rugs, etc. on Streets and Sidewalks
 - 1.3. Placing Refuse and Other Materials on Streets, Sidewalks and Other Places
 - 1.4. Placing Building and Other Materials Upon Streets and Sidewalks – Permit Required
 - 1.5. Snow and Ice to be Cleared from Sidewalks [Amended by L.L. #1 of 1994, Approved 3/17/94; Filed 3/24/94]
 - 1.6. Street Openings and Excavations – Permit Required
 - 1.7. Moving Buildings over Streets and Public Places – Permit Required
 - 1.8. Erection of Poles and Overhead Wires – Permit Required
 - 1.9. Street Improvements – Permit Required
 - 1.10. Protection of Excavations in Streets and Public Places
 - 1.11. Regulating Planting, Erecting and Maintaining of Trees, Shrubs, Hedges, Fences, etc. Along Streets, Highways and at Intersections
 - 1.12. Regulating Use of Shopping Carts, etc. on Streets, Sidewalks and Other Public Places
 - 1.13. Notification of Defects [Local Law # 3 of 1977; Filed November 30, 1977]
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Ordinance 1.1. Operation of Vehicles on or Across Sidewalks or Streets.

- a. No person shall ride, drive or otherwise propel any wagon, horse, automobile, motor scooter, tractor, truck, trailer or other like vehicle or conveyance upon or over any sidewalk or other place reserved for the use of pedestrians within the Village at any time, excepting that nothing herein contained shall be construed to prohibit driving, riding or otherwise propelling any vehicle or other conveyance across the sidewalk at a place set apart as an entrance to or exit from abutting property.
- b. No person, except children under the age of sixteen (16) years, shall ride a bicycle tricycle or other like vehicle upon or over any sidewalk or other place reserved for the use of pedestrians within the Village.
- c. No person shall use or operate a vehicle equipped with steel or other metal cleated wheels on or over any sidewalks or public street within the Village.

Ordinance 1.2. Cleaning Rugs, etc. on Streets and Sidewalks.

No person shall wash or cause to be washed, clean or cause to be cleaned, beat or cause to be beaten any rugs, curtains, furniture, tapestry, clothing or other like articles upon any sidewalk, public street, highway or public place within the Village.

Ordinance 1.3. Placing Refuse and Other Materials on Streets, Sidewalks and Other Places

- a. No person shall deposit or place, or cause to be deposited or placed, or consent thereto, or aid or abet the depositing or placing, or accumulation, upon any of the sidewalks, public streets, highways and public places, or upon any vacant lot, plot or parcel of ground within the Village any filth, dirt, ashes, garbage, waste paper, dust, rubbish or litter of any kind, except for the purpose of loading or unloading the same, which must be done without unreasonable delay; and no owner, lessee or occupant or any house, building, structure or plot or parcel of ground shall allow to accumulate any such filth, dirt, ashes, garbage, waste paper, dust, rubbish or litter of any kind upon such sidewalks, public streets, highways or public places in front of or abutting upon such house, building, structure or plot or parcel of ground.
- b. No person shall place or deposit, or cause to be placed or deposited or consent thereto, or aid or abet the placing or depositing of any boxes, goods, wares, or merchandise upon any sidewalk, public street, highway, public place, or upon any property abutting upon or adjoining such sidewalk, street, highway, or public place within the Village so as to interfere with the free use thereof except for the purpose of loading or unloading the same, which must be done without unreasonable delay.

Ordinance 1.4. Placing Building and Other Materials upon Streets and Sidewalks – Permit Required

- a. No person shall place, consent to or cause to be placed, keep or permit to be kept any stone, sand, gravel, timbers, lumber, or any other materials designed for use in building construction, or any box, barrel, case, or any article or articles, substance or substances whatsoever to be used for any purpose, upon any sidewalk, public street, highway or any public place within the Village so as to obstruct or impede in any manner free travel thereover at all times, unless a written permit shall first be obtained for such purpose from the Building Inspector or Superintendent of Public Works, which permit shall be issued upon such terms and conditions as are deemed necessary to safeguard the public safety or welfare.
- b. Every application for such a permit shall be accompanied by a cash deposit deemed adequate by the Building Inspector or Superintendent of Public Works to cover the cost of the removal of such obstruction and restoring of the sidewalk, street, highway or public place to the same condition as before such obstruction was placed thereon, or, in the alternative, a bond giving adequate assurance that such removal and restoration will be made; in addition thereto, every application shall be accompanied by a fee of \$10.00.

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Ordinance 1.5. Snow and Ice to be cleared from Sidewalks.

- a. No owner, lessee or occupant of any house, building or structure, or the owner or lessee of any vacant lot, plot or parcel of ground, within the Village, shall permit ice or snow to accumulate upon any sidewalks set apart for pedestrians, in front of or abutting upon their premises, and every such owner, lessee, or occupant shall cause such sidewalks to be cleared of snow and ice within twenty-four hours after such snow have ceased to fall or such ice shall have formed: provided, however, that in the event that such snow or ice shall be frozen so hard that it cannot be practicable removed, such owner, lessee or occupant shall, within the time and at the places hereinabove specified, cover or cause to be covered said abutting sidewalk with sifted ashes, sand or similar material (except sawdust), and shall, as soon thereafter as the weather will permit, clear or cause to be cleared said ice and snow therefrom. Upon failure of any such owner, lessee, or occupant to remove such snow or ice within such period, the Board of Trustees may cause such sidewalk to be cleared and assess the expense thereof upon the adjoining land.
- b. Snow that has been removed from sidewalks or private walks or driveways shall not be deposited in or upon other sidewalks or public thoroughfares.
- c. Any person charged with the duty of removing the snow and ice or covering the same as herein provided shall be subject to a penalty not exceeding one hundred dollars (\$100.00) for his or her failure to do so, and in addition thereto, a violation of this section shall constitute disorderly conduct, and a person violating the same shall be deemed a disorderly person. This section may be enforced by the police, or by the Building Inspector.

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Ordinance 1.6 Street Openings and Excavations - Permit Required [LL# 2 of 2012; Approved 5-17-12, filed 5-30-12]

1.6:1 Definitions:

A. The following words, when used in this article, shall have the meanings ascribed to them in this section. Except in those instances where the context clearly indicates otherwise:

APPLICANT- Any person who makes application for a permit.

EMERGENCY- Any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger to persons or properties, and, with respect to utilities only, sudden unforeseen interruption of pre-existing service.

PERMITTEE-Any person who has been issued a permit and has agreed to fulfill all the terms of this article

PERSON-Includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing.

STREET-A public street, public easement, public right-of-way, public highway, public alley, public way, sidewalk or public road accepted or maintained by the Village.

SUPERVISOR-The person in charge of the DPW or street operations in the Village, or his authorized representative.

VILLAGE-Village of Upper Nyack, county of Rockland, State of New York

B. In this article, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

1.6:2. Permit required for excavations

A. No person, firm or corporation, public or private, including public service companies and transportation corporations, as defined in Article I of the Transportation Corporations Law, who or which, for the purpose of this article, are deemed as such, including Orange & Rockland Utilities, Inc., Verizon, United Water New York, Private and municipally owned water companies, community antenna television companies, municipal districts, "et al", shall make any excavation, cut or breaking in or otherwise opening any street, road, highway or sidewalk under jurisdiction of the Village of Upper Nyack for any purpose whatsoever, including, but not limited to the making of a driveway connection, without first obtaining a permit from the Supervisor of Public Works of the Village of Upper Nyack as hereinafter provided; provided, however, that any person maintaining pipes, lines or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided that the permit could not be reasonably and

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practically have been obtained beforehand. Applicant must contact an official of the Village of Upper Nyack before proceeding. The person shall thereafter apply for a permit on the first regular business day on which the office of the Village of Upper Nyack is open for business, and said permit shall be retroactive to the date when the work was begun.

B. In this article, all approvals, consents, permissions or like authorizations of any kind or nature shall and must be in writing in order to be valid.

1.6:3. Application for permit; deposit; lead permittee

A. Application, in writing, shall be filed in triplicate with the Village of Upper Nyack upon application blanks which the Village shall provide or in such other manner as the Village shall prescribe, which application shall be accompanied by a plan or a map showing in detail the location of the proposed opening of the highway or highways therein identified and the dimensions of the breadth or width, length and depth of such opening and contain a short statement of the purpose for which the street is to be opened and the name or names of the contractors who are to perform the work in which street is opened, accompanied by the fee hereinafter provided to be paid to the Village of Upper Nyack.

B. All applicants shall furnish a cash deposit or corporate surety bond in an amount to be determined by the Supervisor of Public Works and to be based upon the estimated cost of restoring the pavement cut or other excavation to be made by the permittee, which sum is to be deposited with the Treasurer of the Village of Upper Nyack to assure that after completing the excavation, the street, road, highway or sidewalk, pavement, curb or gutter is in the same condition as it was prior to the excavation. The minimum bond or cash deposit shall be not less than \$1,000. Said cash deposit or bond shall be returned to the applicant upon final inspection and approval of the Supervisor of Public Works. If the permittee anticipates requesting more than one permit a year, he may file a continuing corporate surety bond conditioned for compliance with the specifications of the Village and the provisions of this article, in such amount as the Supervisor deems necessary. The amount of such bond shall be in relation to the cost of restoring pavement cuts to be made by the permittee through the year.

C. In lieu of meeting the requirements of Subsection B of this article of the section, the applicant may deposit the sum of \$50,000 with the Village Treasurer or otherwise secure said amount in a form approved by the Village Board and enter into an agreement approved by the Village Attorney which shall permit the Village of Upper Nyack to draw against such deposited funds in the event that the applicant fails to perform the corrective work as determined by the Supervisor within 10 days after notification of defect has been provided or within 24 hours after notification of defect if the existing condition is designated as a safety defect.

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D. When a common trench shall be excavated which includes involvement by more than one firm or corporation, public or private, including public service companies and transportation corporations, as defined in Article I of the Transportation Corporations Law, those firms, corporations, public service and transportation corporations may together designate a lead permittee. That lead permittee shall then apply and take full responsibility for the permit that is issued. When a lead permittee is so designated, no other permits for the designated excavations shall be required.

E. Before the Road Opening Permit will be issued, both the utility or municipal corporation and its contractors will be required to file with the Village adequate and satisfactory evidence that each is covered by public liability insurance in the limits of not less than \$1,000,000 - \$2,000,000 BODILY Injury and \$500,000 Property Damage and that under this coverage, or by separate policies in the above limits, the Village of Upper Nyack DPW, Mayor and the Board of Trustees or Village Engineer, are named and fully indemnified. In the event that the utility Company is self-insured, it may submit a letter in lieu of the insurance required above stating the utility is self-insured and that it will guarantee to indemnify the parties named above. The utility, or municipality if it is employing its own forces for the road opening covered by the permit, or its contractor, if the work is being done by contract, must file with the Village adequate and satisfactory evidence of statutory coverage for Worker's Compensation and Disability Insurance.

F. Upon compliance with the foregoing requirements, a permit shall be issued by the Village of Upper Nyack.

1.6:4 Permit Fee

The permit fee as provided under Article V §16:66 G. Miscellaneous Items of the Village of Upper Nyack Zoning Ordinance, shall accompany each application. Said fee shall be nonrefundable and shall be in addition to all inspection fees or other schedule of charges established. Excavations associated with a single contiguous project shall be permitted under a single permit application fee.

1.6:5 Required notices

For every street opening hereunder, it shall be the duty of every applicant to give at least 72 hours advance written notice, including diagram, engineering drawings or the equivalent thereof, of a proposed excavation in any village street, road, highway or public place to persons, corporations or municipalities engaged in the underground distribution of gas, gasoline, fuel oil, electricity, water, sewage, etc., via lines or mains within the vicinity of the proposed excavation. Proof of due notice shall be filed with the Village of Upper Nyack at least 48 hours prior to the commencement of the proposed work.

1.6:6 Authorized work

No person to whom a permit has been granted shall perform any of the work authorized by such permit plus or minus 5%, except that, upon written approval by the Supervisor, additional work may be done under the provisions of the permit in any amount not greater than 10% of the amount specified in the permit. Any deposit and/or bond posted in connection with the original permit shall be deemed to cover any such additional work as may be approved pursuant to this section within the limit mentioned herein.

1.6:7 Commencement of work

Work for which a permit has been issued shall commence within 20 days after the issuance of the permit therefore. If not so commenced, the permit shall be automatically terminated. Permits thus terminated may be renewed upon the payment of an additional permit fee as originally required.

1.6:8 Permits nontransferable

Permits are not transferable from one person to another, and the work shall not be done in any place other than the locations specifically designated in the permit.

1.6:9 Expiration of permits

Every permit shall expire at the end of the period of time which shall be set out in the permit. If the permittee shall be unable to complete the work within the specified time, he shall, prior to the expiration of the permit, present in writing to the Supervisor a request for an extension of time, setting forth therein the reasons for the requested extension. If, in the opinion of the Supervisor, such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work. Any such extension shall be in writing signed by the Supervisor.

1.6:10 Highways under other jurisdictions

The provisions of this article shall not be applicable in those instances where the highway is maintained by the State of New York or by the County of Rockland.

1.1:11 Rights of the Village of Upper Nyack

A. Every permit shall be granted subject to the right of the village or any other person entitled thereto to use the streets for any purpose for which such street may lawfully be used, not inconsistent with the permit.

B. If the excavation extends the full width of the road, only one-half of the street shall be opened, and this is to be properly backfilled before the other half is opened, so as to permit the free flow of traffic. In some cases it may be possible to open on each side of the road and jack or drive a pipe from one opening to the other. This should be done whenever possible. The road must be kept open to traffic at all times and the utility or municipal corporation or its contractor shall take all necessary precautions for the safety of the traveling public, whenever necessary, supplying flagmen, lights, barricades, signs, etc. A permit to close the road to traffic will only be issued in the most unusual circumstances.

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1.6:12 Revocation of permit

A. Any permit may be revoked by the Supervisor of Public Works or other Officers of the Village of Upper Nyack, after notice to the permittee, for:

- (1) Violation of any condition of the permit or of any provision of this article
- (2) Violation of any provision of any other applicable ordinance or law relating to the work
- (3) Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or properties of others.

B. A permittee may be granted one period of three days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before said permit is revoked.

C. Written notice of any such violation or condition shall be served upon the permittee or his agent engaged in the work. The notice shall contain a brief statement of the grounds relied upon for revoking the permit. Notice may be given either by personal delivery thereof or registered United States mail addressed to the person notified.

D. When any permit has been revoked and the work authorized by the permit has not been completed, the Supervisor shall do such work as may be necessary to restore the street or part thereof to as good a condition as before the opening was made. All expenses incurred by the Village shall be recovered from the deposit or bond the permittee has made or filed with the Village.

1.6:13 Default in performance

Whenever the Supervisor shall find that a default has occurred in the performance of any term or condition of the permit, written notice thereof shall be given to the principal and to the surety on the bond. Such notice shall state the work to be done, the estimated cost thereof and the period of time deemed by the Supervisor to be reasonably necessary for the completion of such work.

1.6:14 Completion of work by surety

After receipt of such notice the surety must, within the time therein specified, either cause the required work to be performed or, failing therein, indemnify the Village for the cost of doing the work as set forth in the notice.

1.6:15 Duties and responsibilities of applicants

It shall be duty and responsibility of any applicants to agree to save the Village, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under said permit. This acceptance of any permit under this article shall constitute such an agreement by the applicant, whether the same is expressed or not.

1.6:16 Inspection of completed work release

The permittee shall notify the Supervisor of Public Works when work has been completed. After which an inspection will be made by the Supervisor of Public Works or his duly authorized agent, and upon approval of the work, a release will be granted to the permittee. Until the granting of such a release, the permittee shall remain liable for proper guarding and protection as provided herein.

1.6:17 Refund of deposit

Upon notification by the permittee that all work authorized by the permit has been completed and after restoration of the opening the Supervisor shall refund to the permittee his deposit less all cost incurred by the Village in connection with said permit. In no event shall the permit fee or the inspection fees be refunded.

1.6:18 Forfeiture of deposit

A. In the event that the street is not restored to its original condition or the work has not been completed pursuant to the terms and conditions of the permit, within 10 days after notice from the Village Supervisor of Public Works that the work has not been satisfactorily performed or the street is not in proper original condition, or within 24 hours if the existing condition is designated as a safety defect, the aforesaid deposit made with the Village Supervisor of Public Works shall be forfeited to the Village.

B. The Village Board may thereafter order the Village Treasurer to pay the Supervisor of Public Works, out of the moneys deposited, a sufficient sum of money to repair or replace said street, road, highway or sidewalk, pavement, curb or gutter.

1.6:19 Methods and types of openings

A. Openings in concrete streets shall have a minimum width of five feet.

B. No streets are to be tunneled, but pipes may be driven or trenched across.

C. All openings are to be made by trenching machines or hand labor, as specified in the permit.

D. Proper sheeting and bracing must be installed in trenches where there is a possibility of caving of the banks.

E. All permittees shall comply with OSHA requirements for the work being performed.

F. No opening shall be permitted until New York State Code 53 requirements are met.

G. In making the excavation the permittee shall preserve the roadway from unnecessary destruction and shall complete the excavation, installation or repair of utility facilities, and backfilling in one continuous operation.

H. The utility or municipal corporation or its contractor shall restore all road openings in accordance with the methods and procedures set forth in these regulations and thereafter maintain them during a period of not less than two years by doing such additional work as may be necessary to make good any deficiencies which may develop due to settlement, shrinkage or other causes. The two (2) year maintenance period shall start from the date of the bill to the utility or municipality on which the inspection charges for an opening appear.

1.6:20 Enforcement officers

A. The Village Supervisor of Public Works and Village Engineer are hereby authorized, directed and designated to enforce the provisions of this article.

B. Nothing contained herein shall prevent the Enforcement Officers from modifying or adding to these regulations, if, in their opinion, the best interests of the Village will be served thereby.

C. On all matters pertaining to the interpretation of this regulation or to the quantity of materials or workmanship called for by these regulations, the decision of the Enforcement Officers shall be final and binding.

1.6: 21 Notice of improvements by the Village

When the Village shall improve or pave any street, the Village of Upper Nyack shall first give notice to all persons owning property abutting on the street about to get paved or improved, and to all public utilities and authorities operating in the Village, and all such persons, utilities and authorities shall make all connections as well as any repairs thereto which would necessitate excavation of the street within 30 days from the giving of such notice. The time shall be extended if permission is requested in writing and approved by the Village after consultation with the Supervisor of Public Works.

1.6:22 Opening new streets restricted

No permit shall be issued by the Supervisor of Public Works which would allow an excavation or opening in a paved and improved street surface less than five years old unless the applicant can clearly demonstrate that public health or safety requires that the proposed work be permitted or unless an emergency condition exists as otherwise required by law.

1.6:23 Methods, Procedures and Maintenance

A. Pavement and shoulder areas are defined as follows:

1. The "pavement area" shall include the full width of hard bituminous or concrete paved road surface plus an additional 12" on each side thereof. It shall also include any paved gutters within the right-of-way.

2. Shoulder (Shoulder shall mean village right-of-way) openings shall be defined as work done completely within the shoulder area as defined above.

3. Shoulder trenches shall be backfilled with a previous material well compacted to within 6" of the surface. The final 6" shall consist of shoulder stone, or approved equal, thoroughly rolled and compacted to the original grade of the shoulder and conforming to grade and crown of road pavement. In general, material excavated from shoulder openings may be reused as backfill unless this material is considered unsatisfactory by the Village. Unsatisfactory material would include clay, organic material (swamp muck) etc. and shall be removed from the site and replaced with satisfactory materials acceptable to the Village.

4. Should settlement or washouts occur, or the shoulder area otherwise become not rideable due to trench excavation or restoration, the trench shall be brought up to grade by the addition of additional shoulder stone or approved equal shall be re-rolled and compacted.

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5. Where steep grade or serious water conditions are encountered, the Village, at its discretion may require that shoulder openings be wholly or partly back filled with 1 ½ crushed stone chinked with finer material and/or that the opening be topped with 4" of NYSDOT Item 403.11, Asphalt Concrete-Type 1 Base Course.

B.

1. When excavation falls within the defined pavement area the pavement shall be scored to prevent excessive and irregular breaking of the pavement. In the case of longitudinal trenches and small openings along the edge of the pavement, the scoring line shall be a minimum of 18" from the edge of the pavement.

2. Must saw cut pavement area under item 08502.50

3. All fill material must be removed from the site and replaced with clean item 304.02 also known as shoulder stone, quarry process, crushed stone or controlled Backfill material.

4. One exception to the backfill material is very deep sewer trench whereby backfill material must have prior approval of the Village. Acceptable backfill material shall be sound, hard, durable stone, bank-run gravel, sand or other acceptable granular material, the particles of which shall be of such a size that, of that portion passing the 4" square sieve not more than 70 %, by weight shall pass the number 40 mesh sieve, and not more than 10 % by weight, shall pass the 200 mesh sieve, as determined by washing through the sieve in accordance with the ASTM Designation:D422. No stone nominally over 8" in diameter will be allowed in the backfill. This does not preclude the use of excavated material which may meet these specifications. The Village reserves the right to test any and all backfill material prior to its use.

5. Backfill shall be done in such a manner as to achieve a minimum density of 95% of the maximum density of the soil as determined by the Standard Procter Test (A.A.S.H.O. Designation T-99) The Village reserves the right to perform this test at any time and also to make such field tests as are necessary to determine whether the proper degree of compaction has been achieved. Backfill shall be deposited in layers not to exceed 8" in depth before compaction. Equipment to be used for compaction may include vibrating tampers of the mechanical or pneumatic type, impact type rammers or trench rollers of any other type of equipment, which will produce the required degree of compaction. The Village may require a field demonstration of compaction equipment before approving it for use. Rolling and compaction shall be done in the longitudinal direction of the trench. If the moisture content of the soil is outside of the limits required for achieving 95% of maximum compaction, the Supervisor of Public Works will require the addition of water or use of drier soil so that the required degree of compaction will be achieved. Puddling of water will not be permitted for compaction unless approved by the Village. If pavement restoration is not to be made immediately, backfill shall be carried to the finished grade of the pavement, the final 4" to consist of shoulder stone or approved equal.

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6. Within three (3) calendar days after the opening is made a base course pavement shall be laid. Any places where the edge of the pavement has been broken outside of the neat scoring lines shall be squared up by re-scoring and removing the road metal. The backfill material shall be cut out to a depth sufficient to allow for the installation of the bituminous pavement and the sub-grade then fine graded and thoroughly rolled and compacted. The base course pavement shall replace as nearly as possible the thickness of the base course or courses of the original pavement if such original pavement exceeds the thickness or specification hereinafter set forth. In any case, however, the minimum acceptable binder course shall be 5" compacted thickness of Base Course Asphalt Concrete NYSDOT Item 403.13. This course shall be thoroughly rolled and compacted with a vibrating, three wheel or trench roller in a longitudinal direction or, in case of openings too small for such equipment, with other compaction equipment which will produce the same degree of compaction. Care shall be taken that the roller wheels are entirely on the sub-grade or the newly laid pavement and that they are not partially on the existing pavement and partially on the sub-grade or new pavement. The finished top course shall be as nearly as possible ½" below the abutting edge of existing pavement. In the case of longitudinal trenches or small openings along the edge of pavement of the base course shall be laid to a width 6" greater than the final wearing course and in no case shall this base course width be less than 2 feet.

7. The final wearing course shall be applied within one month after the initial opening unless ordered to be laid sooner by the Village. All wearing courses shall be completed before bituminous concrete plants close for the winter. The base course shall be thoroughly cleaned of all deleterious materials and a tack coat of approved bituminous shall be applied to the base course surface and to the edges of the abutting existing pavement. The joint between the base course and the existing pavement shall be filled with this bituminous material. The wearing course shall conform to NYSDOT Item 403.17 Asphalt concrete-Type 6 Top Course. This course shall not be feathered over the existing pavement unless directed by the Village. The wearing course shall be thoroughly rolled with a vibrating, three (3) wheel, or trench roller or in the case of openings too small for such equipment, other compaction equipment which will produce the same degree of compaction and surface texture. The final wearing course shall conform as nearly as possible to the adjacent existing pavement grades and to the crown of the existing road. Joints between the existing and new wearing courses shall then be sealed with the approved bituminous material.

C. During the waiting period while base course only is in place, the utility or municipal corporation shall be responsible for maintaining this base course in a safe, rideable condition. Should any settlement or other defect develop, the utility or municipal corporation shall immediately protect the area with lights, barricades, signs or other safety devices as may be needed, and keep it protected until repairs have been made. Should a settlement of less than 4" occur, it shall be repaired within 24 hours by patching with additional base course. If excessive (over 4") settlements occur, indication a failure of the foundation soil, the entire base course pavement in that area shall be removed, the foundation soil shall be re-compacted, or removed and replaced, if necessary, and the base course shall be replaced. If settlements of over 1" occur in the final wearing course

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during the two-year in maintenance period; the entire wearing course in this area shall be removed and replaced. Patches over the failed wearing course will not be allowed.

1.6:24 Winter work

A. During the “winter work season” which is hereby defined as November 15 through April 1, road opening permits will be issued only for emergency work. In the event that an emergency exists and a permit is necessary, the backfill of all road openings, including shoulder openings, shall be made in accordance with the procedures given in this section.

B. In shoulders, the final nine inches of material shall be approved and then thoroughly compacted to the contour of the road and shoulder.

C. For openings in the pavement, a temporary pavement restoration shall be made by placing two layers of dust-bound crushed stone. Each of a compacted thickness of four inches, on the prepared sub grade, thoroughly compacting these layers in accordance with the proper procedures for a base course and then placing a layer of bituminous concrete winter mix, six inches in compacted thickness, on top. No frozen material shall be placed in the excavation. As early in the spring as weather and ground conditions permit, sufficient temporary pavement shall be removed and be replaced with the normally required pavement.

D. Notwithstanding anything which may appear to the contrary in the permit application and regulations, the applicant, by accepting the permit, assumes all responsibility for the safe maintenance of the subject opening(s) from November 15 through April 1 and further assumes all liability for damages resulting from or in any way connected with the subject opening(s) during this period.

1.6:25 Penalty

Section 135 of the Highway Law of the State of New York provides that no person, firm, corporation or municipality shall enter upon or construct any work in or upon any county road, or construct any overhead or underground crossing thereof, or lay or maintain therein drainage, sewer, gas, or water pipes underground, except under such conditions and regulations as may be prescribed by the Supervisor of Public Works and that for a violation of said section a person, firm or corporation shall be liable to a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1000) for each day of such violation, and may also be removed from said Village road as a trespasser.

Regulations established by the Board of Trustees of the Village of Upper Nyack on May 17, 2012, Local Law #2 of 2012.

Filed with State Records & Law Bureau, 05/30/2012

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Ordinance 1.7. Moving Buildings over Streets and Public Places – Permit Required

- a. No dwelling house, barn, outbuilding or other like structure shall be moved upon any street, highway or public place within the Village unless a written permit shall first be obtained for such purpose from the Building Inspector as hereinafter provided, and it shall be unlawful to move the same without such permit, or at any time or in any manner except as prescribed in such permit.
- b. A permit for such purpose shall be issued only upon resolution of the Board of Trustees approving the same and shall provide the time, manner and streets through which the same shall be moved and shall contain any other conditions deemed necessary to safeguard the public safety or welfare.
- c. Every application for a permit hereunder shall be accompanied by a fee of \$50.00 and by a certificate of insurance in form approved by the Village Counsel and issued by an insurance company authorized to do business in this State, in favor of the Village, guaranteeing that the applicant has provided public liability coverage of not less than \$500,000/\$1,000,000, and property damage insurance in the amount of not less than \$100,000/\$300,000 to save the Village harmless from all claims, actions and proceedings brought by any person for injury to person or property resulting from or occasioned by any fault or default by the Village, its employees or agents or by the person to whom the permit is issued or anyone acting thereunder. The policy shall also protect the Village in the sum of \$10,000 against any damage caused to any street or other public property by reason of such moving.

Ordinance 1.8. Erection of Poles and Overhead Wires – Permit Required

- a. No person shall, except upon written permit issued by the Board of Trustees, erect telegraph, telephone, electric light or other poles or string wires in, over, under or upon the streets or public grounds of the Village or, after written notice to the owner and an opportunity for hearing before said permit is issued, upon, over or in front of any building or buildings within the Village. Application for such permit shall be accompanied by a fee of \$10.00. The Board of Trustees may, by resolution, waive or modify the requirements of this subdivision when a permit or permits required hereunder are issued to a municipality or public utility corporation.
- b. Not more than a single row of poles for supporting wires of any kind shall be erected on any street, and all telephone, telegraph and electric wires shall, when strung for use, be eighteen (18) or more feet above the grade line of the street at all points.

Ordinance 1.9. Street Improvements – Permit Required

- a. No person shall commence or carry on the grading or paving of any street or highway in the Village, or the construction of any street or highway improvements, sidewalks, curbs, or gutters, unless such person or persons shall first obtain a permit therefor from the Board of Trustees signed by the Mayor and countersigned by the Building Inspector.
- b. No such permit shall be issued unless the person applying therefor shall:
 1. File plans and specifications therefore with and obtain the approval thereof by the Building Inspector or the Superintendent of Public Works and the Village Engineer; and
 2. Pay to the Village an inspection fee to be computed as follows:

For the construction of curbs, a minimum charge of \$15.00 for the first 100 lineal feet and an additional \$15.00 for each additional lineal feet or major fraction thereof.

For the construction of combined curbs and gutters, a minimum charge of \$20.00 for the first 100 lineal feet and an additional \$20.00 for each additional 100 lineal feet or major fraction thereof.

For the construction of sidewalks, a minimum charge of \$20.00 for the first 100 lineal feet and an additional \$20.00 for each additional 100 lineal feet or major fraction thereof.

For paving of any type, a minimum charge of \$100.00 for the first 100 lineal feet as measured along the center line of such street, including any intersection to be paved as a part of such work, and \$100.00 for each additional 100 lineal feet or major fraction thereof.
 3. For paving of any type, deposit with the Village \$500.00 per block or fraction thereof; said deposit to be applied by the Village to the correction of any defects, or to completion of the project in a workmanlike manner in accordance with approved specifications, and to be refundable only upon such completion and upon filing with the Village any required pavement maintenance bond.
- c. The provisions of this ordinance are intended to supplement and not supersede any existing laws and any rules and regulations of the Village with respect to the construction or installation of street improvements and the acceptance of privately owned streets as Village streets.

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Ordinance 1.10. Protection of Excavations in Streets and Public Places

Every person to whom a permit has been issued for opening, or altering the grade of, any street, highway or public place, or for making any excavation therein, or for placing or depositing any materials thereon, shall provide such protection and safety measures as are required by the New York State Building Construction Code and the Street Specifications of the Town of Clarkstown, both as modified or amended, and, in addition, shall mark the location thereof by a suitable barrier or fence upon which shall be hung a sufficient number of such red lanterns, flares or other lighting devices as are approved by the Superintendent of Public Works, so as adequately to apprise the public of the hazard, All such lanterns and other lighting devices shall be lighted at least one-half hour before sundown on every day, and shall remain lighted until at least one-half hour after sunrise the following morning

Ordinance 1.11. Regulating Planting, Erecting and Maintaining of Trees, Shrubs, Hedges, Fences, etc. Along Streets, Highways, and at Intersections.

- a. No person shall plant any tree or shrub, or erect any fence, between the curb line (either existing or proposed) and the property line of any street or highway in the Village unless such person shall first obtain a written permit therefor approved by resolution of the Board of Trustees and issued by the Superintendent of Public Works.
- b. No such permit shall be issued unless the applicant shall file with the superintendent of Public Works a written application setting forth the location where each tree or shrub is to be planted, or fence erected, and the approximate size and variety thereof. There shall be deposited with each such application the sum of \$25.00 for each 50' of street frontage or major fraction thereof along which such planting, or erection is proposed to be made. Said deposit shall be held as security for the proper planting of each such tree or shrub, or erection of each such fence, the removal of all debris and the proper restoration of any grass areas, sidewalks, and curbs. Upon the completion of such planting or erection, and compliance with this ordinance, such deposit or any balance remaining after deducting the cost of removing any debris or the restoration of any grass areas, shall be refunded to the applicant.
- c. Any tree, shrub, hedge, or fence planted or erected within the lines of any street or highway of the Village shall become the property of the Village.
- d. No person shall, upon any property within the Village and within twenty-five feet of any corner of any street intersection, permit any grass hedge or fence to grow or be erected to a height in excess of thirty inches above the ground level which shall obstruct the vision of vehicles approaching such intersection, nor shall any sign or other object be erected or maintained within twenty-five feet of any corner of any street intersection which shall obstruct the vision of vehicles approaching said intersection. Shade trees at or near any street intersection shall be trimmed so as to remove foliage obstructing the vision of operators of vehicles approaching said intersection within twenty-five feet of the corner of any street intersection. Trees or branches overhanging sidewalks or streets shall also be trimmed to a height of at least eight feet above the ground. The Superintendent of Public Works is hereby empowered to enter upon such premises where a violation of this section exists and to trim trees, cut hedges and remove any other obstructions to vision, and the expense thereof shall be charged to the owner of the premises.
- e. Any violation of the provisions of this ordinance shall render each offender liable to a fine of not less than \$10.00 nor more than \$25.00, or to be prosecuted as and declared to be a disorderly person, or both, for each offense, and in addition, the Village reserves the right to seize, remove, and dispose of any planting or fence in violation hereof.

Ordinance 1.12. Regulating Use of Shopping Carts, etc. on Streets, Sidewalks and Other Public Places

No person shall leave, or suffer, or permit to be left any shopping cart or wagon or similar vehicle or device either owned by him, or in his possession, custody, or control, in or upon any street, sidewalk, municipal parking field or other public place within the Village.

Ordinance 1.13. Notification of Defects [L.L. # 3 of 1977, Filed 11-30-77]

No civil action shall be maintained against the Village or Village Superintendent of Highways for damages or injuries to person or property sustained by reason of any highway, sidewalk, bridge or culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, sidewalk, bridge or culvert was actually given to the Village Clerk or village Superintendent of Highways, and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of. No such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, sidewalk, bridge, or culvert, unless written notice thereof, specifying the particular place, was actually given to the Village Clerk or Village Superintendent of Highways and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after receipt of such notice.

The Village Superintendent of Highways shall transmit in writing to the Village Clerk within five (5) days after the receipt thereof all written notices received by him pursuant to this law and the Village Law. The Village Clerk shall cause all written notices received by him or her pursuant to this law and the Village Law to be presented to the Village Board within five (5) days of the receipt thereof or at the next succeeding Village Board meeting whichever shall be sooner.

This law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with the provisions of Section 27 of the Municipal Home Rule Law.

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CHAPTER 2

REGULATION OF VEHICLES

- 2.1. Speed of Motor Vehicles [Amended by L.L. #2 of 1979, Filed 10-18-79; L.L. #3 of 1981, Filed 7-27-81; L.L. #6 of 1992, filed 10-26-92; L.L.#7 of 1999, Filed 10-27-99; L.L. #3 of 2005, Filed 9-2-2005]
 - 2.2. Parking of Motor Vehicles [Amended by L.L. # 4 of 1981, Filed 7-27-1981; L.L. # 3 of 1982, Filed 9-23-1982; L.L. # 2 of 1983, Filed 4-27-1983; L.L. # 3 of 1994, Filed 6-8-1994; L.L. #1 of 2002, Filed 5-6-2002; L.L. # 8 of 2006, Filed 10-25-06, L.L. #1 of 2009, Filed 4-27-093 of ; LL#2014, Approved 9-18-14, Filed 10-2-14; LL# 4 of 2015, Approved 4-16-15, Filed 5-1-15]
 - 2.3. Outside Storage of Motor Vehicles [Amended by L.L. # 3 of 1990, Filed 11-13-1990; L.L. # 5 of 1990, Filed 11-23-1990; L.L. # 6 of 1999, Filed 9-17-1999; L.L. # 3 of 2001, Filed 7-9-2001, L.L. # 5 of 2003, Filed 8-19-2003; L.L. # 5 of 2008, Filed 6-26-2008]
 - 2.4. Removal of Abandoned Vehicles
 - 2.5. Towing of Sleds, Wagons, Carts, Bicycles or Similar Vehicles Prohibited
 - 2.6. Coasting
 - 2.7. Truck Routes [Adopted October 15,1970, Filed 11-4-70]
 - 2.8. U-Turns on 9W [L.L. # 4 of 1990, Filed 11-13-90]
 - 2.9. Left Turns Prohibited [Added by L.L. # 5 of 1992, Filed 10-26-92, Amended by L. L. # 4 of 2008, Filed 6-26-2008]
 - 2.10. Stop and Yield Intersections [Added by L.L. # 1 of 1993, Filed 9-17-93; Amended by: L.L. # 1 of 1997, Filed 9-22-97; L.L. # 5 of 1999, Filed 9-17-99; L.L. #1 of 2000, Filed 7-3-00; L.L. # 4 of 2001, Filed 7-9-01]
 - 2.11. Prohibited Left-Hand Turn [Added by L.L. #1 of 1996, Filed 4-26-96;
Revoked 10/21/99 Road blocked off]
 - 2.12. Obedience to Traffic Laws and Control Devices [Added by L.L. # 5 of 2001, Filed 7-16-01]
 - 2.13. Traffic to be One Way on School Street [Added by L.L. #3 of 2005, Filed 9-2-05]
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Ordinance 2.1. Speed of Motor Vehicles

[Amended by L.L. # 2 of 1979, Filed 10-18-79; L.L. # 3 of 1981, Filed 7-27-81;
L.L. #6 of 1992, Filed 10-26-92; L.L. #7 of 1999, Filed 10-27-99;
L.L. #3 of 2005, Filed 9-2-2005]

- a. No person shall operate or cause to be operated in or upon any street or place in the Village, excepting Highland Avenue (U.S. Route 9W), any motor vehicle at a greater rate of speed than thirty (30) miles per hour, or at a greater rate of speed on Highland Avenue in the Village, than the rate established by the State of New York Highway Department.
- b. No person shall operate or cause to be operated on or upon Old Mountain Road between Midland Avenue and North Broadway, any motor vehicle at a greater rate of speed than twenty (20) miles per hour.
- c. No person shall operate or cause to be operated on or upon North Broadway, between School Street and Birchwood Avenue any motor vehicle at a greater rate of speed than fifteen (15) miles per hour.
- d. No person shall operate or cause to be operated on School Street between Highmount Avenue and Broadway, any motor vehicle at a greater rate of speed than 15 mph.
- e. Any violation of this ordinance shall be punishable by a fine of not exceeding two hundred (\$200.00), or by imprisonment for not more than thirty days in the Rockland County jail, or by both such fine and imprisonment.

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Ordinance 2.2. Parking of Vehicles

[Amended: L.L. # 4 of 1981, Filed 7-27-81; L.L. # 3 of 1982, Filed 9-23-82; L.L.# 2 of 1983, Filed 4-27-83; L.L. # 3 of 1990, Filed 11-13-90; L.L. # 3 of 1994, Filed 6-8-94; L.L. # 1 of 2002; L.L. # 8 of 2006, Filed 10-25-06; L.L. # 4 of 2008, Filed 6-26-08; L.L. #1 of 2009, Filed 4-27-09, LL#3 of 2014, Approved 9-18-14, Filed 10-2-14, LL# 4 of 2015, Approved 4-16-15, Filed 5-1-15]

- a. No vehicle shall be parked or left standing on any Village street, excepting the south side of School Street, between the hours of 3AM to 6AM except utility or emergency vehicles in the fulfillment of their duties.
- b. No vehicle shall be parked, or left standing, within fifteen feet of any street intersection or fire hydrant of the Village.
- c. No vehicle shall be parked or left standing other than parallel with the edge of the street, headed in the direction of traffic and with front and rear wheels not more than six inches from the curb, except where otherwise indicated by appropriate signs and markings installed or designated by the Police Department.
- d. No vehicle shall be parked or left standing at any time on Van Houten Street, or on the north side of School Street, and no other vehicle shall be parked or left standing at any time on Lower Castle Heights Avenue east of North Broadway.
- e. No vehicle shall be parked or left standing in any of the following locations:
 - On Larchdale Avenue;
 - On North Midland Avenue to the north of Kuyper Drive;
 - On North Broadway to the north of Locust Drive
 - On Lewis Drive;
 - On the west side of North Broadway from the north property line of the Upper Nyack School to lower Birchwood Avenue;
 - On both the east and west sides of state highway Route 9W from the dividing line between the Village of Nyack and the Village of Upper Nyack to the intersection of Route 9W and Christian Herald Road;
 - On north Broadway 100' south and 50' north from the exit of the driveway of Summit School;
 - On the east side of Ellen Street from Castle Heights Avenue to Van Houten Street;
 - On the south side of Bexman Green;
 - On the north side of Bexman Green;
 - In any area that is designated as a "handicapped" parking space;
 - In front of any active business or residential driveway without the permission of the owner;
 - On the north end of Daisy Street, at the dead end;
 - On the north end of Cedar Avenue, at the dead end;

Ordinance 2.2. Parking of Vehicles (con't)

- f. No parking here to corner.
There will be no parking allowed on the west side of North Midland Avenue from the corner of Highmount Avenue for a distance of 58 feet.
- g. No vehicle shall be operated or parked on any public street in the Village without a current registration and inspection.
- h. Any vehicle violating this Local Ordinance may be towed away at the owner's expense in addition to any fine being levied.
- i. Except as otherwise set forth below, any person violating the provisions of this ordinance shall be liable for a fine not exceeding \$35.00 for each offense; near fire hydrant \$50.00.
 - In the event of a violation of the restriction against parking in a handicapped parking space without a handicapped permit, the fine shall not exceed \$80.00 for a first offense and \$105.00 for a subsequent offense, including the mandatory New York State surcharge.
 - In the event of a violation of the restriction against operating or parking any vehicle on any public street in the Village without a current registration and inspection, the fine shall not exceed \$50.00.

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Ordinance 2.3. Outside Storage of Motor Vehicles

[Amended by: L.L. # 3 of 1990, Filed 11-13-1990; L.L. # 5 of 1990, Filed 11-23-1990; L.L. # 6 of 1999, Filed 9-17-99; L.L. # 3 of 2001, Filed 7-9-01; L.L. #5 of 2003, Filed 8-19-03]

- a. No person shall store or park, or cause or permit to be stored or parked, out of doors at any time at any place within the Village, any inoperative or unlicensed motor vehicles except under extraordinary circumstances with prior written approval of the Board of Trustees.
- b. No person in any residential zone shall store or park outside or cause or permit to be stored or parked overnight, any commercial vehicle displaying advertising except for certain fire emergency vehicles.
- c. Any violation of this ordinance shall be punishable by a fine of not more than \$200.00 for each violation that continues after written notice served upon the owner lessee or occupant of the property upon which the motor vehicle is stored or parked, or, if known upon the owner of the motor vehicle, by the Clarkstown Police, the Village Code Enforcement Officer or the Village Clerk.

Ordinance 2.4. Removal of Abandoned Vehicles

- a. The Superintendent of Public Works or the Police Department is hereby authorized to remove and store any vehicle:
 1. Parked or left standing in violation of this ordinance.
 2. Parked or left standing on any public street or highway within the Village during any snow storm, flood, fire, or other public emergency.
- b. Any such vehicle so removed shall be impounded and stored in a place by the Superintendent of Public Works or the Police Department and shall be held until the owner or operator thereof shall remove the same. Before any such vehicle is released, the owner or operator thereof shall pay to the Village a charge of \$5.00 plus any expense incurred for towing, removing and storing such vehicle. Such charges shall be a lien on any such vehicle and shall be paid before it shall be released.

Ordinance 2.5. Towing of Sleds, Wagons, Carts, Bicycles or Similar Vehicles Prohibited

No person shall use or knowingly permit a motor vehicle to be used to tow any sled, or any children's wagon or cart, or any bicycle or other similar vehicle on any street, highway or other public place within the Village.

Ordinance 2.6. Coasting

No person shall use any sled or similar vehicle for coasting in or upon any street in the Village, except upon such street or streets as may be designated by the Board of Trustees for that purpose.

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Ordinance 2.7. Truck Routes [Adopted 10-15-70, Filed 11-4-70]

- a. Designation of truck routes. The following street or part of a street shall constitute the system of truck routes in the Village of Upper Nyack, New York: Route 9W.
- b. Exclusions. All trucks, commercial vehicles, tractors and tractor-trailer combinations having a total gross weight in excess of six thousand pounds shall be excluded from all streets in the Village of Upper Nyack, New York, except Route 9W. Such exclusion shall not be construed to prevent deliveries of merchandise or other property along the streets from which such vehicles are excluded.
- c. Excluded vehicles prohibited. No person, firm or corporation shall drive or operate or cause to be driven or operated any such excluded vehicle into, upon, along or through the streets in the Village of Upper Nyack, new York, in violation of the provisions of this ordinance.
- d. Violations and Penalties. Any person, firm or corporation which shall violate the aforesaid provisions of this ordinance, shall be subject to a fine not to exceed twenty-five (\$25.00) dollars nor more than fifty (\$50.00) dollars; and a violation of this ordinance shall constitute disorderly conduct, and a person violating the same shall be deemed a disorderly person.

Ordinance 2.8. U-Turns on 9W [L.L. # 4 of 1990, Filed 11-13-90]

- a. No motor vehicle will make a u-turn from either direction upon state highway Route 9W from the boundary separating the Village of Nyack with the Village of Upper Nyack northerly until the intersection of state highway 9W and Christian Herald Road in the Village of Upper Nyack.
- b. Any violation of this ordinance shall be punishable by a fine not to exceed \$100.00, or by imprisonment for not more than 30 days in the Rockland County Jail or by both such fine and imprisonment.

Ordinance 2.9. Left Turns Prohibited [Added by L.L. # 5 of 1992, Filed 10-26-92; Amended by L.L. # 5 of 2008, Filed 6-26-2008]

- a. Vehicles proceeding west on Elm Street and Oak Street are prohibited from turning left to proceed south on Highland Avenue/Route 9W.
- b. Vehicles proceeding south on Ellen Street are prohibited from turning left (east) onto Van Houten Street.

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Ordinance 2.10. Stop and Yield Intersections

[Added by L.L. # 1 of 1993, Filed 9-17-93; Amended by: L.L. # 1 of 1997, Filed 9-22-97; L.L. # 5 of 1999, Filed 9-17-99; L.L. #1 of 2000, Filed 7-3-00; L.L. # 4 of 2001, Filed 7-9-01]

A. Major Streets

- a. Route 9W/ N. Highland Avenue shall have stop signs erected on the following entrances thereto:

1. Highmount Avenue from the east
2. Elm Street from the east
3. Glenbrook Road from the east
4. Any new intersections

- b. North Midland Avenue shall have stop signs erected on the following entrances thereto and locations thereon:

1. Highmount Avenue from the east and west
2. Castle Heights Avenue from the east
3. Wanamaker Lane from the west
4. Birchwood Avenue from the east and west
5. Old Mountain Road from the east
6. Oak Hill Drive from the west
7. Foss Drive from the west
8. Lexow Avenue from the east
9. Locust Drive from the west
10. Kuyper Drive from the west
11. Radcliff Drive from the west
12. Larchdale Avenue from the east
13. On North Midland Avenue from the north at its intersection with Old Mountain Road
14. On North Midland Avenue from the south at its intersection with Larchdale Avenue
15. On North Midland Avenue from the north at its intersection with Castle Heights Avenue
16. On North Midland Avenue from the south at its intersection with Castle Heights Avenue
17. On Old Mountain Road heading south, at its intersection with North Midland Avenue

Ordinance 2.10. Stop and Yield Intersections (con't)

- c. North Broadway shall have stop signs erected on the following entrances thereto and locations thereon:
 - 1. Highmount Avenue from the west
 - 2. Van Houten Street from the west
 - 3. School Street from the west
 - 4. Castle Heights Avenue from the east and west
 - 5. Birchwood Avenue from the west
 - 6. Old Mountain Road from the west
 - 7. Wynddown Road from the west
 - 8. Lexow Avenue from the west
 - 9. Locust Drive from the west
 - 10. Larchdale Avenue from the west
 - 11. On North Broadway from the north and south at its intersection with Castle Heights Avenue

B. Stop Entrances

- a. On the private road Jewett Road at the intersection with North Midland Avenue

C. Stop Intersections

- a. The following intersections are hereby designated as Stop intersections and Stop signs shall be erected
 - 1. On Ellen Street from the north and south with its intersections, respectively, with Van Houten Street and Castle Heights Avenue
 - 2. On Castle Heights Avenue from the west at its intersection with Ellen Street
 - 3. On Glenbrook Road from the west at its intersection with Old Mountain Road
 - 4. On Oak Street from the west at its intersection with Tompkins Avenue
 - 5. On Hudson View Terrace from the north and south at its intersections, respectively, with Old Mountain Road and Foss Drive
 - 6. On Spook Hollow Road from the north and south at its intersections, respectively, with Old Mountain Road and Foss Drive
 - 7. On Hilltop Drive from the north at its intersection with Foss Drive
 - 8. On Camboan Road from the north at its intersection with Old Mountain Road
 - 9. On Roseland Road from the south at its intersection with Christian Herald Road.
 - 10. On Old Mountain Road going south at its intersection with Christian Herald Road.
 - 11. On North Midland Avenue going north at its intersection with upper Birchwood Avenue.
 - 12. On North Midland Avenue going south at its intersection with lower Birchwood Avenue.

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Ordinance 2.10. Stop and Yield Intersections (con't)

D. Yield Intersections

- a. The following intersections are designated as yield intersections and yield signs shall be erected:
 1. On Roseland road from the south at its intersection with Old Mountain Road.
 2. On Christian Herald Road from the west at its intersection with Old Mountain Road.

Ordinance 2.11. Prohibited Left Hand Turn [Added by L.L. 31 of 1996,
Filed 4-26-96; Revoked 10/21/99 Road blocked off]

- A. It shall be illegal for any person to make a left-hand turn coming southbound on Route 9W onto Old Mountain Road between the hours of 6:00 a.m. and 10:00 a.m., Monday through Friday, except for public transportation buses and school buses.
- B. All vehicles may make a left-hand turn from the southbound lane of Route 9W onto Old Mountain Road at any other times and days that are not prohibited under subparagraph (a) of this local law.
- C. Any violation of this ordinance shall be punishable by a fine not exceeding \$250.00 or by imprisonment for not more than 30 days in the Rockland County Jail or by both fine and imprisonment.

Ordinance 2.12. Obedience to Traffic Laws and Control Devices
[Added by L.L. # 5 of 2001, Filed 7-16-01]

- A. Required obedience to traffic laws. It is unlawful and, unless otherwise specified in New York State Vehicle and Traffic Law with respect to particular offenses, it is a violation for any person to do any act or to fail to perform any act required by the New York State Vehicle and Traffic Law and shall be punishable by a fine of not less than \$80.00.
- B. Obedience to required traffic control devices. Every person shall obey the instructions of any official traffic control device applicable to him placed in accordance with the provisions of the New York State Vehicle and Traffic Law, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency to comply with this section shall constitute a violation and be punishable by a fine of not less than \$150.00.

Ordinance 2.13. Traffic to be One Way on School Street [Added by L.L. #3 of 2005,
Filed 9-2-05]

- A. School Street between Highmount Avenue and North Broadway shall be a One Way Street entering from Highmount Avenue and exiting unto North Broadway.
- B. Any person who violates said ordinance, shall be subject to a fine not to exceed \$100.00 or by imprisonment for not more than 15 days in the Rockland County Jail or by both such fine and imprisonment.

CHAPTER 3

FIRE REGULATIONS

- 3.1. Fire Hydrants
 - 3.2. Supervision and Inspection for Compliance With Fire and Other Regulations
 - 3.3. Fires; Burning Refuse, etc. – Permit Required
-

Ordinance 3.1. Fire Hydrants

- a. No person shall do or cause or suffer any damage to be done to any of the fire hydrants of the Village, and no person shall place or assist in placing or cause to be placed any barrel, tub or like object, or any sign, signpost, placard or other like thing or article or substance whatsoever upon or near any of the fire hydrants in said Village so as to obstruct the proper use thereof.
- b. Fire hydrants shall, except as otherwise ordered by the Board of Trustees, be opened only by members of the Fire Department in the discharge of their duties.

Ordinance 3.2. Supervision and Inspection For Compliance With Fire and Other Regulations

In addition to duties otherwise provided, it shall be the duty of the Building Inspector to supervise and inspect compliance with, and to report any violations to the proper authorities, of all laws and ordinances covering the following: prevention of fires; storage and use of explosives and inflammables; installation and maintenance of automatic and other private fire alarm systems, and fire extinguishing equipment; maintenance and regulation of fire escapes; means and adequacy of exits in case of fire, from factories, schools, hotels, motels, lodging houses, hospitals, churches, halls, theatres, and all other places in which numbers of persons work, live or congregate, from time to time, for any purpose; and unsafe buildings or structures.

Ordinance 3.3. Fires; Burning Refuse, etc. – Permit Required

- a. No person shall build or cause to be built, or ignite or cause to be ignited, any fire upon the streets, highways or public places within the Village.
- b. No person shall build or cause to be built, or ignite or cause to be ignited, any fire upon any lot or place within the Village. (Permits may be obtained through the Rockland County Health Department.)
- c. No such fire shall be ignited, unless attended by sufficient number of adults so as properly to control it, and extinguish it before leaving it, and, unless the same shall be burned in such a manner and under such circumstances as not to cause unreasonable annoyance to others through spreading smoke and ashes or to endanger property through sparks or otherwise.

UPPER NYACK VILLAGE CODE

CHAPTER 4

HEALTH AND SANITATION

- 4.1. Receptacles for Rubbish, etc.; Collection and Charges [Amended 4-20-67]
 - 4.2. Sewers, Drains and Sewage Regulation; Permits Required [Adopted 5-18-67]
 - 4.3. Sewer Connections – Permit Required [**Revoked** 5-18-67]
 - 4.4. Unsanitary or Combustible Matter
 - 4.5. Control of Smoke
 - 4.6. Chapter 30A Industrial Waste [Local Law # 4 of 1984, Filed 10-19-84]
-

Ordinance 4.1. Receptacles for Rubbish, Etc.: Collection and Charges
[Sec. c. Amended 4-20-67]

- a. The provisions of this ordinance shall apply to every person owning property or residing or doing business within the Village. The collection and disposal of refuse shall be under the supervision of the Board of Trustees, who shall have authority to make or modify, from time to time, such regulations pertaining to the collection and disposal of refuse as may be deemed advisable in the public interest, provided such regulations are not contrary to the intent of this ordinance.
- b. Containers shall be of metal, plastic or rubber and shall be watertight, with tight-fitting covers or handles for easy handling. The combined weight of any container and its contents shall not exceed 70 pounds.
- c. Containers shall be placed just inside curblin of premises and shall not be so placed earlier than 6 o'clock p.m. of the day preceding the day of collection; after collection, the empty containers shall be removed not later than 9 o'clock p.m. on the day of collection, to, and stored at, a place not visible from the street or streets on which said premises are located.
- d. The Superintendent of Public Works is authorized to establish special charges for special collections, based on the personnel and equipment required therefore plus a reasonable overhead, but in no event less than \$10.00 per hour, payable to the Village. Such special collection service shall be rendered only at the convenience of the superintendent of Public Works, subject to the availability of personnel and equipment, and without liability for delay.

Ordinance 4.2. Sewers, Drains and Sewage Regulations; Permits Required

ARTICLE I

Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- Sec. 1 “Building Drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.
- Sec. 2 “Building Sewer” shall mean the extension from the building drain to the public sewer or other place of disposal.
- Sec. 3 “Combined Sewer” shall mean a sewer receiving both surface runoff and sewage.
- Sec. 4 “Garbage” shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from handling, storage, and sale of produce.
- Sec. 5 “Industrial Wastes” shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
- Sec. 6 “Natural Outlet” shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.
- Sec. 7 “Public Sewer” shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- Sec. 8 “Sanitary Sewer” shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
- Sec. 9 “Sewage” shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and ground waters are not intentionally admitted.
- Sec. 10 “Sewage Treatment Plant” shall mean any arrangement of devices and structures used for treating sewage.
- Sec. 11 “Sewage Works” shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
- Sec. 12 “Sewer” shall mean a pipe or conduit for carrying sewage.
- Sec. 13 “ Storm Drain” (sometimes termed “storm sewer”) shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
- Sec. 14 “Superintendent” shall mean the Superintendent of Public Works and/or the Building Inspector.
- Sec. 15 “ Watercourse” shall mean a channel in which a flow of water occurs, either continuously or intermittently.

UPPER NYACK VILLAGE CODE

Ordinance 4.2. Sewers, Drains and Sewage Regulations; Permits Required (con't)

ARTICLE II

Use of Public Sewers Required

- Sec 1 It shall be unlawful for any person to place, deposit, or to permit to be deposited in any unsanitary manner on public or private property within the Village, or in any area under the jurisdiction of said Village, any human or animal excrement, garbage, or other objectionable waste.
- Sec.2 It shall be unlawful to discharge to any natural outlet within the Village, or in any area under the jurisdiction of said Village, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.
- Sec. 3 Except as hereinafter provided, it shall be unlawful to construct or maintain after the effective date of this ordinance, any privy, privy vault, septic tank, cesspool, or other facility intended or used for disposal of sewage.
- Sec. 4 The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Village and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the Village, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after the date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line, and accessible by gravity.

ARTICLE III

Private Sewage Disposal

- Sec.1 Where a public sanitary or combined sewer is not available under the provisions of Article II, Section 4, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.
- Sec. 2 Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The applicant for such permit shall be made on a form by the Village, which the applicant shall supplement by any plans, specifications, and other information as deemed necessary by the Superintendent. A permit and inspection fee of ten (\$10.00) dollars shall be paid to the Village at the time the application is filed.

Ordinance 4.2. Sewers, Drains and Sewage Regulations; Permits Required (con't)

- Sec. 3 A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. he shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered.
- Sec. 4 The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of New York. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- Sec. 5 At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Article II, Section 4, a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.
- Sec. 6 The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Village.
- Sec. 7 No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.
- Sec. 8 When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

ARTICLE IV

Building Sewers and Connections

- Sec. 1 No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.
- Sec. 2 All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- Sec. 3 A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

Ordinance 4.2. Sewers, Drains and Sewage Regulations; Permits Required (con't)

- Sec. 4 Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this ordinance.
- Sec. 5 Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- Sec. 6 No person shall make, and no building shall have, connection of roof downspouts, exterior foundation drains, area drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- Sec. 7 All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Village.

ARTICLE V

Use of Public Sewers

- Sec. 1 No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
- Sec. 2 Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.
- Sec. 3 No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
 - a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
 - b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans, or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.

Ordinance 4.2. Sewers, Drains and Sewage Regulations; Permits Required (con't)

- c. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with proper operation of the sewage works such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

Sec. 4 No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are: waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

Sec. 5 If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics described in Section 4 of this Article, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- a. reject the wastes,
- b. require pretreatment to an acceptable condition for discharge to the public sewers,
- c. require control over the quantities and rates of discharge, and /or
- d. require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances, and laws.

Ordinance 4.2. Sewers, Drains and Sewage Regulations; Permits Required (con't)

- Sec. 6 Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

ARTICLE VI

Protection from Damage

- Sec. 1 No authorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

ARTICLE VII

Powers and Authority of Inspectors

- Sec. 1 The Superintendent and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance. The Superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
- Sec. 2 While performing the necessary work on private properties referred to in article VII, Section 1 above, the Superintendent or duly authorized employees of the Village shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Village employees and the Village shall indemnify the company against loss or damage to its property by Village employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company.

UPPER NYACK VILLAGE CODE

Ordinance 4.2. Sewers, Drains and Sewage Regulations; Permits Required (con't)

- Sec. 3 The Superintendent and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all private properties through which the Village holds a duly negotiated easement for the purposes of, but not limited to , inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

ARTICLE VIII

Penalties

- Sec. 1 Any person found to be violating any provision of this ordinance except Article VI shall be served by the Village with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- Sec. 2 Any person who shall continue any violation beyond the time limit provided for in Article VIII, Section 1, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding one hundred (\$100.00) dollars for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- Sec. 3 Any person violating any of the provisions of this ordinance shall become liable to the Village for any expense, loss or damage occasioned the Village by reason of such violation.

ARTICLE IX

Validity

- Sec. 1 All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- Sec. 2 The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

Ordinance 4.3. Sewer Connections – Permit Required [Revoked May 18, 1967]

- a. Except upon the written consent of the Board of Trustees, not more than no building shall be connected with the public sewer through one drain; no person other than a practical and experienced plumber shall make any connection to the Village public sewer system; and no connection shall be made to such system without first obtaining a written permit from the Building Inspector or the Superintendent of Public Works.
- b. Any person violating this ordinance shall be liable to a fine of not exceeding \$50.00 for each offense.

Ordinance 4.4. Unsanitary or Combustible Matter

- a. It shall be unlawful for any person, either as owner, lessee, agent, tenant or otherwise, to throw, cast or deposit or to cause or permit to run, drop or remain or to be thrown, cast or deposited at any place within the Village, any matter which might create a nuisance or act as a breeding place for flies or as food for rats, discarded items capable of holding water which might serve as breeding places for mosquitoes, or combustible matter or growth which might serve to increase the fire hazard of neighboring property, except at such place or places designated or provided by the Board of Trustees, provided that garbage, manure, offal and other putrescible matter may be temporarily kept in suitable cans, vessels, tanks or containers which are watertight and provided with tightly fitting covers. Nothing in this section shall be construed to prohibit the depositing of manure upon any private property for cultivation.
- b. If the provisions of Section (a) are not complied with, the superintendent of Public Works or the Village Fire Inspector shall serve written notice upon the owner, lessee or occupant or any person having the care or control of any such lot or land to comply with provisions of this ordinance. If the owner of such lot or land is a nonresident of the Village, the Clerk of the Village shall mail or cause to be mailed, such written notice to such owner, addressed to his last known address as the same may appear upon the last Village assessment roll. If the person upon whom the notice is served fails, neglects or refuses to comply with the provisions of the notice within 7 days after such service or mailing of such notice, the Superintendent of Public Works in case of anything affecting public health, and the Chief of the Village Fire Department in case of fire hazard, shall cause such substances or matter described in section (a) to be removed or such nuisances to be suppressed and the actual cost of such work, plus 5% for inspection and other additional costs in connection therewith, shall be certified to the Village Clerk and shall thereupon become and be a lien upon the property on which such substances, nuisances or fire hazards existed and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate and shall be collected and enforced by the same officer and in the same manner as taxes.

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Ordinance 4.5. Control Of Smoke

It shall be unlawful to cause, permit or allow to escape into the open air such quantities of smoke, soot, ash, dust, steam, cinders, dirt or other material, noxious gas, in such place or manner as to cause, or have a natural tendency to cause, injury, detriment or annoyance to any person or to the public, or to endanger the comfort and repose, health or safety of any person or the public, or in such manner as to cause or have a natural tendency to cause injury or damage to business or property.

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Ordinance 4.6. Industrial Waste [Local Law # 4 of 1984]

ARTICLE XI

Chapter 30A

INDUSTRIAL WASTE

30A-1 General Provision

- 1.1 Objectives
- 1.2 Administration
- 1.3 Definitions

30A-2 Discharge Regulations

- 2.1 General Discharge Prohibitions
- 2.2 Prohibitive Discharge Standards
 - 2a. Explosive Substances
 - 2b. Obstructive Substances
 - 2c. Corrosive Substances
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 - 2e. Color
 - 2f. Thermal Discharges
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 - 2h. Radioactive Waste
- 2.3 Specific Pollutant Limitations
- 2.4 Federal Categorical Pretreatment Standards
- 2.5 Modifications of Federal Categorical Pretreatment Standards (Removal Credits)
- 2.6 Modification of Categorical Standards Based on Fundamentally Different Factors
- 2.7 Dilution of Discharge
- 2.8 Accidental Discharges
- 2.9 Town's Right of Revision

30A-3 Wastewater Discharge Permits

- 3.1 Permit Application
- 3.2 Review of Application
- 3.3 Permit Modifications
- 3.4 Permit Duration
- 3.5 Permit Transfer
- 3.6 Confidential Information

Ordinance 4.6. Industrial Waste (con't)

- 30A-4 Permit Requirements
 - 4.1 Permit Conditions
 - 4.2 Pretreatment
 - 4.3 Compliance Schedule for Pretreatment
 - 4.4 Self-Monitoring Requirements
 - 4.5 Monitoring Facilities Requirements
 - 4.6 Accidental Discharge Requirements
 - 4.7 Inspection and Sampling by Town

- 30A-5 Enforcement
 - 5.1 Harmful Conditions
 - 5.2 Notification of Violation
 - 5.3 Revocation of Permit
 - 5.4 Publication of Violators of Local Law
 - 5.5 Show Cause Hearing
 - 5.6 Legal Action
 - 5.7 Civil Penalties
 - 5.8 Falsifying Information

- 30A-6 Charges and Fees

- 30A-7 Application

- 30A-8 Severability

- 30A-9 Conflict

- 30A-10 Effective Date

Ordinance 4.6. Industrial Waste (con't)

CHAPTER 30A

INDUSTRIAL WASTES

30A-1 General Provisions

- 1.1 Objectives This Local Law sets forth uniform requirements for contributors of Industrial Waste into the wastewater collection and treatment system for the Town of Orangetown and enables the Town to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 Code of Federal Regulations (CFR), Part 403). The objectives of this Local Law are to prevent the introduction of pollutants into Publicly Owned Treatment Works (POTW) at concentrations which will interfere with effective operations of the treatment plant, adversely affect the receiving stream or limit sludge disposal alternatives. This Local Law shall apply to all Users of the POTW in the Town of Orangetown, and to any other Town, Village, municipality or agency who are, by resolution, contract or agreement with the Town, Users of the POTW.
- 1.2 Administration The Executive Director of the Department of Public Works shall serve as the overall administrator of the Pretreatment Program.
- 1.3 Definitions Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Local Law shall have the meanings hereinafter designated:

Act or "the Act". The Federal Waste Water Pollution Control Act, also known as the CleanWaterAct, as amended, 33 U.S.C. 1252, et. seq.

Approved Authority. The New York State Department of Environmental Conservation (NYSDEC).

Authorized Representative of Industrial User. An authorized representative of an Industrial User may be:

- A. A principal executive officer of at least the level of vice-president, if the Industrial User is a corporation;
- B. A general partner or proprietor, if the Industrial User is a partnership or proprietorship, respectively;
- C. A duly authorized representative of the individual designated above

if such representative is responsible for the overall operation of the facilities from which the discharge originates.

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Ordinance 4.6. Industrial Waste (con't)

Domestic Waste. Wastewater discharging from the sanitary conveniences of dwellings, office buildings, commercial establishments, industrial plants or institutions.

Industrial User. Any person who contributes, causes or permits the contribution of Industrial Waste into the Town's POTW.

Industrial Waste. The liquid and water carried wastes from industrial processes.

Interference. The inhibition of the POTW treatment processes or operations which contributes to a violation of any requirements of the Town's SPDES Permit or any regulation in this Local Law.

May. Is permissive.

National Categorical Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by the United States Environmental Protection Agency in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial Users.

Priority Pollutant. Those substances or group of substances listed as being toxic under section 307(a) of the act or any appropriate amendments thereto.

Prohibitive Discharge Standard. Any regulation developed under the authority of 307 (b) of the Act and 40 CFR, Section 403.5.

New Source. Any source, the construction of which is commenced after the publication of proposed regulations prescribing section 307 (c) (33 U.S.C. 1317) Categorical Pretreatment Standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means of any source, the construction of which is commenced after the date of promulgation of the standard.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents of assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

Ordinance 4.6. Industrial Waste (con't)

pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollution. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

Pollutant. Any dredged spoil, solid waste, incinerator, residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into the water.

Pretreatment or Treatment. The reduction of the amount of pollution, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes except as prohibited by 40 CFR Section 403.6 (d).

Publicly Owned Treatment Works (POTW). A treatment works which is owned by the Town. This definition includes any sewers that convey wastewater to the POTW treatment plant including those which convey wastewater to the POTW from persons outside the Town who are, by contract, resolution or agreement with the Town, users of the Town's POTW.

POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.

Shall. Is Mandatory

Significant Industrial User. Any industrial user of the Town's wastewater disposal system who:

- a. All industries subject to National Categorical Pretreatment Standards, or
- b. Industries having substantial impact, either singly or in combination With other contributing industries on the operation of the treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system, or

Ordinance 4.6. Industrial Waste (con't)

- c. Manufacturing industries using, on an annual basis, more than 10,000 pounds or 1,000 gallons of raw material containing priority pollutants, substances of concern and discharging a measurable amount of these pollutants to the sewer system from the process using these pollutants, or
- d. Those industries discharging more than five (5) percent of the flow or load carried by the treatment plant receiving the waste.

Town. The Town of Orangetown or the Town Board of Orangetown.

Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307 (a) or other Acts.

User. Any person who contributes, causes or permits the contribution of wastewater into the Town's POTW.

Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

30A-2 Discharge Regulations

- 2.1 General Discharge Prohibitions. No User shall contribute or cause to be contributed, directly or indirectly, any wastewater containing pollutants in sufficient quantity of quality, either singly or by interaction with other pollutants, to induce or interfere with any wastewater treatment process, cause the POTW to violate its State Pollutant Discharge Elimination System SPDES Permit requirements, limit sludge disposal alternatives, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitations set forth in this Local Law. These general prohibitions apply to all such Users of a POTW whether or not the User is subject to National Categorical Pretreatment Standards or any other National, State, or Local Pretreatment Standards or Requirements.

Ordinance 4.6. Industrial Waste (con't)

2.2 Prohibited Discharge Standards. A User may not contribute the following substances to the POTW:

- 2a. Explosive Substances. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) or the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the Town has notified the User is a fire hazard or explosive hazard to the system.
- 2b. Obstructive Substances. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
- 2c. Corrosive Substances. Any wastewater having a pH outside the range of 6.0 – 9.0 pH units or wastewater having any other corrosive properties capable of causing damage to structures, equipment, and/or personnel of the POTW.
- 2d. Noxious Substances. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

Ordinance 4.6. Industrial Waste (con't)

- 2e. Color. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- 2f. Thermal Discharges. Any wastewater having a temperature at the influent to the treatment plant which exceeds 40 degrees C (104 degrees F).
- 2g. Slug Discharges. Any pollutants not listed in subsection 2.3, including oxygen demanding pollutants released at a flow rate and /or pollutant concentration which will cause interference to the POTW. In no case shall a slug load of these pollutants be discharged for a time period greater than 15 minutes at a flow rate, or concentration or quantity that is more than five (5) times the average twenty-four (24) hour concentration, quantity, or flow during normal operation.
- 2h. Radioactive Discharges. Any wastewater containing radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by applicable State or Federal regulations.

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Ordinance 4.6. Industrial Waste (con't)

- 2.3 Specific Pollutant Limitations. In no case shall a discharge to the POTW contain a concentration of pollutants that exceeds for any time period the following limits measured in parts per million:

| Pollutant | Discharge Limit (ppm) |
|----------------------------------|------------------------------|
| Chloroform | 4.0 |
| Cyanide (total) | 3.0 |
| 1,3-dichlorobenzene | 9.0 |
| 1,4-dichlorobenzene | 5.0 |
| Trans-1,2-dichloroethylene | 50 |
| Ethyl Benzene | 150 |
| Methylene Chloride | 6.0 |
| 1 -Pesticides | 0.001 |
| Phenols (total) | 25 |
| Polychlorinated Biphenyls (PCBs) | 0.001 |
| Tetrachloroethylene | 5.0 |
| Toluene | 12 |
| 1,1,1-Trichloroethane | 20 |
| Trichloroethylene | 20 |
| 2 -Arsenic | 2.5 |
| Beryllium | 0.3 |
| Cadmium | 0.8 |
| Chromium | 6.0 |
| Copper | 1.0 |
| Lead | 1.5 |
| Mercury | 0.05 |
| Nickel | 1.5 |
| Selenium | 1.5 |
| Silver | 1.5 |
| Zinc | 1.0 |
| Xylene | 20 |

- 1- Any pesticide on the EPA list of Priority Pollutants.
- 2- All Heavy metal concentrations are in terms of "Total Metal"

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- 2.4 Federal Categorical Pretreatment Standards. Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under this Local Law for sources in that subcategory, shall immediately supercede the limitations imposed under this Local Law. The Town shall notify all affected Users of the applicable reporting requirements under 40 CFR, Section 403.12. Upon notification of these requirements, the affected User may request that the Enforcement Division Director of the EPA provide written certification that the Industrial User falls under that specific Federal Categorical Standard. A new User of the POTW must request this certification prior to the commencement of its discharge. When a request for certification is submitted by the Town, the Town must notify the User of such submission. The procedures to be followed for requesting certification by both the User and the Town are given in 40 CFR Part 403.6.
- 2.5 Modifications of Federal Categorical Pretreatment Standards (Removal Credits). Where the Town's wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the Town may apply to the Approval Authority for modification of specific limits in the Federal Pretreatment Standards. "Consistent Removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent when measured according to the procedures set forth in 40 CFR, Section 403.7 (c) (2). The Town may then modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the Approval Authority is obtained.
- 2.6 Modification of Categorical Standards Based on Fundamentally Different Factors. As outlined in 40 CFR 403.13, no Waiver/Special Agreement can be applied to an industry which is regulated by Federal Categorical Pretreatment Standards without the approval of the Regional Director of the Environmental Protection Agency. (EPA).
- 2.7 Dilution of Discharge. No User shall ever increase the use of process water or, in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other specific pollutant limitation in this Local Law. If a User discharges wastewater from a specific industrial process regulated by a Federal Categorical Standard at a point where it is impossible, impractical or uneconomical to monitor, sample and/or treat prior to its mixing with other

Ordinance 4.6. Industrial Waste (con't)

discharges by that same User, he may request that alternative discharge limits be derived by the Town through the utilization of the "Combined Waste Stream Formula" (40 CFR 403.6 (e)). These limits would replace the Categorical Standards to be met by that User and would regulate the User's entire wastewater discharge to the POTW.

- 2.8 Accidental Discharges. Each User shall ensure that adequate protection is provided from accidental discharge of prohibited materials or other substances regulated by this Local Law. Detailed plans showing facilities and operating procedures to provide this protection for review and approval shall be submitted to the Town when requested. In the case of an accidental discharge, it is the responsibility of the User to immediately telephone or notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions taken.
- 2.9 Town's Right of Revision. The Town reserves the right to establish more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives of this Local Law.

30A-3 Wastewater Discharge Permits

- 3.1 Permit Application. All industrial Users proposing to connect to or to contribute to the POTW shall obtain a Wastewater Discharge Permit before connecting to or contributing to the POTW. Existing industrial Users shall complete and file with the Town, a Permit Application in the form prescribed by the Town, at least 30 days after the effective date of this Local Law. Proposed new Users shall apply at least 90 days prior to the Proposed initiation of discharge to the POTW. In support of the application, the User shall submit, in units and terms appropriate for evaluation, all information as requested on said application. This Information shall include but not be limited to a description of all industrial activities and processes performed on the premises; a determination of the type and quantity of all materials (including EPA Priority Pollutants) utilized products produced on-site; a description of the working and production schedule; the location and description of the existing (or proposed) sewer line connection; and an estimate of the constituents, characteristics and volume of the anticipated wastewater discharge from the facility.

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- 3.2 Review of Application. The Town will evaluate the data presented in the Permit Application to determine whether the proposed contributor will be a Significant Industrial User (SIU) of the POTW. The Town may request additional information be provided by the User in order that proper assessment of their wastewater discharge can be made. This information can be obtained through site visits, plant inspections or any other means as deemed necessary by the Town. The Town has the authority to request that the User provide analytical data on the quality of their discharge. Laboratory analysis can include but not be limited to all constituents and characteristics regulated by Section 30A-2 of this Local Law. Sampling and analysis shall be performed by a reliable analytical laboratory and in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended. After the significance of the User's wastewater discharge to the POTW is determined, the Town may issue a Wastewater Discharge Permit subject to the terms and conditions deemed necessary by the Town to assure continued compliance with the Discharge Regulations contained in this Local Law.
- 3.3 Permit Modifications. Within nine months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Discharge Permit for Users subject to such standards shall be revised to require compliance with such standard within the time frame as prescribed by Federal Regulations. Where a User, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater Discharge Permit as required by 30A-3.1, the User shall apply for said permit within 180 days after promulgation of the Applicable National Categorical Pretreatment Standard. In addition, the User with an existing Wastewater Discharge Permit shall submit to the Town within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard a request for modification of the existing permit to meet the applicable requirements of the Federal Standard. Where known, said request shall contain the nature and concentration of any pollutants in the discharge which are limited by any Town, State, or Federal Pretreatment Standards, a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the User to meet applicable Pretreatment Standards, should be provided by the User.

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- 3.4 Permit Duration. Permits shall be issued for a specified time period no to exceed three (3) years. The User shall apply for permit reissuance a minimum of 180 days prior to the expiration of the User's existing permit. The terms and conditions of the permit may be subject to modification by the Town during the term of the permit as limitations or requirements are modified or other just cause exists. The User shall be informed of any proposed changes in his permit and shall include a reasonable time schedule for compliance.
- 3.5 Permit Transfer. Wastewater Discharge Permits are issued to a specific User for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new User, different premises, or a new or changed operation without the approval of the Town.
- 3.6 Confidential Information. Information and data on the User obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the Town that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be available for inspection by the public but shall be made available upon written request to the governmental agencies for uses related to this Local Law the SPDES Permit and/or other Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

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30A-4 Permit Requirements

- 4.1 Permit Conditions. Wastewater Discharge Permits shall be expressly subject to all provisions of this local Law and all other applicable regulations established by the Town. Permits may contain the following:
- a. The unit charge or schedule of User charges for the wastewater to be discharged to a community sewer;
 - b. Limits on the maximum wastewater constituents and characteristics;
 - c. Limits for flow regulation and equalization;
 - d. Pretreatment requirements and Compliance Schedules;
 - e. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;
 - f. Requirements for installation and maintenance of inspection and sampling facilities;
 - g. Requirements for submission of technical reports or discharge reports;
 - h. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Town, and affording Town access thereto;
 - i. Requirements for notification of the Town of any new introduction of wastewater constituents or any substantial change in the volume or characteristic of the wastewater constituents being introduced into the wastewater treatment system;
 - j. Requirements for notification of slug or accidental discharges;
 - k. Other conditions as deemed appropriate by the Town to ensure compliance with this Local Law.
- 4.2 Pretreatment. Users shall provide necessary wastewater treatment acceptable to the Town which is required to comply with this Local Law and all applicable Federal Categorical Pretreatment Standards within the time limitations as specified by the Compliance Schedule for Pretreatment. Any facilities required to pretreat wastewater to a level acceptable to the Town shall be provided, operated and maintained at the User's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town for review, and shall be acceptable to the Town before construction of said facility. The review of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility to meet the provisions of this Local Law. An estimation of pretreatment residues shall be submitted to the Town. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Town prior to the User's initiation of said changes.

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- 4.3 Compliance Schedule for Pretreatment. If pretreatment or modifications of operation and maintenance procedures for existing pretreatment facilities will be required to meet the regulations in this Local Law, the User is required to submit the shortest schedule by which such pretreatment can be provided. The completion date in this schedule shall not be later than the compliance date established for any applicable Federal Pretreatment Regulation. All Users are required to have the completion date in their Compliance Schedule approved by the Town prior to the initiation of said modifications. The following conditions shall apply to this schedule:
- a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of pretreatment facilities required for the User to meet the applicable Local Law Regulations.
 - b. No increment referred to in paragraph (a) shall exceed nine months.
 - c. Not later than 14 days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the Town. This report shall include, at a minimum, whether or not the User complied with each increment of progress and if not, the date on which it is expected to comply, the reason for any delays, and the steps being taken by the User to return to the construction schedule previously established. In no event shall more than nine months elapse between such progress reports to the Town.
- 4.4 Self-Monitoring Requirements. All Significant Industrial Users shall submit to the Town during the months of June and December, unless required to be submitted more frequently by their Discharge Permit, a report indicating the nature and concentration of pollutants regulated by the Discharge Regulations in this Local Law which are or are suspected to be in their effluent. The frequency of monitoring shall be prescribed to each User in their Discharge Permit. All analyses shall be performed in accordance with procedures established pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the Town. Sample collection shall be performed in accordance with the technique approved by the Town. The report shall be signed by an authorized representative of the industrial User, and certified by a qualified professional.

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- 4.5 Monitoring Facilities Requirements. The Town shall require to be provided and operated at the User's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the User's premises but the Town may, when such location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the User. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Town's requirements and all applicable local construction standards and specifications.
- 4.6 Accidental Discharge Requirements. Within five (5) days following an accidental discharge; the User shall submit to the Town a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by this Local Law or other applicable law.
- 4.7 Inspection and Sampling by the Town. The Town shall inspect the facilities of any User to ascertain whether the requirements of this Local Law are being met. Persons or occupants of premises where wastewater is created or discharged shall allow the Town or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling and examination of records. The Town shall have the right to set up at any point within the User's process system such devices as are necessary to conduct sampling, monitoring and/or metering operations. Where a User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with their security guards that upon presentation of suitable identification, personnel from the Town will be permitted to enter, without delay, for the purpose of performing their specific responsibilities.

Ordinance 4.6. Industrial Waste (con't)

30A-5 Enforcement

- 5.1 Harmful Conditions. The Town may suspend the wastewater treatment service and/or a Wastewater Discharge Permit when such a suspension is necessary, in the opinion of the Town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, cause interferences to the POTW or causes the Town to violate any condition of its SPDES Permit. Any person notified of a suspension of the wastewater treatment service and/or the Wastewater Discharge Permit shall immediately stop or eliminate said discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the Town shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Town shall reinstate the Wastewater Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the non-compliance discharge. A detailed written statement submitted by the User describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Town within 14 days of the date of occurrence.
- 5.2 Notification of Violation. Whenever the Town finds that any User has violated or is violating any regulation in this Local Law, Wastewater Discharge Permit, or any prohibition, limitation or requirement contained herein, the Town may serve upon such person a written notice stating the nature of such violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the Town by the User.
- 5.3 Revocation of Permit. Any User who violates the following conditions of this or applicable State and Federal regulations, is subject to having his permit revoked in accordance with the procedures of this Local Law:
- a. Failure of a User to factually report the wastewater constituents and characteristics of his discharge;
 - b. Failure of the User to report significant changes in operations, or wastewater constituents and characteristics;
 - c. Refusal of reasonable access to the User's premises for the purpose of inspection or monitoring; or,
 - d. Violation of conditions of the permit.

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- 5.4 Publication of Violators of Local Law. The Town shall annually publish in the local newspaper a list of the User (s) which were not in compliance with any Ordinance Regulation or Federal Standard at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the User (s) during the same 12 months.
- 5.5 Show Cause Hearing. The Town may order any User who causes or allows an unauthorized discharge to enter the POTW to show cause before the Town Board why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Town Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause before the Town Board why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 days before the hearing. Service may be made on any agent or officer of a corporation. The Town Board may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee to:
- a. Issue in the name of the Town Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 - b. Take the evidence;
 - c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Town Board for action thereon.

At any hearing held pursuant to this Local Law, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof. After the Town Board has reviewed the evidence, it may issue an order to the User responsible for the discharge directing that following a specified time period, the sewer service will be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or proper operation of said equipment is initiated.

- 5.6 Legal Action. If any User discharges sewage, industrial wastes or other wastes into the Town's wastewater disposal system contrary to the provisions of this Local Law or any Federal Pretreatment Regulation, or any order of the Town, the Town Board may commence an action against that User for appropriate legal and/or equitable relief in the appropriate court.

Ordinance 4.6. Industrial Waste (con't)

- 5.7 Civil Penalties. Any User who is found to have violated an Order of the Town Board or who willfully or negligently fails to comply with any provisions of this Local Law and the orders, rules, regulations and permits issued hereunder, shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. Each day which a violation shall occur or continue shall be deemed a separate and distinct offense. All monies recovered hereunder by the Town shall be credited to the operation and maintenance fund of the sewer district involved. In addition to the penalties provided herein, the Town may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Local Law or the orders, rules, regulations, and permits issued hereunder.
- 5.8 Falsifying Information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Local Law, or wastewater Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance, shall, upon conviction, be punished by a fine of not more than \$1,000 or be imprisoned for not more than six (6) months, or by both.

30A-6 Charges and Fees

It is the purpose of this Industrial Waste Local Law to provide for the recovery of costs from Users of the Town's wastewater disposal system for the implementation of the program established herein. The applicable charges of fees shall be set forth in the Town's Schedule of Charges of Fees. Other charges established and imposed for Users of the Town POTW are stated in Chapter 31. The Town may adopt charges and fees which may include:

- a. Fees for reimbursement or costs for setting up and operating the Town's Industrial Waste Local Law and Pretreatment Program;
- b. Fees for monitoring, inspections and surveillance procedures;
- c. Fees for reviewing accidental discharge control procedures and construction of required facilities;
- d. Fees for permit applications;
- e. Fees for filing appeals;
- f. Fees for consistent removal (by the Town) of pollutants otherwise subject to Industrial Waste Local Law and Federal Pretreatment Standards;
- g. Other fees as the Town may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this Local Law and are separate from all other fees chargeable by the Town.

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Ordinance 4.6. Industrial Waste (con't)

30A-7 Application

This Local Law shall apply to all Users of the POTW in the Town of Orangetown and to any other Town, Village, municipality or agency who are, by contract or agreement with the Town, Users of the POTW.

30A-8 Severability

If any provision, paragraph, word, section or article of this Local Law is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

30A-9 Conflict

All other Ordinances and parts of other Ordinances or local laws inconsistent or conflicting with any part of this Local Law are hereby repealed to the extent of such inconsistency or conflict.

30A-10 Effective Date

This Local Law shall be in full force and effect from and after its passage, approval and publication, as provided by law.

CHAPTER 5

PUBLIC CONDUCT AND MORALS

- 5.1. Lewd and Indecent Acts
 - 5.2. Lewd and Indecent Signs, Posters and Billboards
 - 5.3. Posting Notices, Show Bills, etc.
 - 5.4. Protection of Property
 - 5.5. Dogs [Amended 7-21-83 by L. L. # 4 of 1983, Filed 8/15/83]
 - 5.6. Disorderly Conduct [Amended 5/20/04 by L. L. # 7 of 2004, Filed 6/7/04;LL # 4 of 2005, Filed 11/30/05]
 - 5.7. Interference with Protective Barriers
 - 5.8. Use of Village Property
 - 5.9. Open Containers in Public Places [Amended 11-17-77 by L.L. # 4 of 1977; 1-19-84 by L.L. # 1 of 1984, Filed 1-23-84]
 - 5.10. Loitering
 - 5.11. Curfew
 - 5.12. Parades, etc. – Permit Required
 - 5.13. Keeping, Harboring or Breeding Certain Animals – Permit Required
[Adopted 3-15-73, Filed 4-2-73]
 - 5.14. Nuisances – Lighting [Local Law # 1 of 1980, Adopted 12-18-80, Filed 1-5-81]
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Ordinance 5.1. Lewd and Indecent Acts

- a. No person shall commit, in or about any street, park or public place within the Village, nor in any other place so as to annoy any other person, any lewd, wanton, indecent, immodest, obscene or filthy act or gesture.
- b. No person shall use any profane, obscene or indecent language in any street, highway or public place within the Village.
- c. No person while on any public street, or other public place, within the Village or in any vehicle upon such street, or any public place, shall offer, pay or give any offensive attentions to any person, or shall designedly follow any person against his or her wishes, or shall make any insulting or derogatory remark to any person or concerning any person, nor in any manner annoy, impede or interfere with any person when passing upon any public street or avenue or sidewalk, or in a public place, or in any vehicle upon any street or highway within the Village.

Ordinance 5.2. Lewd and Indecent Signs, Posters, and Billboards

No person shall expose, display, post, exhibit, paint, print or mark upon any wall or object or public place any placard, poster, bill, painting, or sign, either as an advertisement or otherwise, which shall be of lewd, indecent, immodest, immoral or obscene character, and no person shall knowingly permit the same to be displayed upon property belonging to or controlled by him.

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Ordinance 5.3. Posting Notices, Show Bills, etc.

- a. No person shall, except upon written permit issued by the Village Clerk, post or cause to be posted show bills, hand bills, posters or any printed or written notice, or notices and advertisements of any kind whatsoever, or attach anything whatsoever of such character to any building, tree, pump, hydrant, telegraph, telephone or electric light pole within the Village.
- b. No person shall tear down any notice, handbill or poster lawfully posted within the Village.

Ordinance 5.4. Protection of Property

- a. No person shall break, mar, injure, deface, damage or remove any private property or property owned by or under the control of the Village nor shall any person pick flowers, or shrubs, or do damage to any such shrubs, trees or other ornamental thing upon any Village property or along any street or other public place within the Village.
- b. No person shall enter without authority, or trespass upon any property owned by or under the control of the Village, which is posted with a suitable no trespassing sign.

Ordinance 5.5. Dogs [Local Law # 4 of 1983, Filed 8/15/83]

5.5-1 Purpose The Village Board of the Village of Upper Nyack finds that the running at large and other uncontrolled behavior of licensed dogs have caused physical harm to persons, damage to property and have created nuisances within the Village. The Purpose of this Local Law is to protect the health, safety and well being of persons and property by imposing restrictions on the keeping and running at large of dogs within the village.

5.5.2 Statutory Authority This Local Law is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.

5.5.3 Definitions As used in this Local Law the following words shall have the following respective meanings:

DOG – male and female, licensed and unlicensed, members of the species
Canis familiaris.

DOG WARDEN- A dog control officer on or after 1/1/80.

UPPER NYACK VILLAGE CODE

Ordinance 5.5. Dogs (con't)

OWNER –any person who owns or has lawful possession of a dog or who is responsible for purchasing the license for such dog unless the dog is or has been lost or stolen and such loss or theft was promptly reported to the Dog Warden and a reasonable search has been made. If a dog is not licensed, the term “owner” shall designate and cover any persons, firm, association or corporation who or which at any time owns or has custody or control of , harbors or is otherwise responsible for any dog which is kept, brought or comes within the village. Any person owning or harboring a dog for a period of one (1) week shall be held and deemed to be the “owner” of such dog for the purpose of this Local Law. In the event the owner of any dog found to be in violation of this Local Law shall be under eighteen (18) years of age, the head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of said dog in violation of this Local Law.

RUN AT LARGE – To be in a public place or on private lands without the consent and approval of the owner of such lands.

VILLAGE – The Village of Upper Nyack.

5.5-4 Restrictions It shall be unlawful for any owner of any dog in the village to permit or allow such dog to:

- a. Run at large unless the dog is restrained by an adequate leash or unless it is accompanied by its owner or a responsible person and under the immediate and full control of such owner or person. The presence of any dog which is loose or at large shall be presumptive evidence that the person who owns, possesses or harbors such dog suffers and allows it to be loose or at large in violation of this Local Law and shall be presumptive evidence that such person has failed to exercise due care in preventing such dog from running loose or at large in violation of this Local law.
- b. Engage in habitual loud howling, barking, crying or whining or to conduct itself in such manner so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog.
- c. Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property without the consent or approval of the owner thereof.

Ordinance 5.5. Dogs (con't)

- d. Chase, jump upon or at, bite, claw, scratch or cause any other bodily injury or otherwise harass any person in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.
- e. Habitually chase, run alongside or bark at motor vehicles, motorcycles or bicycles while on a public street, highway or place or upon private property without the consent or approval of the owner of such property.
- f. Create a nuisance by defecating, urinating, or digging on public property or on private property without the consent or approval of the owner of such property.
- g. If a female dog, when in heat, be off the owner's premises unrestrained by a leash.

5.5-5 Impounding dogs and fees for seizure of dogs Any dog found running at large within the village may be seized by any dog warden or peace officer and may be confined and impounded; where the owner is ascertainable, the dog warden or peace officer shall notify the owner of such impounding. The fees for seizure and impounding of dogs in violation of Article 7 of the Agriculture and Markets Law and 5.5-4A of this Local Law shall be as set forth in Article 7 of the Agriculture and Markets Law.

5.5-6 Penalties for offenses Any person convicted of a violation of this Local Law shall be liable to a fine of not less than twenty-five (\$25.00) and not more than fifty (\$50.00) dollars for a first violation. And not less than (\$50.00) dollars and not more than seventy-five (75.00) dollars for a second and any subsequent violation. Any person convicted of a violation of this Local Law that involves a dog biting, clawing or scratching a person or causing anyone bodily injury shall be liable to a fine of not less than one hundred (\$100.00) dollars and not more than two hundred fifty (\$250.00) dollars.

5.5-7 Severability Each separate provision of this chapter shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all provisions hereof shall remain valid and enforceable.

This proposed local law shall take effect immediately upon its adoption and filing with the Secretary of State as provided by law.

UPPER NYACK VILLAGE CODE

Ordinance 5.6. Disorderly Conduct [Amended by L.L. # 7 of 2004]

No person shall:

- a. Disobey a lawful order of a police officer or any supervisor or custodian, or disobey or disregard the notices, prohibitions, instructions or directions contained on any sign erected or maintained by the Village.
- b. Use threatening, abusive, indecent or lewd language or gesture.
- c. Solicit alms, or advertise or distribute or display any flag, banner, sign or other matter for advertising purposes, without prior written authorization by the Board of Trustees.
- d. Interfere with, encumber, obstruct or render dangerous any part of any Village property or any entrance thereto.
- e. Engage in, instigate or encourage a contention or fight.
- f. Do, aid, abet or assist in doing any act injurious to any person, animal or property, or destroy, deface, damage any equipment or property, or in any manner deface or injure any building tree, shrub or plant.
- g. Operate any musical instrument or drum or cause any noise to be made within the Village for advertising purposes or for the purpose of attracting attention to any exhibition, performance, show or other spectacle or operate any radio, television, phonograph or other sound-producing device, in such loud manner as to annoy any person.
- h. Indulge in disorderly, noisy or riotous conduct in any street or in any public hall or other public place in the Village which shall tend to disturb the peace and quiet in the Village, or which shall tend to disrupt or disturb any meeting or lawful assemblage therein.
- i. Urinate in a public place. [L.L. # 7 of 2004]
- j. The fine for violation of any section of Ordinance 5.6. Disorderly Conduct, shall not exceed \$250.00 per occurrence.
- k. A person or organization is prohibited from operating an outdoor amplified public address system between the hours of 11pm and 8 am. [L.L. # 4 of 2005, filed 11/30/05]

Ordinance 5.7. Interference with Protective Barriers

No person shall remove, displace or in any manner interfere with any barrier, guard rail, sign, lantern or other object or form of warning which shall have been placed along or across any street or sidewalk or about any other place within the Village as a warning or safeguard, or to prevent interference with, or damage to work completed or being done in such places.

Ordinance 5.8. Use of Village Property

- a. No person shall enter or leave any public school property except at established entranceways or exits or at established times, nor shall any person under any circumstances loiter or remain therein after it has been closed.
- b. No person shall, in any such property, throw, cast, catch, kick or strike any baseball, golf ball, tennis ball, football, basketball, volleyball, croquette ball, beanbag or other object, or engage in any sport, game or competition except in places designated or maintained therefore.
- c. No person shall deposit or leave rubbish, refuse or other litter in any Village park, playground or public school property.

UPPER NYACK VILLAGE CODE

Ordinance 5.9. Open Containers in Public Places [L.L. #1 of 1984 Filed 1-23-84]

Section 1. Legislative intent. It is the intent of the Village of Upper Nyack, as an exercise of its police power, to promote the general health, safety and welfare of the residents and inhabitants of the village by enacting this local law, since it is the finding of the Board of Trustees that the possession of open containers of alcoholic beverages by persons on certain public lands, except under controlled conditions, is detrimental to the health, safety and welfare of the residents of the village in that such possession contributed to the development of unsanitary conditions and the creation of nuisances, including but not limited to littering and raucous or other disorderly behavior. It is further the intent of the Board of Trustees that this local law not be considered as a traffic regulation insofar as it relates to motor vehicles or the operation thereof.

Section 2. Definitions. For the purpose of this local law, the following shall have the meanings ascribed to them. All other words shall have the meanings normally ascribed to them in regular usage.

- a. "Alcoholic beverage" shall mean and include alcohol, spirits, liquor, wine, beer, cider and every liquid or solid, patented or not, containing alcohol, spirits, wine, beer and capable of being consumed by a human being.
- b. "Container" shall mean any bottle, can, glass or other receptacle suitable for, or used to hold, any liquid.
- c. "Public lands" shall mean any highway, street, sidewalk, park or playground.
- d. "Village" shall mean the Village of Upper Nyack.

Section 3. Prohibition. It shall be a violation of this local law for any person to:

- a. consume any alcoholic beverage on any public land within the village;
- b. have in his possession any open container containing any alcoholic beverage on any public lands within the village;
- c. have within his possession for the purposes of consumption on public lands by either himself or another person any open container containing an alcoholic beverage on any public lands within the village.

Section 4. Exceptions.

- a. The foregoing prohibition shall not apply in the event of a fair, picnic or other community gathering for which special permission has been granted by the village.
- b. The foregoing prohibitions shall not apply to the transportation of an unsealed but not open container across public lands of the village from one point to another, with no intent to consume the contents of such open container while upon public lands.

UPPER NYACK VILLAGE CODE

Ordinance 5.9. Open Containers in Public Places (con't)

Section 5. Application. This local law shall apply to all persons on public lands in the village except as provided in section 4 above and shall not apply to any person drinking an alcoholic beverage while operating a motor vehicle upon any public highway within the village in violation of section 1227 of the Vehicle and Traffic Law of the State of New York.

Section 6. Each violation of this local law shall be punishable by a fine not exceeding two hundred and fifty dollars for each offense. A violation of this local law shall constitute disorderly conduct, and any person violating the same shall be declared a disorderly person.

Section 7. Validity. Should any provisions of this law be judicially determined to be invalid, the remaining provisions shall continue in full force and effect.

Section 8. Effective Date. This local law shall take effect immediately upon its adoption and filing with the Secretary of State as provided by law.

Ordinance 5.10. Loitering

No person shall stand, lounge or remain upon any sidewalk, street, lobby or entrance to any public building or any building wherein the public shall be invited to congregate, in such a manner as to interfere with public passage upon the sidewalk, or in or about any building, or to cause annoyance, inconvenience or delay to persons lawfully using such buildings, hallways or streets.

Ordinance 5.11. Curfew

It shall be unlawful for any minor under sixteen years of age to be on the streets or in any public place within the Village between the hours of ten o'clock p.m. and six o'clock a.m., unless accompanied by some legal adult custodian. This ordinance shall not apply if such minor is on a proper errand or duty directed by the parent, guardian or other person having the care of such minor, or if the minor's lawful employment makes it necessary for such minor to be on the streets or other public place.

Ordinance 5.12. Parades, etc. – Permit required

No parade, march, carnival, circus, exhibition, or other assembly, shall be permitted on the streets or other public places within the Village without application to, and obtaining a written permit from, the Board of Trustees.

UPPER NYACK VILLAGE CODE

Ordinance 5.13. Keeping, harboring or breeding certain animals – permit required
[Adopted March 15, 1973, Filed 4/1/73]

- a. No person shall keep, harbor, or breed any poultry, pigeons, horses, livestock, wild animals or farm animals, commercially or otherwise, within the Village, except upon written application to, and obtaining a Special Permit from the Zoning Board of Appeals of the Village of Upper Nyack.
- b. In issuing such Special Permit, the Zoning Board of Appeals shall make such findings in regard to enclosures, fencing, screening, housing, stables or barns and buildings as are provided in Sections 15:7 and 15:8 of the Village of Upper Nyack Zoning Ordinance of 1961, as amended, as are necessary.

Ordinance 5.14. Nuisances – Lighting [Local Law # 1 of 1980]

- a. Operation as nuisance prohibited. No light or lights shall be so operated as to be a nuisance.
- b. Floodlights and spotlights. No spot or floodlight or lights shall shine directly on or at neighboring property or a public highway, thereby constituting a nuisance. It shall be within the discretion of the village to determine if lights create a nuisance with the meaning of this section.
- c. Flashing lights. Flashing lights, neon or incandescent, shall be prohibited in the absence of a permit obtained from the Village Board of Trustees upon such conditions and for such period as it may determine.
- d. Applicability to existing lights. Any prohibited light, lights, or lighting now in existence, in connection with a permitted use or granted variance or in connection with a valid nonconforming use, which violates or does not conform to the provisions hereof shall be altered, removed or replaced in conformity with the provisions hereof.
- e. Any violation of this local law shall be punishable by a fine of not more than \$25 for each day this local law is violated.

UPPER NYACK VILLAGE CODE

CHAPTER 6

PEDDLING, HAWKING AND SOLICITING

[Local Law #1 of 2010, filed 12-3-2010]

- 6.1. Title
 - 6.2. Legislative Intent
 - 6.3. Definitions
 - 6.4. Licenses Required
 - 6.5. Exemptions
 - 6.6. Application Information
 - 6.7. Fingerprinting
 - 6.8. Investigation of Applicants
 - 6.9. Denial or Issuance of License
 - 6.10. Fee
 - 6.11. Badges
 - 6.12. Records: Expiration Date
 - 6.13. Bonding Requirements
 - 6.14. Appeals
 - 6.15. Restrictions
 - 6.16. Suspension
 - 6.17. Revocation
 - 6.18. Enforcement
 - 6.19. Penalties for Offenses
 - 6.20. Severability
 - 6.21. Electrical Code [Adopted November 21, 1968]
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Ordinance 6.1. Title

This chapter shall be entitled the “Peddling, Hawking and Soliciting Law of Upper Nyack.”

Ordinance 6.2. Legislative Intent

This chapter is enacted for the purpose of regulating local activities if itinerant sellers, hawkers and solicitors of orders for sale in order that the peace, health, safety, welfare and good order of the Village and its inhabitancy shall be preserved.

UPPER NYACK VILLAGE CODE

Ordinance 6.3. Definitions

CHIEF OF POLICE - The Chief of Police of the Town of Clarkstown or a representative authorized by the Chief of Police to perform the acts of the Chief of Police in accordance with this chapter.

CONTRIBUTIONS - includes the words “alms,” “food,” “clothing,” “money,” “subscription,” “property,” or “donation,” under the guise of a loan of money or property.

HAWKING OR PEDDLING - Engaging in either:

- (A) The business of selling or attempting to sell or soliciting orders for the sale of any property or any services by going from house to house, place of business to place of business or any combination thereof; or
- (B) Soliciting contributions for any person, organization, entity or any other purpose by going from house to house, place of business to place of business or any combination thereof.

PERSON - Includes an individual, corporation, partnership, association or any other organized group of persons, or legal successor or legal successor or representative of any of the foregoing.

SOLICIT AND SOLICITATION - The request, directly or indirectly, of money, credit, property, financial assistance or other thing of value.

Ordinance 6.4. License Required

- (A) No person shall engage in the business of selling or attempting to sell or solicit orders for the sale of any property or any services on any public street or public place.
- (B) The hawking, peddling or soliciting order for the sale of any personal property or any services within the Village of Upper Nyack without having obtained a license therefore from the Village Clerk is prohibited. Additional authorization may be required in certain areas under private ownership.

Ordinance 6.5. Exemptions

- (A) This chapter shall not apply to:
- (1) The holder of a license granted pursuant to Section 32 or Section 35 of the General Business Law of the State of New York.
 - (2) A wholesaler, selling articles to dealers or merchants who have an established place of business within the Village.
 - (3) A truck, gardener or farmer, who, himself or through his employees, sells products of his own farm or garden.
 - (4) A child under the age of eighteen, regularly attending any public or private school, provided that:
 - (a) Such child is accompanied at all time by a parent, guardian or other responsible adult; and
 - (b) Such child does not receive compensation for such activity.
 - (5) Any person selling goods, wears, commodities or services regularly to those who are his established customers, patrons or purchasers.
 - (6) Activities which are regulated by New York State Insurance Law.
- (B) All persons and organizations who are exempted from the license requirements of Ordinance 6.4 of this chapter, or not required to obtain a license, under Section Ordinance 6.4 A of this chapter, shall maintain and keep records identifying all persons selling, attempting to sell, or soliciting funds within the Village, and such records shall contain at least the name and the address of such person, the area in which the person sold or solicited and the date or dates of such sales or solicitation. Said record shall be made available for inspection by the Chief of Police upon request.

Ordinance 6.6. Application Information

Every applicant for a license, shall submit to the Village Clerk a written verified application, blank forms which are available from the office of the Village Clerk. A license may be taken out only by an individual and not in the name of a firm, corporation, association, club or other group or business entity. Said application shall include, but not be limited to, the following information:

- (A) The name, date of birth, social security number and motor vehicle driver's license I.D. number of the applicant.
- (B) The applicant's permanent home residence and the address of his current place of sojourn, if different from the home address.
- (C) The name and address of all entities who's products he intends to sell for all for which he intends to solicit orders and a description of the type of goods, wears or merchandise for sale.
- (D) An itemized statement of all property or services to be sold or offered for sale and whether the applicant proposes to require either a cash, deposit or the signing of a finance agreement for the future delivery of such property or services.
- (E) All municipalities (name and state) in which the applicant has carried on the business of hawking, selling or soliciting orders during the six months immediately preceding the application.
- (F) A statement of the name, address and telephone number of any person and of any corporation or business entity supervising the applicant's local selling activities under contractual or employment arrangements.
- (G) Copies of all forms of order and of receipt used by the applicant in soliciting sales or orders.
- (H) Enumeration of the number and kinds of vehicles, if any, to be used by the applicant in carrying on the business for which the license is requested.
- (I) The names and addresses of all partners, if a partnership, and the names and addresses of the principal officers, if a corporation.
- (J) The name and address of a person upon whom a legal notice may be served.
- (K) Appended to the application, a letter of authorization from each of entity supplying any property or services to be sold and for which orders are to be solicited by the applicant.
- (L) A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement by the Village of Upper Nyack or by any department or officer thereof.
- (M) If the applicant is a non-profit corporation of the State of New York, a certified copy of its certificate of incorporation, together with any amendments or supplements thereto.
- (N) Two references who can confirm the applicant's identity and the nature of its business.
- (O) Three photographs, two inches by two inches in size, taken within thirty (30) days prior to the date of the filing of the application, full face on white background.

Ordinance 6.7. Fingerprinting

Each applicant shall permit his fingerprints to be taken by the Police Department and shall consent to the submission of said fingerprints to the division of criminal justice services for the processing of a criminal history record review for purposes of determining whether the applicant is satisfactory as defined herein. The applicant will submit with his application the then-current fee charges by the Division of Criminal Justice Services for such review. The fingerprints will be returned to the applicant at such time that the permit is granted or denied.

Ordinance 6.8. Investigation of Applicants

- (A) When the application is properly filled out and signed by the applicant, the original and duplicate thereof shall be filed with the Village Clerk and the Village Clerk shall refer the original to the Chief of Police, who shall make or cause to be made within five (5) days such investigation as is necessary, to determine whether the applicant is satisfactory.
- (B) If, as a result of such an investigation, the applicant is found to be unsatisfactory, the Chief of Police shall endorse on such application, his disapproval and his reasons therefore and shall return said application to the Village Clerk. Any determination by the Chief of Police that an apt application is unsatisfactory, shall only be based on one or more of the following findings with respect to the applicant.
 - (1) The applicant is a New York State level three sex offender or is the subject of an order of protection.
 - (2) Conviction of a crime involving moral turpitude, burglary or violence.
 - (3) The applicant is wanted by a law enforcement authority.
 - (4) Prior violation of a peddling or soliciting ordinance or law.
 - (5) Previous fraudulent acts or conduct.
 - (6) Record of breaches of solicited contracts.
 - (7) The application reveals a material misrepresentation of fact.
- (C) In the absence of any such finding, the Chief of Police shall find the application satisfactory, shall endorse his approval on the application and shall return the application to the Village Clerk.

Ordinance 6.9. Denial or Issuance of License

- (A) If an application is found unsatisfactory by the Chief of Police and he has endorsed his disapproval upon the application, the Village Clerk shall notify the applicant, by certified mail or personal service, that the application is disapproved and shall deny the applicant a license.
- (B) Upon receipt of the fee, application, report of the Police Chief's investigation and upon compliance with all the requirements of this chapter, the Village Clerk shall issue a license to the applicant specifying the particular business authorized. This license shall be nontransferable and will be valid for a period of ninety days, it shall be in the continuous possession of the licensee while engaging in the business licensed. The license shall be produced upon the demand of any Police Officer or Code Enforcement Officer and shall be exhibited to each prospective buyer or person solicited before making any offer or solicitation.
- (C) Where an organization has several agents peddling soliciting or distributing merchandise or printed material, each agent shall be registered separately and each shall pay the appropriate fee. Upon the expiration of a license, a new license will be issued upon compliance with all the provisions of this chapter and the payment of fees and the posting of the bond, except that investigation and waiting period therefore may be waived if approved by the Village Clerk and Chief of Police.

Ordinance 6.10. Fee

The application fee for such license shall be in an amount set by resolution of the Village Board and may be amended from time to time. It shall be paid by each person to be licensed hereunder and said fee payable to the Village Clerk shall be applied to the cost of processing the license applications and otherwise enforcing and effectuating the objectives of this chapter. Any applicant may apply to the Clerk for an adjustment of such fee where same appears discriminatory or unreasonably or unduly burdensome in the circumstances as shown by affidavit and appropriate supporting evidence. Any applicant aggrieved by a determination of the Clerk shall be advised of his right to appeal to the Village Board.

Ordinance 6.11. Badges

The Village Clerk shall supply badges to licensed hawkers, peddlers and solicitors. Such badges shall not be transferred or assigned. A picture of the applicant/licensee shall appear on the badge with the Village Seal imprinted on same. On expiration of the license, the licensee shall surrender his badge to the Village Clerk. It shall also be unlawful for any person to wear or have in his possession such badge unless the license is issued. Such licensee, while exercising his license, shall wear the badge as provided, on the front of his outermost garment. A deposit for the badge will be set in the schedule of fees by the Village Board. The deposit will be returned upon the return of the badge at the expiration of the license.

Ordinance 6.12. Records; Expiration Date

- (A) The Village Clerk shall keep a record of all applications, or of all licenses issued in accordance with this chapter and the date of revocation of all licenses revoked.
- (B) All licenses issued hereunder shall expire ninety (90) days following the date of their issuance.

Ordinance 6.13. Bonding Requirements

- (A) Prior to the issuance of any license, an applicant who proposes to require either a cash deposit or the signing of a financial agreement for the future delivery of goods shall file with the Village Clerk a bond running to the Village in the amount of \$1,500.00 with good and sufficient surety, in such form as shall be approved by the Village Attorney or his designated representative. Said bond shall remain in force for the term of the license and shall be conditioned to indemnify and pay the Village for any penalties or cost incurred in the enforcement of any other provisions of this chapter and to indemnify or reimburse any purchaser of personal property from the holder of the license in a sum equal to or at least the amount of any payment such purchaser may have been induced to make through the misrepresentation as to the kind, quality or value of the personal property, whether the misrepresentation was made by the licensee or said licensee's agents, servants or employees either at the time of making the sale or through any advertisements printed or circulated with reference to such personal property or any parts thereof.
- (B) The aforesaid bond shall be declared forfeited upon proof of:
 - (1) Falsification in the application for a license.
 - (2) Violation of any of the provisions of this chapter by the applicant or his agents, servants or employees.
- (C) The Village Board may, by resolution, exempt persons from the bond and fee requirements provided that the applicant satisfies the Board that the nature of his activity does not jeopardize the position of the Village or the protection given herein to the residents.

Ordinance 6.14. Appeals

Any person aggrieved by the action of the Chief of Police or the Village Clerk in the denial of a license, as provided in Section Ordinance 6.8 of this chapter, shall have the right to appeal to the Village Board. Such appeal shall be taken by the filing with the Board within fourteen (14) days after the notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for such appeal. The Village Board shall set a time and a place for a hearing on such appeal and notice of such hearing shall be given in the same manner as provided in Section Ordinance 6.16 of this chapter for notice of hearing on revocation. The decision of the Village Board on such appeal shall be final and conclusive.

Ordinance 6.15. Restrictions

A licensed person shall:

- (A) Not willfully misstate any fact about any article offered for sale.
- (B) Not willfully offer for sale any article of an unwholesome or defective nature.
- (C) Not call attention to his goods by blowing a horn, by ringing a bell, other than a house doorbell, by shouting or crying or by any loud or unusual noise, except that peddlers of ice cream and ice cream products for immediate consumption are exempted from the foregoing prohibition of the use of a bell.
- (D) Not frequent any street, sidewalk or public place so as to cause a private or public nuisance.
- (E) Keep any vehicle or receptacle used by him in his licensed business in a sound, clean and sanitary condition.
- (F) Keep any edible articles offered for sale well-protected from dirt, dust and insects.
- (G) Deliver to every person to whom a sale is made or from whom an order is taken a legibly written receipt, signed and dated by the licensee, setting out the total price, a description of the goods or services sold or ordered and a statement of any payment received by the licensee.
- (H) Not enter upon any residential premises clearly displaying a sign with letters at least one inch in height reading PEDDLERS AND SOLICITORS PROHIBITED, NO TRESPASSING, or similar language.
- (I) Not sell or solicit between the hours of 8:00 p.m. and 9:00 a.m. on weekdays and Saturdays, and not on Sundays, except that this subsection shall not be applicable to peddlers of ice cream and ice cream products for immediate consumption.
- (J) Leave all premises promptly upon request of any occupant of such premises.
- (K) Permit any vehicle from which products are sold to stand or remain for more than 10 minutes on the same street or place.

Ordinance 6.16. Suspension

Whenever the Village Clerk shall have probable cause to believe that any person to whom a license has been issued under this chapter has violated any other provisions of this chapter or that any promoter, agent or solicitor of a permit holder has misrepresented the purpose of the solicitation, the Village Clerk shall immediately suspend the license temporarily and give the license holder written notice, by certified mail, at a hearing to be held within two days of such temporary suspension to determine whether or not the license should be suspended. This notice must contain a statement of the facts upon which the Village Clerk has acted in suspending the license. If, after such hearing, the Village Clerk finds that the chapter has been violated and the purpose of the solicitation has been misrepresented, he or she shall, within two days after the hearing, suspend the license and give the applicant written notice of the suspension and the reasons therefore. Such suspension shall be appealable to the Village Board in the manner set forth in Ordinance 6.13 of this chapter, except that the Village Clerk shall bear the burden of proof. Any conviction of the license holder, his employees, agents or representatives of a violation of any provision of this chapter shall be prima facie grounds for suspension.

UPPER NYACK VILLAGE CODE

Ordinance 6.17. Revocation

- (A) Licenses issued under the provisions of this chapter may be revoked by the Village Board after notice and hearing for any of the following causes:
- (1) Fraud, misrepresentation or materially incorrect statement contained in the application for a license.
 - (2) Fraud, misrepresentation or a materially incorrect statement made in the course of carrying on the business of solicitor, peddler, distributor or transient merchant.
 - (3) Any violation of this chapter.
 - (4) Conviction of any crime, misdemeanor or violation.
 - (5) Conducting the business of peddler, solicitor, distributor or transient merchant in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health safety or general welfare of the public.
- (B) A notice of the hearing for the revocation of a license shall be given by the Village Clerk in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the holder of the license at the address given on the application at least five days prior to the date set for the hearing or shall be delivered by an agent of the Village in the same manner as a summons at least three days prior to the date set for the hearing.

Ordinance 6.18. Enforcement

This chapter is enforced by the Clarkstown Police Department and the Village of Upper Nyack Code Enforcement Officials with the authority to issue appearance tickets.

Ordinance 6.19. Penalties for Offenses

Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation punishable by a fine of at least \$100 but not exceeding \$500 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct violation hereunder.

Ordinance 6.20. Severability

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

UPPER NYACK VILLAGE CODE

Ordinance 6.21. Electrical Code [Adopted November 21, 1968]

BE IT ENACTED by the Board of Trustees of the Village of Upper Nyack, New York, as follows:

Preamble and Title

Pursuant to the provisions of Sections 89 and 91 and other provisions of the Village Law of the State of New York, the Board of Trustees of the Village of Upper Nyack does hereby enact this Ordinance which shall constitute the Electrical Code of the Village of Upper Nyack and may be cited as such and will be referred to herein as “this Code”

a. Electrical Inspector

The Chief Inspector, and each of the duly appointed Inspectors of the New York Board of Fire Underwriters, hereinafter referred to as “Inspector” are hereby authorized and deputized as agents of the Village of Upper Nyack to make inspections and reinspections of all electrical installations heretofore and hereafter described, and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and reinspections be a charge against the Village of Upper Nyack.

b. Duties of the Electrical Inspector

It shall be the duty of the Inspector to report in writing to the Building Inspector of the Village of Upper Nyack whose duty shall be to enforce all provisions of this Code, all violations or deviations from or omissions of the electrical provisions of the State Building Code applicable to the Village of Upper Nyack and all local laws, Ordinances and the Building Code referred to in this Ordinance insofar as any of the same apply to electrical wiring. The Inspector shall make inspections and reinspections of electrical installations in and on properties in the Village of Upper Nyack upon the written request on an authorized official of the Village of Upper Nyack or as herein provided, The Inspector is authorized to make inspections and reinspections of electrical wiring, installations, devices, appliances and equipment, in or on properties within the incorporated areas of the Village of Upper Nyack where he deems it necessary for the protection of life and property. In the event of an emergency it is the duty of the Inspector to make electrical inspections upon the oral request of an official or officer of the Village of Upper Nyack.

It shall be the duty of the Inspector to furnish written reports to the proper officials of the Village of Upper Nyack and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection. The Inspector shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with this Ordinance. The Inspector shall direct that a copy of the certificate of compliance be sent to the Village of Upper Nyack to the attention of the Building Inspector. No certificate of occupancy shall be issued by the Building Inspector until a certificate of compliance has been filed with the Building Inspector.

Ordinance 6.21. Electrical Code (con't)

c. Violations of the Ordinance

It shall be a violation of this Ordinance for any person, firm or corporation to install or cause to be installed, or to alter electrical wiring for light, heat or power in or on properties in the Village of Upper Nyack until an application for inspection has been filed with the New York Board of Fire Underwriters. It shall be a violation of this Ordinance for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power, to any source of electrical energy supply, prior to the issuance of a temporary certificate, or a certificate of compliance by the New York Board of Fire Underwriters.

d. Validity

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

e. Penalties and Corrective Action

Any person, firm, entity or corporation found to be in violation of any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof be fined in an amount not exceeding \$200.00 for each violation and/or up to 30 days imprisonment for any individual person. Each week in which such violation shall continue shall continue shall be deemed a separate offense.

In the event that person, firm, entity or corporation shall continue a violation and the Board of Trustees shall make a finding that such violation is detrimental to the health, safety or general welfare of the inhabitants of the Village, then the Village Board may direct the Village Attorney to apply to the supreme court for relief directing that the violation be corrected or removed and that all costs and expenses incurred by the Village of Upper Nyack in connection with such proceeding, including the actual cost of correcting or removal of the condition causing the violation, shall be assessed against the offender and shall be added to the next year's tax roll and become a lien against said property. The Board of Trustees may direct, by resolution, that the Village may correct violations creating emergency conditions of danger by forthwith entering the property and correcting the violation and assessing the cost of same to the violator as set forth above.

a. Effective Date

This Ordinance will take effect ten days after posting and publication.

CHAPTER 7

BUILDINGS AND CONSTRUCTION

- 7.1. Plans for Development of Property to be Approved by Planning Commission
 - 7.2. Protection of Excavations
 - 7.3. Requirements of Outside Shut-Off for Gas Connection
 - 7.4. Private Swimming Pools; Protective Requirements. Permit Required
[Amended June 17, 1971, Filed 7-1-71]
 - 7.5. Numbering of Dwellings and Buildings [Adopted 4-1-71]
 - 7.6. Unsafe Buildings [Adopted 10-21-71; Filed 11-8-71]
 - 7.7. Land Clearing Operations [Adopted 11-18-71, Filed 11-29-71]
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Ordinance 7.1. Plans for Development of Property to be Approved by Planning Commission

No plan, plot or description showing the layout of any highway or street upon private property or of building lots in connection with or in relation to such highway or street within the Village shall be received for record in the office of the Clerk of Rockland County until a copy of said plan, plot or description has been filed with, and approved by, the Planning Board of the Village.

Ordinance 7.2. Protection of Excavations

In any case where a permit shall be given for the purpose of developing property or for the making of excavations therein, or for the erection or alteration of any building, it shall be the duty of the licensee thereunder to comply with the provisions of the New York State Building Construction Code so as properly to guard any excavations, openings, encumbrances or obstructions at all times and to keep upon the outside border of any such excavation, opening encumbrance or obstruction, a fence or rail, upon which fence or rail there shall be hung a sufficient number of red lanterns, flares, or other lighting devices approved by the Superintendent of Public Works so as to designate properly the outside limits of the said excavation, opening, encumbrance or obstruction. All such lanterns and lighting devices shall be lighted at least one-half hour before sundown on each and every day and shall remain lighted until at least one-half hour after sunrise the following morning.

Ordinance 7.3. Requirements of Outside Shut-Off for Gas Connection

Every building hereafter erected and also every existing building not now supplied from some outside source with illuminating and heating gas, to which a gas connection may hereafter be run from such outside source, shall have a conveniently accessible stopcock or other suitable device fixed to the supply pipe leading into the building at a place between the sidewalk line and the line of the curb of the street from which said supply pipe is run, so arranged as to allow the supply to be shut off, provided, however, that where any building is situated at a distance of more than one hundred feet from the street from which such supply pipe is run, said stopcock or other suitable device may be situated inside the curb of said street, but not less than 30 feet from such building. Such stopcock or other device shall be so marked as to indicate the contents and purpose of the supply pipe to which it is attached.

Ordinance 7.4. Private Swimming Pools; Protective Requirements. Permit Required
[Sec. b.1. Amended 6-17-71, Filed 7-1-71]

- a. Definition: "Pool" shall be construed to mean an outdoor water pool incidental to the residential use of the premises and not operated for gain.
- b. No person shall dig, erect, construct, use or maintain a pool within the Village unless said pool shall comply with the following requirements:
 1. No part of such pool shall encroach on any required front, side or back lot, and in no case shall be nearer than twenty feet to any property line, provided that a variance may be permitted upon application to the Zoning Board of Appeals as provided in the Village of Upper Nyack Zoning Ordinance of 1961, as amended.
 2. An adequate permanent fence or barrier shall be erected and maintained to prevent accidental entry by a small child. Such fence or barrier must be constructed and maintained so as to enclose completely the pool itself, or the yard in which the pool is situated, or the entire property. Such fence or barrier shall be adequately supported and shall be not less than four, nor more than six feet in height, as determined by the Building Inspector of the Village, as hereinafter provided. There shall not be more than two openings in such fence or barrier for ingress and egress. Said openings shall have a self-closing gate or door with an adequate lock which can be opened from outside the pool enclosure only by means of a key or combination. The gate, door and lock shall at all times be maintained in proper working order to insure that such gate or door shall be kept closed and locked at all times when the pool is not in use. The type and height of such fence or barrier shall be approved by the Building Inspector, upon application to him for a permit, who shall, in evaluating a request for approval, give due consideration to the adequacy and durability of the proposed fence or barrier to insure the safety and welfare of the general public, and particularly of small children.
 3. All existing pools shall be maintained and operated in accordance with such provisions of this ordinance as may be applicable thereto.
 4. Any lighting used in conjunction with such pool shall be directed away from adjoining properties.
 5. In the event the owner shall abandon such pool, he shall properly fill in the depression. The Building Inspector shall be notified of the abandonment, shall inspect the site, and approve or disapprove the adequacy of the abandonment.

Ordinance 7.5. Numbering of Dwellings and Buildings [Adopted 4-1-71]

- a. **Duty of Owner.** It shall be the duty of the owner of every dwelling or other building, except barns, garages and other buildings which are accessory to and part of the same property with a numbered dwelling or building, to place on every such property a proper street number, not less than three inches in height, either by painting or by affixing such numbers in metal, glass or other form, so that the same shall be clearly visible from the street. Numbers shall be so placed within thirty days from the time written notice of the assignment of numbers as hereinafter provided is mailed to said owners at their address shown on the Village tax roll.
- b. **Assignment of Numbers.** Numbers shall be assigned to dwellings and buildings in the following manner:

Starting at the Village of Nyack boundary line on Broadway, Midland Avenue and Highland Avenue (Rte. 9W), with the number 300 and continuing with even numbers on the west side of said roadways, and odd numbers on the east side.

On streets running east and west, numbers below 100 shall be east of Broadway, from 100 to 199 between Broadway and Midland Avenue, and from 200 to 299 between Midland Avenue and Highland Avenue (Rte. 9W), with even numbers on the north side of said streets, and odd numbers on the south side.

- c. **Duty of Superintendent of Public Works.** It shall be the duty of the Superintendent of Public Works to assign numbers, as hereinbefore provided, to every such building in the village and to report the numbers assigned to the next regular meeting of the Board of Trustees, which shall consider such report, and by resolution approve the same with such revision and amendments as it may deem necessary. A copy of the report as approved, shall be filed with the resolution in the minutes of the Board of Trustees; a copy of the report and resolution, properly certified, shall be attached to the plat of the village in the office of the village clerk; and the numbers assigned may be entered upon the appropriate blocks and lots indicated on said plats. It shall be the duty of the village clerk to notify the owners of such buildings, of the numbers so assigned by notice mailed to their address shown on the village tax roll.
- d. **Report of Clerk.** Whenever any such building is erected hereafter, a number shall be assigned by the Superintendent of Public Works at the time a certificate of occupancy is issued therefor. The Superintendent of Public Works shall notify the Village Clerk of such number promptly after the issuance of a Certificate of Occupancy and the Village Clerk shall there upon record the number upon the appropriate block and lot on the plat of the Village.
- e. **Effective Date.** This ordinance shall take effect as soon as is permitted by law.

UPPER NYACK VILLAGE CODE

Ordinance 7.6. Unsafe Buildings [Adopted 10-21-71; Filed 11-8-71]

Any buildings in the Village of Upper Nyack that may now be or shall hereafter become unsafe or dangerous shall be ordered removed or repaired by the Village Board as follows:

1. The Building Inspector of the Village of Upper Nyack or any other official duly appointed by the Board of Trustees shall make an inspection and report to the Board of Trustees.
2. The Board of Trustees, after hearing such report, shall cause the building Inspector to serve a notice on the owner or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in same, either personally or by registered mail, addressed to the last known address, if any, of the owner or some one of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in same, as shown by the records of the receiver of taxes and/or in the office of the County Clerk, 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 same to be made safe and secure or removed, and if such service be made by registered mail, for a copy of such notice to be posted on the premises.
3. The notice aforesaid shall set forth the time within which the person so served shall commence the securing or removal of buildings or structures and the time when such work shall be completed.
4. In the event of neglect or refusal of the person served with notice to comply with same, the Board of Trustees shall cause a survey of the premises to be made by an official of the Village 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 above: and in the event of refusal or neglect of the person so notified to appoint such surveyor, the two surveyors named shall make the survey and report. The notice to the person shall state that in the event the building or other structure shall be reported unsafe or dangerous under such survey, that an application will be made at a special term of the Supreme Court not less than 5 nor more than 10 days thereafter for an order determining the building or other structure to be a public nuisance and directing that it shall be repaired and secured or taken down and removed.
5. A signed copy of the report of survey shall be posted on the building and the surveyors shall be compensated.
6. All costs and expenses incurred by the Village in connection with the proceedings to remove or secure, including the cost of actually removing said building or structure shall be assessed against the land on which said buildings or structures are located.

Ordinance 7.7. Land Clearing Operations

[Adopted 10-21-71, Filed 11-29-71]

- a. No parcel of land shall be cleared, graded, filled, stripped of topsoil, land cover or otherwise disturbed from its natural state unless or until a plan is submitted to and approved by the Planning Board. Such plans shall show the area proposed to be disturbed with existing and proposed final contours: the location of all major trees, streams, and watercourses: proposed final development plans: such other information as may be necessary for the Board to properly consider the application. In addition to any other requirements, the Planning Board will require compliance with all the provisions of Section b. herein. The Planning Board may request the advise and assistance of all other departments and agencies of government that will or may become involved in the parcel of land by reason of the proposed clearing operation.
- b. Special considerations.
 1. The proposed operation shall not adversely affect soil fertility, drainage and lateral support of abutting land or other properties. Nor shall it contribute to soil erosion by water or wind.
 2. All machinery and equipment shall be electronically operated, except for bulldozers, shovels, gas chain saws and other equipment used for excavation, collection of material, loading or hauling.
 3. Hours of operation. There shall be no operation between 7:00 p.m. and 7:00 a.m., nor on Sundays or legal holidays.
 4. Fencing and Screening. Where any open excavation will have a depth of ten (10) feet or more and create a slope of more than thirty degrees (30°) there shall be a substantial fence, at least six (6) feet high with suitable gates where necessary, effectively blocking access to the area in which such excavation is located. Such fence shall be located fifty (50) feet or more from the edge of the excavation. All operations shall be screened from nearby residential uses.
 5. Slope. The slope of material in any excavation shall not exceed the normal angle of repose or forty-five (45°), whichever is less.
 6. Access roads. That portion of access roads within the area of permit and located within five hundred (500) feet of a lot line shall be provided with a temporary surface of screenings, stones or gravel and maintained at all times.
 7. Rehabilitation of the site. Before a special permit is granted a plan for rehabilitation showing both existing and proposed final contours shall be submitted and approved. Where topsoil is removed, sufficient arable soil shall be set aside for retention on the premises and shall be respread over the premises after the operation. The area shall be brought to final grade by a layer of earth of two (2) feet or original thickness, whichever is less, capable of supporting vegetation. Fill shall be of a suitable material approved by the Planning Board.

Ordinance 7.7. Land Clearing Operations (con't)

8. Performance bond. Before the issuance of any special permit, the owner shall execute a bond sufficient in the opinion of the Planning Board to secure the rehabilitation of the site in accordance with the plan specified in Subsection 7, above. Such bond shall also be approved by the Village Board as to form, sufficiency and manner of execution, and shall run for the same term as the term of the special permit. The amount of such bond may be reduced when, in the opinion of the Village Board, after a public hearing on due notice, a lower amount will be sufficient to accomplish its purposes. In the event the operator does not fulfill the conditions of the bond, the Village shall, after the notice to the operator and to his bonding or surety company, and upon their failure to comply with the terms of the permit, proceed to rehabilitate the premises in accordance with the plan prescribed in Subsection 7, above, either with its own forces or by contract, and shall charge the costs to the operator or the bonding or surety company.
9. Fees. Before the issuance of any special permit, the owner shall deposit a fee of one cent (\$0.01) per cubic yard for the estimated yardage to be removed, but in no case less than twenty-five dollars (\$25.) nor more than five hundred dollars (\$500.)

CHAPTER 8

WATERFRONT AND WATERWAYS; WATER COURSES, PONDS, ETC.

- 8.1. Definitions
 - 8.2. Disorderly Conduct on Waterway
 - 8.3. Enforcement
 - 8.4. Penalties. Persons Responsible
 - 8.5. Upper Nyack Stream Conservation and Universal Flow Control Act [Added by L.L. # 1 of 2007, Approved 5/17/2007, Filed 5/31/2007]
 - 8.6. Flood Damage Prevention [Added by L.L. # 2 of 2014, Approved 2/20/2014, Filed 2/24/2014]
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Ordinance 8.1. Definitions

The following terms, used in this ordinance, shall be construed to include the following meanings, in addition to any meanings reasonably required by the context of the ordinance:

- a. “Waterway” or “Waterways” shall mean the Hudson River and all water areas within the jurisdiction of the Village.
- b. “Boat” shall include every kind of vessel, boat, houseboat or other floating craft, and so far as reasonably applicable, any other vehicle when operating in or upon the water way.
- c. “Motorboat” shall include every powered boat propelled or designed to be propelled in whole or in part by machinery including detachable or outboard motor. Provisions relating to motorboats shall apply to craft, vehicles or other objects when under tow by powered vessels.
- d. “Mooring” shall mean any means or standing gear for regularly securing a boat, and particularly that consisting of a weight lying upon the bottom, a chain, rope or other connection, and a buoy or float, to which a boat is or may be made fast.
- e. “Dock” or “wharf” shall include any structure (other than a seawall or natural feature of the shore) projecting into or upon the waterway, whether fixed or floating, and irrespective of whether it be designed or equipped for handling of boats, or for other purposes, and shall include any boat or lighter sunk or moored to form part of any such dock.
- f. “Owner” of a boat means the registered owner. “Master” means the master, or in his absence, any person aboard the boat who is ostensibly in charge thereof.

UPPER NYACK VILLAGE CODE

Ordinance 8.2. Disorderly Conduct on Waterway

- (a) Any act or conduct by any person or persons, or the operation of any boat in a manner, on any waterway or upon any dock, wharf or mooring, which tends to disturb the public peace, safety, tranquility or good order, or which interferes with the usual and proper use of the waterway, dock, wharf or mooring, by others, or unreasonably or unnecessarily endangers the life, safety or health of the actor, or any other person, is hereby prohibited.
Failure to observe accepted “rules of the road” shall be presumptive evidence of violation of this paragraph.
- (b) The foregoing shall not apply in the event of emergencies such as accident, stranding, collision or storm, or other situation in which the act or conduct otherwise prohibited is deemed necessary to the safety of the boat or persons involved, provided that such exemption applies so long as such emergency continues, and no longer.
- (c) The operation of any motorboat at a water speed which causes or may cause harm or discomfort to other boats, property or persons, is hereby prohibited, and shall constitute disorderly conduct within the meaning of paragraph (a) hereof.
- (d) The operation of any motorboat the motor of which is not provided with an underwater exhaust or muffler so constructed as to adequately silence exhaust noise, or the operation of any motorboat when such device is not operative, shall constitute disorderly conduct within the meaning of paragraph (a) hereof.
- (e) Permanently living on board any boat anchored or moored within the jurisdiction of the Village is prohibited.
- (f) If any boat or mooring becomes a menace to navigation, or unseaworthy, or sinks, grounds, floats free, is afire, or becomes otherwise disabled, the owner or master shall remove the same promptly, or it shall be removed at his expense and peril.

Ordinance 8.3. Enforcement

The Chief of Police and any Police Officer, or any other duly authorized person, shall be empowered to enforce any provision of this ordinance, and for such purpose and to determine compliance therewith, to stop, board and inspect and survey any vessel moored, anchored, wharfed or proceeding within the waterway, and to enter upon and in any wharf, dock, premises or buildings within the jurisdiction of the Village, and to take such reasonable measures for enforcement as circumstances indicate.

Ordinance 8.4. Penalties. Persons Responsible

- (a) It shall be the duty of the owner and of the master of any vessel to which this ordinance applies to comply and enforce strict compliance with this ordinance.
- (b) It shall be the duty of the owner and of the tenant of any premises to which the ordinance applies, to comply therewith.

Ordinance 8.5. Upper Nyack Stream Conservation and Universal Flow Control Act
[Added by L.L. # 1 of 2007, Approved 5/17/2007, Filed 5/31/2007]

Section 1. Title.

Upper Nyack Stream Conservation and Universal Flow Control Act

Section 2. Legislative findings and intent.

- a. The watercourses, streams and tributaries of Upper Nyack are an essential environmental resource affecting the daily lives and welfare of our residents and the safety and property rights of all of the people of Upper Nyack.
- b. The Village Board of Trustees believes that in the past building construction, development and over-development, has been allowed to occur too near and adjacent to our streams.
- c. Encroachment upon and corruption of our stream banks and the channels and flow of our streams, flood plains and ponding areas has significantly affected and impaired those water courses.
- d. Through such building, construction, development and over-development, the natural flow of Upper Nyack streams has been impeded, obstructed in some cases diverted and in addition the flood plains, ponding areas and wetlands have been filled, impaired, obstructed and corrupted.
- e. The Board of Trustees confirms that the protection of our water courses, flood plains, tidal marshes, wetlands, underground water reserves and water recharge areas are an essential duty and responsibility which village government must assume in order to protect those natural resources for the future and the welfare of our population.
- f. The Village of Upper Nyack hereby adopts a policy for universal flow control to protect all tidal marshes, ponding areas, water recharge areas and underground water reserves, Upper Nyack streams, flood plains, and wetlands as essential components of surface water absorption process.
- g. The Village of Upper Nyack commits itself to assuming increased responsibility and authority to regulate, remediate and restore the natural water courses and flow of Upper Nyack streams and further commits to take all possible action to protect against redirection, degradation, encroachment or the impairment of the natural flow of village streams, surface water absorption and also to preserve the capacity and proper functioning of flood plains, tidal marshes, wetlands and/or land overlaying underground water reserves.
- h. The increased flooding from village streams in most instances is due to development of real property in the Village of Upper Nyack with the simultaneous creation of impervious surfaces (asphalt, concrete etc.) and a decreasing of the natural obstructions to surface water flow which had previously reduced surface water flow and assisted in the absorption of said surface water. The resultant lack of proper surface water absorption then allows water to travel greater distances at higher speeds. This development of surface areas with the construction of building, roads and landscaping has reduced or removed the dampening effect of the water absorption process, which previously had produced smaller differences between peak and low water flows.

Ordinance 8.5. Stream Conservation and Universal Flow Control Act (con't)

- i. The flow of water, from rain and surface water in village streams, now travels at substantially faster speeds over paved areas or within storm drainage systems, in shorter periods of time, increasing the time intervals that rain waters enter village streams from both nearby and remote areas away from the streams. The result of those human acts is that peak flows in streams are greater and occur sooner after storms than previously experienced.
- j. Certain areas of the village contain or formerly contained natural water obstructions that reduced peak flows such as ponds, ponding areas, low points and wetlands.
- k. The past attempts to remove these areas and develop these areas, by “drainage improvement” projects which removed the low points, ponding areas, wetlands and ponds, has caused larger problems down stream, as well as in the area, from rain water run off.
- l. The approach to surface water control should now also require mitigation of any action that might increase that rate of runoff or affect timing of flows.

Section 3. Definitions

- a. Village Stream- Those waters courses and or streams identified on the Village of Upper Nyack official map. Mapping of official village streams shall also include flood plains, ponding areas, tidal marshes and wetlands.
- b. One Hundred Year Flood Plain- That area that would be submerged during the flood discharge of an individual stream caused by a 100 year flood which makes up the one hundred frequency line of a village stream. The 100 year flood plain is the area that would be submerged when the flood discharge of the associated stream is at a level deemed to have a recurrence interval of 100 years. The recurrence interval is defined as the average time, in years, in which a given magnitude can be expected to be equaled or exceeded once. It may alternately be defined as an area of land that would be inundated by a flood having a 1 percent chance of occurring in any given year. Absent a specific study by a qualified engineer, the 100 year flood plain line shall be one hundred fifty feet in distance for the stream’s centerline or three feet in elevation, from the normal high water line, as evidenced by vegetation undisturbed by flowing waters, which ever is greater.
- c. Channel Lines- That area between a stream’s outside edges or the top of the banks of a stream.
- d. Wetlands- As defined by the standards set by the US Army Corp of Engineers.
- e. Drainage Pattern- The naturally created watercourse, with surface water, will follow within the 100-year flood plain.
- f. Excavate – To dig, plow, bulldoze, or otherwise relocate or move natural materials such as earth, trees, rocks, etc., from its original location to another location.
- g. Ponding Area- Those areas of standing water naturally accumulated, to a depth at its center of two inches or greater, with a surface measurement of greater than 600 square feet.

Ordinance 8.5. Stream Conservation and Universal Flow Control Act (con't)

Section 4. Implementation.

- a. The Village of Upper Nyack Planning Board shall include in its consideration of all development applications the provisions in this law to effectuate the policy for universal flow control of village streams. The Planning Board shall make its goal to regulate, remediate, and restore the natural watercourses and flow of Village of Upper Nyack streams. The Planning Board shall take all possible action to protect against redirection, degradation, encroachment or the impairment of the flow of village streams and to preserve the capacity and proper function of the 100-year flood plain and village streams. The Planning Board shall seek to preserve the areas that reduce peak flows to wit: ponds, ponding areas, low points, wetlands, wooded areas, overgrown fields and other areas that permit greater infiltration of rain and surface water by absorption into the ground. This law shall not apply to Projects which have been reviewed by the Planning Board, which have completed their SEQRA review process and which have been granted preliminary subdivision or site plan approval prior to the adoption of this law.
- b. It shall be a breach of this law for any person, firm:
 - 1. To take any action which will undermine stream bank stability within the 100-year flood plain of a designated village stream.
 - 2. To take any action of filling in or dumping material which would obstruct normal flow within the 100-year flood plain of a designated village stream or water recharge area.
 - 3. To take any action which will impair channel integrity within the 10-year flood plain on a designated village stream or water recharge areas.
 - 4. To take any action which will adversely affect the flow of village streams by building or development within the 100-year flood plain of a designated village stream or water recharge areas.
 - 5. To locate or construct structures or place obstructions within the 100-year flood plain of a designated village stream or water recharge areas.
 - 6. To take any action which will alter the existing drainage and/or water absorption rate patterns within the 100-year flood plain of a designated village stream or water recharge area which the Board of Trustees may from time to time identify.
 - 7. To excavate within the 100-year flood plain of a designated village stream or water recharge area.
- c. The Planning Board shall aggressively pursue this policy to prevent development, construction or encroachment through building or placement of structures and obstructions or possible contamination on lands within a water recharge area or in the 100-year flood plain, which would impede the natural flow or subject the village streams to damage in the event of major storms and/or adversely affect retention and preserve the areas of natural water absorption.

Ordinance 8.5. Stream Conservation and Universal Flow Control Act (con't)

Section 4. Implementation.

d. Easements:

1. The Village Board of Trustees or the village attorney or designated appropriate parties shall seek permanent or temporary easements, as the situations may dictate on a case by case basis, from property owners who own property within the 100-year flood plain of village streams.
2. Said easements shall require the property owner:
 - a. Not to build any structure or place any obstruction or alter the drainage pattern within the 100-year flood plain or water recharge area.
 - b. Not to excavate within 100-year flood plain or water recharge areas.
 - c. Not to alter channels of the streams within the 100-year flood plain.
 - d. To permit entry, upon prior notification, of village personnel or their agents and their equipment, upon the property in or adjacent to the 100-year flood plain or water recharge area for the purposes of inspection and maintenance.

Section 5. Waiver

- a. The Village Planning Board shall accept and vote upon written request for special waiver of portions or all of the provisions of this law from the property owner for activities within the village streams or 100-year flood plain.
- b. The said waiver request shall contain a description of the proposed activity or construction in the channel or 100-year flood plain or water recharge area by the applicant.
- c. The burden shall be upon the applicant that said request if granted would not defeat or adversely effect the intent of this statute.
- d. The Planning Board shall upon receipt of an application for a waiver post the application in the office of the village clerk and require publication in the official newspaper of the Village of Upper Nyack and posting within 300 yards of the area of the requested work area at least 15 days before the hearing on said application. The notice referred to above shall state that the Planning Board will accept written comment either in favor of or against the waiver application.
- e. Any waiver granted may contain conditions deemed appropriate to further the intent of this statute as determined by the Planning Board.
- f. Any aggrieved party may challenge the granting and or denial of a waiver by the Planning Board in the Supreme Court of the County of Rockland under Article 78 under civil procedures laws and regulations of the State of New York.

UPPER NYACK VILLAGE CODE

Ordinance 8.5. Stream Conservation and Universal Flow Control Act (con't)

Section 6. Enforcement.

- a. A violation of any of the provisions of this act, or any order or regulation under this act shall be subject to a civil penalty, not exceeding one thousand dollars for each violation, to be recovered in an action or proceeding brought by the village attorney in the name of the village in a court of competent jurisdiction. In addition to the foregoing, any waiver granted pursuant to this act shall be deemed revoked. Each day of a continuing violation shall be subject to a separate fine or civil penalty.
- b. An action or proceeding may be maintained by the village attorney in the name of the village in a court of competent jurisdiction to compel compliance with, or restrain by injunction, any violation of this act or any rules, regulation or waivers granted pursuant to any of the foregoing sections notwithstanding that another punishment for such violation is prescribed.
- c. Any action to recover a penalty under this section may be brought in any court of competent jurisdiction on order of the village attorney and in the name of the village. In any such action, all penalties incurred up to the time of commencing the same may be sued for and recovered therein and the commencement of an action to recover such penalty shall not be, or be held to be a waiver of the right to recover any further penalty for continued violation. All moneys recovered in any such action, with the costs recovered therein, shall be paid into the village treasury by the chairman to the credit of the general fund.

Section 7. Severability

If any clause, sentence, paragraph, subdivision or part of this local law or the application thereof to any person, firm corporation, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not effect perfect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm, corporation, or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 8. Effective Date.

This local law shall become effective immediately upon filing in the office of the secretary of state pursuant to section 27 of the municipal home rule law.

L.L. # 1 of 2007, Approved 5/17/2007, Filed 5/31/2007

Ordinance 8.6. Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36 [Added by L.L. # 2 of 2014, Approved 2 /20/2014, Filed 2/24/2014]

Section 1.0 Statutory Authorization and Purpose

1.1 Findings

The Board of Trustees of the Village of Upper Nyack, New York finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Upper Nyack and that such damages may include: destruction or loss of private and public housing, damage to facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 Statement of Purpose

It is the purpose of this local law to promote public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accumulation of flood waters;
4. control filling, grading, dredging and other development which may increase erosion or flood damages;
5. regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
6. qualify and maintain for participation in the National Flood Insurance Program.

1.3 Objectives

The objectives of this local law are:

1. to protect human life and health;
2. to minimize expenditure of public money for costly flood control projects;
3. to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. to minimize prolonged business interruptions;
5. to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
6. to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. to provide that developers are notified that property is in an area of special flood hazard; and,
8. to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 2.0 Definitions

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

APPEAL: a request for a review of the Local Administrator's interpretation of any provision of this local law or for a request for a variance.

AREA OF SHALLOW FLOODING: a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with 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 community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of the local law, 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.

BUILDING: see "STRUCTURE"

CELLAR: the same meaning as "BASEMENT"

CRAWL SPACE: an enclosed area beneath the lowest elevated floor, eighteen 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.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 2.0 Definitions

ELEVATED BUILDING: a non-basement building

1. built, in the case of a building in Zones A1-A-30, AE, A, A99, ASO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-V30, 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
2. 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. In the case of Zones A1-A20, 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 flood waters. 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: a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters
2. the unusual and rapid accumulation of runoff of surface waters from any source.

“Flood” or “flooding” also means 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 as an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM): an official map of the community published by the Federal Emergency Management Agency as part of a riverine community’s Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses 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 controls.

FLOOD HAZARD BOUNDARYMAP (FHBM): an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A, but no flood elevations are provided.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 2.0 Definitions

FLOOD INSURANCE RATE MAP (FIRM): an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: 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 non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY: the same meaning as REGULATORY FLOODWAY.

FUNCTIONALLY DEPENDANT 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, shipbuilding, and ship repair facilities. 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 historic 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 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 communities 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.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 2.0 Definitions

LOCAL ADMINISTRATOR: the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

LOWEST FLOOR: the 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 non-elevation design requirements of this local law.

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.

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: the same meaning as MANUFACTURED HOME.

NEW CONSTRUCTION: 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.

PRINCIPALLY ABOVE GROUND: that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 2.0 Definitions

RECREATIONAL VEHICLE: a vehicle which is:

1. built on a single chassis;
2. 400 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 Section 4.4-2 of this law.

START OF CONSTRUCTION: the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after 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, excavating, grading, or filling), or the installation of streets or walkways, or the 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 percent of the market value of the structure before the damage occurred.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 2.0 Definitions

SUBSTANTIAL IMPROVEMENT: any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. The term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

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 a “Historic Structure”, provided that the alteration will not preclude the structure’s continued designation as a “Historic Structure”.

VARIANCE: a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

VIOLATION: the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 3.0 General Provisions

3.1 Lands to which this local law applies

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Village of Upper Nyack, Rockland County.

3.2 Basis for establishing the areas of Special Flood Hazard

The areas of special flood hazard for the Village of Upper Nyack, Community Number 360695, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

1. Flood Insurance Rate Map Panel Number
36087C0118G, 36087C0119G, 36087C0181G
whose effective date is March 3, 2014, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.
2. A scientific and engineering report entitled "Flood Insurance Study, Rockland County, New York, All Jurisdictions" dated March 3, 2014.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at the Village Clerk's Office, Village of Upper Nyack, 328 North Broadway, Upper Nyack, NY 10960.

3.3 Interpretation and Conflict with Other Laws

This local law 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.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 Severability

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 3.0 General Provisions

3.5 Penalties for Non-Compliance

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day on noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Upper Nyack, New York from taking such lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 Warning and Disclaimer of Liability

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Village of Upper Nyack, New York, and any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 4.0 Administration

4.1 Designation of the Local Administrator

The Building Inspector of the Village of Upper Nyack is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 The Floodplain Development Permit

4.2.1 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 insuring 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 Section 3.2, 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 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.

4.2.2 Fees

All applications for a floodplain development permit shall be accompanied by an application fee of \$200.00. In addition, the applicant shall be responsible for reimbursing the Village of Upper Nyack, New York for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 4.0 Administration

4.3 Application for a Permit

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

1. 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.
2. The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential 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.
3. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2.3, Utilities/
4. A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, Non-Residential Structures.
5. 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 Section 3.2, 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 conveyance capacity of the altered or relocated stream segment will be maintained.
6. 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.
7. 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) that are greater than either 50 lots or 5 acres.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 4.0 Administration

4.4 Duties and Responsibilities of the Local Administrator

Duties of the Local Administrator shall include, but not be limited to the following:

4.4.1 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 subsection 4.3 Application for a Permit, and for compliance with the provisions and standards of this law.
2. Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonable 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 Section 5.0 Construction Standards and, in particular, subsection 5.1.1 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 Section 5.0 Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit 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.

4.4.2 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 paragraph 4.3.7, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
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 areas of special flood hazard, for the purposes of this law.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 4.0 Administration

4.4.3 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 Administrator, 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.

4.4.4 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 certificate 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. 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.

4.4.5 Inspections

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4.6 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 Section 3.5 of this local law.
2. The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant 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 Section 3.5 of this local law.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 4.0 Administration

4.4.7 Certificate of Compliance

1. In areas of special flood hazard, as determined by documents enumerated in Section 3.2, 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 local law.
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 of compliance shall be based upon the inspections conducted as prescribed in Section 4.4.5, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

4.4.8 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 sub-sections 4.4.4 (1) and 4.4.4 (2), and whether or not the structures contain a basement;
3. Floodproofing certificates required pursuant to sub-section 4.4.4 (1), and whether or not the structures contain a basement;
4. Variances issued pursuant to Section 6.0, Variance Procedures; and,
5. Notices required under sub-section 4.4.3, Alteration of Watercourses.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 5.0 Construction Standards

5.1 General Standards

The following standards apply to new development, including new substantially improved structures, in areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1.1 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.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 5.0 Construction Standards

5.1.2 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 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 of Upper Nyack, New York 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 of Upper Nyack, New York 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 of Upper Nyack, New York 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 Section 3.2, 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 of Upper Nyack, New York 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 of Upper Nyack, New York 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 of Upper Nyack, New York for all costs related to the final map revisions.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 5.0 Construction Standards

5.2 Standards for All Structures

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 Section 3.2.

5.2.1 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.

5.2.2 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. 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 useable 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 flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

- a. 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,
- b. the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of flood waters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 5.0 Construction Standards

5.2.3 Utilities

1. New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet 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 or designed to prevent water from entering and accumulating within the components 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 designated to minimize or eliminate infiltration of flood waters into the system;
3. New and replacement sanitary sewage systems shall be designated to minimize or eliminate infiltration of flood waters. 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.

5.3 Residential Structures

5.3.1 Elevation

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1.1, Subdivision Proposals, and 5.1.2 Encroachments, and Section 5.2, 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 construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
3. Within Zone AO, new construction and substantial improvements 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 Section 3.2 (at least two feet if no depth number is specified).
4. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 5.0 Construction Standards

5.4 Non-Residential Structures

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1.1 Subdivision Proposals, and 5.1.1 Encroachments, and Section 5.2 Standards For All Structures.

1. Within Zones A1-A-30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:
 - a. have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - b. be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
2. Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - a. 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
 - b. together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4 (1) (b).
3. 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 Section 5.4 (1) (b), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
4. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
5. 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.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 5.0 Construction Standards

5.5 Manufactured Homes and Recreational Vehicles

The following standards in addition to the standards in Section 5.1 General Standards, and Section 5.2 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.

1. Recreational vehicles placed on sites within Zones A1-A30, AE, and AH 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 paragraphs 5.5(2), (3) and (4).

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.

2. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH 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.

3. Within Zone A, 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.

4. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as two feet above the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

Ordinance 8.6. Flood Damage Prevention (con't)

Section 6.0 Variance Procedure

6.1 Appeals Board

1. The Zoning Board of Appeals as established by the Village of Upper Nyack, New York shall hear and decide appeals and requests for variances from the requirements of this local law.
2. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
3. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
4. in passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law 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 flood waters 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 Section 6.1 (4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
6. The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

Ordinance 8.6. Flood Damage Prevention (con't)

Section 6.0 Variance Procedure

6.2 Conditions for Variances

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a. to l.) in Section 6.1. (4) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - a. the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic Structure"; and
 - b. the variance is the minimum necessary to preserve the historic character and design of the structure.
3. 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:
 - a. the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - b. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
4. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
5. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
6. Variances shall only be issued upon receiving written justification of:
 - a. showing of good and sufficient cause;
 - b. determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
7. 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:
 - a. the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - b. such construction below the base level increases risks to life and property.Such notification shall be maintained with the record of all variance actions as required in Section 4.4.8 of this local law.

CHAPTER 9

TAXES AND RENTS

- 9.1. Partial Real Property Tax Exemption for Qualified Taxpayers Over Age 65
[Adopted 12-15-66; Amended in 2004 by L.L. #1]
- 9.2. Imposing Taxes on Utilities Pursuant to Section 6-640 of the Village Law
[L. L. # 1 of 1968, Filed 2-9-68]
- 9.3. Veterans Exemption Program [LL# 5 of 1984, Approved 9-25-84; LL# 2 of 2013,
Filed 10-8-2013]
- 9.4. Partial Real Property Tax Exemption for Enrolled Members of a Volunteer Fire
Company or Enrolled Members of the Nyack Ambulance Corp.
[L. L. # 2 of 2001, Filed 5-17-01]
- 9.5. Sewer Rent Law [L. L. # 3 of 2003]
- 9.6. Business Investment Exemption [L. L. # 5 of 2004, Approved 2-26-04, Filed 3-5-04]
- 9.7. Tax Levy Limit in Excess of Limit Established in GML Section 3-C. [LL# 1 of 2012,
Approved 1-19-12, Filed 2-7-12; LL#1 of 2012, approved 1-19-2012, Filed 2-7-2012;
LL#1 of 2013, Approved 1-17-2013, filed 2-1-13; LL#1 of 2014, Approved 1-16-14
LL#3 of 2015, Approved 1-15-15, filed 1-28-2015; LL# 5 of 2015, Rescinding LL#3
of 2015, Filed 8-4-15; LL#3 of 2016, Filed 2-9-16; LL# 4 of 2016, Rescinding LL#3
of 2016, Filed 6-6-16]

Ordinance 9.1. Partial Real Property Tax Exemption for Qualified Taxpayers Over Age 65 [Adopted 12-15-66; Amended in 2004, by L.L. # 1]

THIS LOCAL LAW ELIMINATES CHAPTER 9 MISCELLANEOUS SECTION 9.1 “PARTIAL REAL PROPERTY TAX EXEMPTION FOR QUALIFIED TAX PAYERS OVER AGE 65” OF THE GENERAL ORDINANCE AND IN ITS PLACE SUBSTITUTES THE FOLLOWING:

BE IT ENACTED by the Board of Trustees of the Village of Upper Nyack as follows:

GENERAL ORDINANCE CHAPTER 9, TAXES AND RENTS, SECTION 9.1. PARTIAL REAL PROPERTY TAX EXEMPTION FOR QUALIFIED TAX PAYERS OVER AGE 65.

A. Property Exempt.

All Real property in the Village of Upper Nyack owned by one or more persons, one of whom is 65 years of age or over, shall be exempt on a sliding scale set forth in Sub-Paragraph B(5) up to a maximum extent of 50% of the assessed valuation as shown on the Village Assessment Roll, provided all other requirements of this ordinance are complied with.

Ordinance 9.1. Over 65 Tax Exemption (con't)**B. Statutory Qualifications.**

In order to qualify for an exemption, the Following requirements must be met:

2. At least one of the owners of the real property must be sixty-five (65) years of age or over on the date the application is filed.
3. Title to the property shall have been vested in the owners of the property for at least sixty (60) consecutive months prior to the date of the application.
4. The property must be used exclusively for residential purposes and be occupied in whole or in part by the owner or owners and be their legal residence.
5. The combined income of all the owners of the property must be less than \$32,399.99 during the twelve (12) consecutive months immediately preceding the date of making the application for exemption. Depending on the amount of the combined income below \$32,399.99 the percentage of assessed valuation that will be exempt from taxation will vary from 5% to 50% as set forth in Sub-Paragraph (5) below. Where title to property is vested in either a husband or wife, the combined income of the husband and wife may not exceed \$32,399.99 "Income" includes all social security and retirement payments, interests, dividends, rental income, salaries or other earnings including income from self-employment. "Income" does not include gifts, moneys received from the settlement of a lawsuit or inheritances received during the twelve month period just prior to filing the application.
6. The percentages of exemption shall be as follows:

| Annual Income | Percentage Assessed Valuation Exemption From Taxation |
|---------------------------------------|--|
| \$23,999.99 and Less | 50% |
| \$24,000.00 but Less than \$24,999.99 | 45% |
| \$25,000.00 but Less than \$25,999.99 | 40% |
| \$26,000.00 but Less than \$26,999.99 | 35% |
| \$27,000.00 but Less than \$27,899.99 | 30% |
| \$27,900.00 but Less than \$28,799.99 | 25% |
| \$28,800.00 but Less than \$29,699.99 | 20% |
| \$29,700.00 but Less than \$30,599.99 | 15% |
| \$30,600.00 but Less than \$31,499.99 | 10% |
| \$31,500.00 but Less than \$32,399.99 | 5% |

C. Application For Exemption

An application for exemption pursuant to this ordinance, must be made by the owner or all of the owners of the property on forms furnished by the Village assessor's office and the application must be filed in the assessor's office at least ninety (90) days before the date for filing the final assessment roll. An application for such an exemption by the owner or owners must be filed annually.

Ordinance 9.1. Over 65 Tax Exemption (con't)

D. Amount of Exemption

Upon the determination by the assessor that the requirements of this ordinance have been met, the percentage of exemption shall be allowed in accordance with the sliding scale set forth in Sub-Paragraph B.5. of the assessed value of the property which qualifies. The exemption does not apply to special ad valorem or special assessments.

E. Burden of Proof

The burden of proof is upon the applicant to show eligibility pursuant to this ordinance.

F. Penalties

Any conviction of having made any willful false statement in the application for exemption under this ordinance, shall be punishable by a fine of not more than \$250.00 and shall disqualify the applicant or applicants from further exemptions for a period of five (5) years.

G. Validity: Repeal of Prior Ordinance

1. All ordinances and local laws are parts of ordinances and local laws in conflict herewith are hereby repealed.
2. The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

H. Effective Date

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

UPPER NYACK VILLAGE CODE

Ordinance 9.2. Imposing Taxes on Utilities Pursuant to Section 6-640 of the Village Law [Local Law #1 of 1968, Filed February 9, 1968]

Section 1. Tax on the furnishing of utility services.

Pursuant to the authority granted by Section 6-640 of the Village Law of the State of New York, a tax equal to one per centum of its gross income for each and every twelve month period hereafter commencing with March 1 in each year in which it has a gross income in excess of five hundred dollars is hereby imposed upon every utility doing business in the Village of Upper Nyack which is subject to the supervision of the State Department of Public Service, except motor carriers or brokers subject to such supervision under Article three-b of the Public Service Law, and a tax equal to one per centum of its gross operating income is hereby imposed for each and every such twelve month period upon every other utility doing business in the Village of Upper Nyack, which has a gross operating income for each twelve month period in excess of five hundred dollars, which taxes shall have application only within the territorial limits of the Village of Upper Nyack, and shall be in addition to any and all other taxes and fees imposed by any other provision of law for the same period. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of Upper Nyack, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

6. As used in this Local Law,

- a. the word “utility” includes every person subject to the supervision of either division of the state department of public service, except persons engaged in the business of operating or leasing sleeping and parlor railroad cars or of operating railroads other than street surface, rapid transit, subway and elevated railroad, and also includes every person (whether or not such person is subject to such supervision) who shall engage in the business of selling gas, electricity, steam, water, refrigeration, telephony or telegraphy, delivered through mains, pipes or wires, or of furnishing gas, electric, steam, water, refrigeration, telephone or telegraph service, by means of mains, pipes or wires;
- b. the word “person” means persons, corporations, companies, associations, joint-stock associations, co-partnerships, estates, assignee of rents, any person acting in a fiduciary capacity, or any other entity, and persons, their assignees, lessees, trustees or receivers, appointed by any court whatsoever, or by any other means, except the state, municipalities, political and civil subdivisions of the state or municipality, and public district;

Ordinance 9.2. Taxes on Utilities (con't)

- c. the words “gross income” mean and include receipts received in or by reason of any sale, conditional or otherwise (except sales hereinafter referred to with respect to which it is provided that profits from the sale shall be included in gross income) made or service rendered for ultimate consumption or whereby the purchaser in the Village of Upper Nyack, including cash, credits and property of any kind or nature (whether or not such sale is made or such service is rendered for profit), without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or services or other cost, interest or discount an, or any other expense whatsoever, also profits from the sale of securities; also profits from the sale of real property growing out of the ownership or use of or interest in such property; also profit from the sale of personal property (other than property of a kind which would be properly be included in the inventory of the taxpayer if on hand at the close of the period for which a return is made); also receipts from interest, dividends, and royalties, derived from sources within the Village of Upper Nyack, other than such as are received from a corporation majority of whose voting stock is owned by the taxpaying utility, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof, and also profits from any transaction (except sales for resale and rentals) within the Village of Upper Nyack, whatsoever; and
 - d. the words “gross operating income” mean and include receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water refrigeration, telephony, or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigerator, telephone or telegraph service in the Village of Upper Nyack, including cash, credits, and property of any kind or nature without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service or other costs, interest or discount paid or any other expenses whatsoever. Provided however, that the words “gross income” shall include in the case of a utility engaged in selling telephony or telephone service, only the receipts from local exchange service wholly consummated within the Village of Upper Nyack and in the case of a utility engaged in selling telegraphy or telegraph service only receipts from transactions wholly consummated within the Village of Upper Nyack.
3. Every utility subject to tax under this Local Law shall keep such records of its business and in such form as the Village Treasurer of the Village of Upper Nyack may require, and such records shall be preserved for a period of three years, except that the Village Treasurer of the Village of Upper Nyack may consent to their destruction within that period or may require that they be kept longer.

Ordinance 9.2. Taxes on Utilities (con't)

4. Every utility subject to tax hereunder shall file, on or before each May 1st hereafter, return for the twelve calendar months preceding each such return date and ending each February 28th or 29th including any period for which the tax imposed hereby or by any amendment hereof is effective, each of which returns shall state the gross income or gross operating income for the period covered by each such return. Returns shall be filed with the Village Treasurer on a form to be furnished by him for each purpose and shall contain such other data, information or matter as the Village Treasurer may require to be included therein. The Village Treasurer in order to insure payment of the tax imposed may require at any time a further or supplemental return, which shall contain any data that may be specified by the Village Treasurer. Every return shall have annexed thereto an affidavit of the head of the utility making the same, or of the owner or of a co-partner thereof, or of a principal officer of the corporation, if such business be conducted by a corporation, to the effect that the statement contained therein are true.
5. At the time of filing a return as required by this Local Law, each utility shall pay to the Village Treasurer of the Village of Upper Nyack the tax imposed hereby for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.
6. In case any return filed pursuant to this Local Law shall be insufficient or unsatisfactory to the Village Treasurer, and if a corrected or sufficient return is not filed within twenty days after the same is required by notice from the Village Treasurer, or if no return is made for any person, the Village Treasurer shall determine the amount of tax due from the information as he is able to obtain, and, if necessary, may estimate the tax on the basis of external indices or otherwise. The Village Treasurer shall give notice of such determination to the person liable to such tax. Such determination shall finally and irrevocably fix such tax unless the person against whom it is assessed shall, within thirty days after the giving of notice of such determination, apply to the Village Treasurer for a hearing, or unless the Village Treasurer, of his own motion shall reduce the same. After such hearing, the Village Treasurer shall give notice of his decision to the person liable for the tax. The decision of the Village Treasurer may be reviewed by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York, if application therefore is made within thirty days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed with interest and penalties thereon, if any, shall be first deposited with the Village Treasurer and an undertaking filed with him. In such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding (order) be dismissed or the tax confirmed, the applicant (for the order) will pay all costs and charges which may accrue in the prosecution of such proceeding, or at the option of the applicant, such undertaking, may be in a sum sufficient to cover the tax, interest, penalties, costs and charges aforesaid, in which

Ordinance 9.2. Taxes on Utilities (con't)

event the applicant shall not be required to pay such tax, interest and penalties as a condition precedent to the granting of such order. Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return, provided, however, that where no return has been filed as required by this Local Law the tax may be assessed at any time.

7. Any notice authorized or required under the provisions of the Local Law may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him in the last return filed by him hereunder, or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time, which is determined according to the provisions of this Law by the giving of notice, shall commence to run from the date of mailing of such notice.
8. Any person failing to file a return or corrected return, or to pay any tax on any portion thereof, within the time required by this Local Law shall be subject to a penalty of five per centum of the amount of tax due, plus one per centum of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed or such tax became due; but the Village Treasurer, for cause shown, may extend the time for filing any return, and if satisfied that the delay was excusable, may remit all or any portion of the penalty fixed by the foregoing provisions of this section.
9. If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the Village Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Village Treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Village Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Village Treasurer as hereinbefore provided unless the Village Treasurer, after a hearing as hereinbefore provided, or of his own motion, shall have reduced the tax or penalty or it shall have been established in a proceeding under Article seventy-eight of the Civil Practice Law and Rules of the State of New York that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this Local Law. An application for a refund made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of and the Village Treasurer may receive additional evidence with respect thereto. After making his determination, the Village Treasurer shall give notice thereof to the person interested, and he shall be entitled to an order to review such determination under said Article seventy-eight, subject to the provisions hereinbefore contained relating to the granting of such an order.

Ordinance 9.2. Taxes on Utilities (con't)

10. The tax imposed by this Local Law 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.
11. Whenever any person shall fail to pay any tax or penalty imposed by this Local Law, the Village Attorney shall upon the request of the Village Treasurer of the Village of Upper Nyack bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to Village Treasurer of the Village of Upper Nyack. 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 the tax and penalty imposed by Section one hundred eighty-six-a of the Tax Law is made a lien.
12. In the administration of this Local Law, the Village Treasurer of the Village of Upper Nyack shall have power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his powers and the performance of his duties, and to prescribe the form of blanks, reports and other records relating to the administration and enforcement of the tax, to take testimony and proofs, under oath, with reference to any matter within the line of his official duty under this Law, and to subpoena and require the attendance of witnesses and the production of books, papers and documents.
13. Except in accordance with the proper judicial orders or as otherwise provided by law, it shall be unlawful for the Village Treasurer of the Village of Upper Nyack or any agent, clerk, or employee of the Village of Upper Nyack to divulge or make known in any manner the amount of gross income or gross operating income, or an particulars set forth or disclosed in any return under this Local Law. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Village of Upper Nyack in an action or proceeding under the provisions of this Law, or on behalf of the State Tax Commission in an action or proceeding under the provisions of the Tax Law of the State of New York or on behalf of any party to any action or proceeding under the provisions of this Law, when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding, and no more. Nothing herein shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any return filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the publication of delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this Local Law, together with any relevant information which in the opinion of the Village Treasurer of the Village of Upper Nyack may assist in the collection of such delinquent taxes; or the inspection by the Village Attorney or other

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legal representatives of the Village of Upper Nyack of the return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action has been instituted in accordance with the provisions of this Law.

Any offense against the foregoing secrecy provisions shall be punishable by a fine not exceeding one thousand dollars or by imprisonment not exceeding six months, or both, and if the offender be an officer, agent, clerk or employee of the Village of Upper Nyack, he shall be dismissed from office, and shall be incapable of holding any office or employment in the Village of Upper Nyack for a period of five years thereafter.

Notwithstanding any provisions of this Local Law the Village Treasurer of the Village of Upper Nyack may exchange with the chief fiscal officer of any other Village in the State of New York information contained in returns filed under this Law, provided such other Village grants similar privileges to the Village of Upper Nyack and provided such information is to be used for tax purposes only, and the Village Treasurer of the Village of Upper Nyack shall upon request, furnish the State Tax Commission with any information contained in such returns.

14. All taxes and penalties received by the Village Treasurer of the Village of Upper Nyack for taxes heretofore or hereafter imposed under this Local Law shall be credited and deposited by him in the general fund of the Village.

Section 2.

This Local Law shall take effect March 1, Nineteen Hundred Sixty-Eight.

Ordinance 9.3. Veterans Exemption Program [LL # 5 of 1984, Approved 9-25-84; LL#2 of 2013, Filed 10-8-2013]

The Village of Upper Nyack has enacted the Alternative Veteran's Exemption as per the Real Property Tax Law of the State of New York, Section 458-a. Veteran's Alternative Exemption and does hereby set the maximum exemption allowable in Subdivision 2(a), (b) and (c) at \$54,000, \$36,000, and \$180,000.

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Ordinance 9.4. Tax Exemption for Fire Department and Ambulance Corp. Volunteers [Local Law # 2 of 2001, Filed 5-17-01]

A Local law adding Section 9.4 of the General Ordinance of the Village of Upper Nyack.

BE IT ENACTED by the Board of Trustees of the Village of Upper Nyack as follows:

Section 1. Authority

This Local Law is enacted pursuant to the authority section 10 (I)(ii)(e)(3) of the Municipal Home Rule Law authorizing Villages to adopt Local Laws which may amend or supercede any provisions of the Village Law in relation to the property, affairs or government of the Village or in relation to any other enumerated subject matters in Section 10.

Section 2. Purpose

The Village of Upper Nyack wants to encourage its residents to volunteer for service as a fireman in the Nyack Joint Fire District or for service in the Nyack Ambulance District. In order to reward them for their volunteer services the Village of Upper Nyack wants to reduce their village taxes if they qualify.

Section 3. Amendment to General Ordinance

(a) CHAPTER 9 Miscellaneous of the General Ordinance is amended to add Section 9.4 to the General Ordinance which would be as follows:

“9.4 (a) The Village of Upper Nyack, pursuant to Real Property Tax Law Section 466- a hereby grants a real property tax exemption to the extent of the lesser of 10% of the assessed value or \$3,000.00 multiplied by the latest state equalization rate for the assessing unit in which such real property is located for real property owned by an enrolled member of an incorporated volunteer fire company or fire department which is included in the Nyack Joint Fire District or a volunteer enrolled member of the Nyack Ambulance Corp. provided that such member reside in the Village of Upper Nyack, the real property for which exemption is sought is the members primary or principal residence, the property is used exclusively for residential purposes, and the member has been certified by the authority having jurisdiction over the fire company, fire district or Nyack Ambulance District as an enrolled member for at least five years.

(b) Any enrolled member of an incorporated volunteer fire company or fire company or fire district which is included in the Nyack Joint Fire District or any enrolled member of the Nyack Ambulance Corp. who accrues more than twenty years of active service and is so certified by the authority having jurisdiction over such fire company, department or the Nyack Ambulance Corp. shall be granted the 10% exemption as provided in paragraph (a) above for the remainder of his or her life as his or her primary or principal residence is located in the Village of Upper Nyack.

(c) This law shall take effect immediately upon filing with the Secretary of State”

UPPER NYACK VILLAGE CODE

Ordinance 9.5. Sewer Rent Law [Local Law # 3 of 2003]

A LOCAL LAW ADDING SECTION 9.5. TO THE GENERAL ORDINANCE OF THE VILLAGE OF UPPER NYACK.

BE IT ENACTED by the Board of Trustees of the Village of Upper Nyack as follows:

Section I Authority

This local law is enacted to the authority of Section 10 (I) (ii) (e) (3) of the Municipal Home Rule Law, authorizing Villages to adopt local laws which may amend or supercede any provisions of the Village Law in relation to the property, affairs or government of the Village or in relation to any other enumerated subject matters in section 10 of the Municipal Home Rule Law. Article 14-F entitled “ Sewer Rent Law” of the General Municipal Law of the State of New York authorizes a Municipality to establish a local law to provide for tax-exempt properties to pay sewer rent to the Municipality.

Section II Purpose

The Village of Upper Nyack sends its sewer waste to the Orangetown Sewer District for treatment and is charged an annual fee based on assessed valuation of real property located in the Village of Upper Nyack which annual fee is paid from the general budget. The Village of Upper Nyack owns, maintains and operates the sewer pipes, pump station, facilities and other equipment located in the Village of Upper Nyack which is paid for from the general budget. The tax exempt properties located within the Village of Upper Nyack are receiving a benefit by being able to use the sewer system but are not contributing to the cost of services provided to them through a sewer rent based upon their assessed valuation of their properties. The Board of Trustees of the Village of Upper Nyack desires to pass a local law effective June 1, 2003 requiring all tax exempt properties in the Village of Upper Nyack to pay their prorata share of the cost of operating and maintaining the sewer system based on the assessed valuation of their properties.

Section III Amendment to General Ordinance

GENERAL ORDINANCE CHAPTER 9 “MISCELLANEOUS” is amended to add Section 9.5. to the General Ordinance which would state as follows:

Ordinance 9.5 a. The Village of Upper Nyack, pursuant to Article 14-F-Sewer Rent Law of the General Municipal Law of the State of New York, hereby imposes a sewer rent upon all tax exempt properties located in the Village of Upper Nyack based upon the assessed valuation of all properties in Upper Nyack to pay the cost of operating and maintaining the sewer system. The village Treasurer shall calculate the amount due for the sewer rent by taking the cost of operating the sewer system for the previous year and dividing it proportionately based upon the assessed valuation of all properties located in the Village of Upper Nyack. The amount determined to be paid for sewer rent by each tax exempt property shall be billed to the tax exempt property on June 1st of each year and shall be due and payable by June 30th of each year. If the tax exempt property fails to pay the sewer rent

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Ordinance 9.5. Sewer Rent Law (con't)

by July 1st, then a 5% penalty will attach to the sewer rent bill for the month of July. If not paid by August 1st of each year, then an additional penalty of 1% per month or fraction of a month will be added to the sewer rent bill until it is paid in full. The unpaid sewer rent shall become a lien on the real property owned by the tax exempt organization and shall be treated in the same fashion as any other property that fails to pay its taxes to the Village of Upper Nyack.

This Local Law shall take effect immediately upon filing with the Secretary of State and shall be effective for the fiscal year beginning June 1, 2003.

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Ordinance 9.6. Business Investment Exemption

[Local Law # 5 of 2004, Approved 2-26-04, Filed 3-5-04]

Purpose

The Real Property Tax Law of the State of New York under Section 485-b entitled Business Investment Exemption, states that real property constructed, altered, installed or improved subsequent to July 1, 1976 for the purpose of commercial, business or industrial activity shall be exempt from taxation according to the following table:

| Year of Exemption | Percentage of Exemption |
|-------------------|-------------------------|
| 1 | 50 % |
| 2 | 45 % |
| 3 | 40 % |
| 4 | 35 % |
| 5 | 30 % |
| 6 | 25 % |
| 7 | 20 % |
| 8 | 15 % |
| 9 | 10 % |
| 10 | 5 % |

Real Property Tax Law 485-b-7 allows a Village by local law to reduce the per centum of exemption otherwise allow pursuant to this law. It is the Village of Upper Nyack's intention to reduce the percentage of exemption under this law to zero.

Pursuant to Real Property Tax Law Section 485-b-7, the Board of Trustees of the Village of Upper Nyack reduces the per centum of exemption allowed by this law for every year from year one to year ten to zero.

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

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Ordinance 9.7. Tax Levy Limit in Excess of Limit Established in GML Section 3-C.

[LL# 1 of 2012, Approved 1-19-12, Filed 2-7-12; LL # 1 of 2013, Approved 1-17-13, Filed 2-1-13; LL#1 of 2014, Approved 1-16-14; LL #3 of 2015, Approved 1-15-15, Filed 1-28-15; LL# 5 of 2015, Rescinding LL#3 of 2015, Filed 8-4-15; LL#3 of 2016, Filed 2-9-16; LL# 4 of 2016, Rescinding LL#3 of 2016, Filed 6-6-16]

Section 1 Legislative Intent

It is the intent of the Local Law to allow the Village of Upper Nyack to adopt the budget for the fiscal year commencing June 1, 2016, that requires a real property tax levy in excess of the “Tax Levy Limit” as defined by General Municipal Law, Section 3-C.

Section 2 Authority

This Local Law is adopted pursuant to the Subdivision 5 of the General Municipal Law Section 3-C, which expressly authorizes a Local Government’s governing body to override the property tax cap for the coming fiscal year by adoption of a local law approved by a vote of sixty (60%) percent of said governing body.

Section 3 Tax Levy Limit Override

The Board of Trustees of the Village of Upper Nyack, County of Rockland, is hereby authorized to adopt the budget for the fiscal year commencing June 1, 2015, that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law, Section 3-C.

Section 4 Severability

If a Court determines that any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm, or corporation, or circumstance is invalid or unconstitutional, the Court’s order or judgment shall not effect, impair, or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law, or in its application to the person, individual, firm, or corporation, or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5 Effective Date

The Local Law shall take effect immediately upon filing with the Secretary of State.

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CHAPTER 10

CODE OF ETHICS

[Adopted 8-20-70, Filed 10-5-70; Amended 10-15-98, by LL # 6 of 1998]

- 10.1. Purpose
 - 10.2. Definitions
 - 10.3. Standards of Conduct
 - 10.4. Suit or Claim Against the Village
 - 10.5. Distribution of Code of Ethics
 - 10.6. Penalties
 - 10.7. Effective Date
 - 10.8. Eligibility of Appointed Village Officers [LL # 6 of 1990, Filed 11-23-90]
 - 10.9. Public Officers Indemnification [LL # 4 of 2002, Filed 7-1-02]
-

WHEREAS, the Board of Trustees of the Village of Upper Nyack desires to make amendments to the Code of Ethics adopted by the Board of Trustees on September 17th, 1970; and

WHEREAS, the Board of Trustees of the Village of Upper Nyack has found over the years highly qualified volunteers to serve on the Planning Board, the Zoning Board of Appeals, the Architectural Review Board and other Boards and Agencies of the Village; and

WHEREAS, the residents of the Village of Upper Nyack include highly qualified professionals in the fields of Architecture, Construction, Engineering, and Planning who can contribute to the various Boards of the Village but may from time to time find themselves in a conflict of interest between their public duties and their private commitments: and

WHEREAS, the Board of Trustees of the Village of Upper Nyack acknowledges that from time to time officials and employees of the Village of Upper Nyack may have a conflict of interest and therefore proposes to make amendments to the Code of Ethics to allow for the disclosure of any conflict of interest and the recusal of the employee or officer of the Village of Upper Nyack; and

WHEREAS, a Public Hearing on proposed amendments to the Code of Ethics was duly held on October 15th, 1998.

NOW, THEREFORE, BE IT RESOLVED, the Board of Trustees of the Village of Upper Nyack hereby adopts and hereby amends Chapter 10 of the 1965 Code of General Ordinances of the Village of Upper Nyack by adding thereto the additional words as set forth hereinafter:

UPPER NYACK VILLAGE CODE

CODE OF ETHICS

Ordinance 10.1. Purpose

Pursuant to the provisions of Section eight hundred six of the General Municipal Law, the Board of Trustees of the Village of Upper Nyack, New York 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 maintained in government. It is the purpose of this Ordinance to promulgate these rules of ethical conduct for the officers and employees of the Village of Upper Nyack, and to serve as a guide for official conduct for such officers and employees. The rules as adopted, shall not conflict with, but shall be in addition to any prohibition of Article 18 of the General Municipal Law.

Ordinance 10.2. Definition

- A. "Village Officer or Employee" means the Mayor and each Trustee and any other officer or employee of the Village of Upper Nyack, whether paid or unpaid, including members of any Administrative Board, Commission or other Agency thereof. No person shall be deemed to be a Village Officer or Employee solely by reason of being a Volunteer Fireman or a Civil Defense Volunteer.
- B. "Interest" means a pecuniary or material benefit accruing to a Village officer or employee and/or to the Village Officers or Employees (1) spouse, minor children and dependents; (2) a firm, partnership or association of which such officer or employee is a member or employee; (3) a corporation of which such officer or employee is an officer, director or employee and (4) a corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

Ordinance 10.3. Standards of Conduct

Every Member or employee of the Village of Upper Nyack shall be subject to and abide by the following standards of conduct:

- (a) Gifts. He shall not directly or indirectly, solicit any gift; or accept or receive any gift having a value of seventy-five (\$75.00) dollars 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. The intent of this paragraph is to be in conformance with Section 805(a)(1) of the New York State General Municipal Law.
- (b) Confidential Information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.

Ordinance 10.3. Standards of Conduct (con't)

- (c) Representation Before One's Own Agency. He shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered on behalf of any person or entity other than the Village of Upper Nyack in relation to any matter before any Village of Upper Nyack Board or Agency of which he is an officer, member or employee of any Village Agency of which he has jurisdiction or to which he has the power to appoint any member, officer or employee. If any officer or employee of the Village of Upper Nyack has a conflict of interest because of the requirements of this paragraph, he must immediately disclose his conflict of interest and recuse himself from participating in all discussions, deliberations and voting on the subject matter wherein he has a conflict of interest. If the officer or employee recuses himself and does not participate in any discussions, deliberations and voting concerning the matter in which he has a conflict of interest, then the officer or employee will not have violated the Code of Ethics.
- (d) Representation Before Any Agency for a Contingency Fee. He shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any Village of Upper Nyack Board, Agency or Village Officer or Employee, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this paragraph shall not prohibit fees based upon the reasonable value of the services rendered.
- (e) Disclosure of Interest in Legislation. To the extent that he knows thereof, every Village Officer and Employee who participated in any matter before any Village of Upper Nyack Board, Agency or village Officer or Employee, 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 matter. If an officer or employee of the Village of Upper Nyack discovers that he has a conflict of interest as a result of the requirements of this paragraph, he must immediately disclose this conflict of interest and recuse himself from participating in all discussions, deliberations and voting where it concerns the conflict of interest. If the officer or employee recuses himself and does not participate in any discussions, deliberations and voting concerning the conflict of interest, then the officer or employee will not have violated the Code of Ethics.
- (f) Investments in Conflict with Official Duties. He shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with his official duties. If an officer or employee of the Village of Upper Nyack discovers that he has a conflict of interest as a result of the requirements of this paragraph, he must immediately disclose this conflict of interest and recuse himself from participating in all discussions, deliberations and voting where it concerns the conflict of interest. If the officer or employee recuses himself and does not participate in any discussions, deliberations and voting concerning the conflict of interest, then the officer or employee will not have violated the Code of Ethics.

Ordinance 10.3. Standards of Conduct (con't)

- (g) Private Employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties. If an officer or employee of the Village of Upper Nyack discovers that he has a conflict of interest as a result of the requirements of this paragraph, he must immediately disclose this conflict of interest and recuse himself from participating in all discussions, deliberations and voting where it concerns the conflict of interest. If the officer or employee recuses himself and does not participate in any discussions, deliberations and voting concerning the conflict of interest, then the officer or employee will not have violated the Code of Ethics.
- (h) Future Employment. He shall not, after the termination of service or employment with the Village of Upper Nyack, appear before any Board, Agency or Village Officer or Employee of the Village of Upper Nyack 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.

Ordinance 10.4. Suit or Claim Against the Village

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former Village Officer or Employee of any claim, account, demand or suit against the Village of Upper Nyack, or any Board, Agency or Officer or Employee 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.

Ordinance 10.5. Distribution of Code of Ethics

The mayor of the Village of Upper Nyack shall cause a copy of this Code of Ethics to be distributed to any Officer or Employee of the Village of Upper Nyack within 30 days after the effective date of this Ordinance. Each officer and employee elected or appointed thereafter shall be furnished with a copy before entering upon the duties of his office or employment.

Ordinance 10.6. Penalties

Any person who shall knowingly and intentionally violate any of the provisions of this Code may be suspended or removed from office or employment, as the case may be, in the manner provided by law.

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.

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Ordinance 10.7. Effective Date

This Local Law, as amended, shall take effect at the earliest time provided by law.

On Motion of Trustee David Smith and seconded by Trustee A. Ralph Bartolacci and on roll call the resolution was approved by a vote of the Board of Trustees as follows: Ayes: Mayor Felicia J. Deyrup; Deputy Mayor, A. Ralph Bartolacci; Trustee Michael Esmay; Trustee Edward E. Grant; and Trustee David Smith. Nays: None.

Ordinance 10.8. Eligibility of Appointed Village Officers [Local Law # 6 of 1990]

Notwithstanding the provisions of any general law to the contrary and in accordance with Section 3-300 of the Village Law, the Acting Village Justice, the Village Clerk, the Deputy Village Clerk, the Assessor, the Village Treasurer and the Deputy Village Treasurer of the Village of Upper Nyack need not be residents of the Village of Upper Nyack, but may reside within the County of Rockland.

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Ordinance 10.9. Public Officers Indemnification [Local Law # 4 of 2002]

A local law creating a new Article 10.9 of the 1965 Code of General Ordinances of the Village of Upper Nyack, providing Village officials with supplemental indemnification and defense against civil claims.

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF UPPER NYACK AS FOLLOWS:

- a. A new General Ordinance, Ordinance 10.9 of the Village of Upper Nyack General Ordinances is hereby created to read as follows:
- b. Public Officers Indemnification Legislative Purpose
The Board of Trustees of the Village of Upper Nyack has heretofore recognized the increasing litigation exposure faced by public employees, appointees and officers and conferred the defense and indemnification benefits contained in section 18 of the Public Officers Law on the Village Public Officials, appointees and employees by resolution. The Board of Trustees wishes to reaffirm and codify that action and to provide additional indemnification and defense protection pursuant to law.
- c. Section 18 Benefits
The full benefits of section 18 of the public officers law shall apply to public officials, appointees and employees of the Village of Upper Nyack and the Village of Upper Nyack shall be held liable for the cost incurred under the provisions of that section, as well as the cost incurred under ordinance 10.9(d) of this ordinance.
- d. Additional Indemnification
The Village will provide for the defense of any Village Officer, appointee or employee in any civil action or proceeding arising out of any alleged act or omission in which it is alleged that the officer, appointee or employee has violated the civil rights of the claimant petitioner or plaintiff under section 1981, and 1983 of the United States Civil Rights Act. The Village shall indemnify and save harmless such officer, appointee or employee in the amount of any judgment or settlement of claim obtained against such officer, appointee or employee, including punitive and exemplary damages. Such legal defense and indemnification shall be provided only where the officer, appointee or employee at the time of such alleged act or omission was acting in good faith and within the scope of his public employment, powers or duties. The provisions of this section shall be in addition to any other statute, local law or enactment providing legal defense or indemnification in civil actions brought against such officer, appointee or employee.
- e. This local law shall take effect immediately upon filing in the office of the Secretary of State.

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CHAPTER 11

FIREARMS

[Local Law #1 of 1979]

11. Firearms

Ordinance 11.1 Firearms [Local Law #1 of 1979, Approved 4-19-79, Filed 5-8-79]

The Village Board of the Village of Upper Nyack, being fully cognizant of the fact that considerable damage has been done to the property of residents of the Village of Upper Nyack and being also aware of the limited confines of areas within the Village of Upper Nyack and the close proximity thereto of residential and other structures and property inhabited and used by residents of the village, and being further aware that the use of firearms, pellet guns or other weapons in the village is a matter affecting the public health, safety and welfare, which should be subject to control by the Village of Upper Nyack, intends by the enactment of this local law to regulate the discharge or use of firearms, pellet guns or other weapons within the Village of Upper Nyack.

No person shall, except in self-defense and when reasonably necessary for the protection of life or property, fire or discharge or cause to be fired or discharged any pistol, rifle, shotgun or any type or weapon within the boundaries of the Village of Upper Nyack.

The prohibitions contained in this local law shall not apply to any officer of law while engaged in the protection of the safety of the people of the State of New York, nor shall they apply to a member or guest of a gun club engaged in any shooting upon such premises, which except for this local law is permitted by law.

In all other instances, the Village Board may, upon written request, adopt a resolution granting permission for shooting activities.

Any person committing an offense against any provision of this local law shall be guilty of a violation punishable by a fine not exceeding two hundred fifty dollars (\$250.00) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this local law shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Nothing contained in the proceeding paragraph of this local law shall prevent the Village Board of the Village of Upper Nyack from maintaining an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any of the provisions of this local law or any rule or regulation promulgated hereunder.

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Ordinance 11.1 Firearms (con't)

If any section, paragraph, subdivision or provision of this local law shall be invalid, such invalidity shall apply only to the section, paragraph, subdivision or provision adjudged invalid and the rest of this local law shall remain valid and effective.

This law shall take effect upon its filing in the office of the Secretary of State in accordance with the provisions of Section 27 of the Municipal Home Rule Law.

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CHAPTER 12

NUMBERING OF BUILDINGS AND PROPERTIES

[Local Law # 4 of 1992, Filed 10-26-92]

- 12.1. Legislative Intent
 - 12.2. Assignment of Numbers
 - 12.3. Location of Numbers
 - 12.4. Responsibility of Owner of Property
 - 12.5. Penalties
 - 12.6. Effective Date
-

Ordinance 12. Numbering of Buildings and Properties

Be it enacted by the Board of Trustees of the Village of Upper Nyack as follows:

Section 1.

The General Ordinances of the Village of Upper Nyack is hereby amended by adding thereto a new chapter, to be Chapter 9 to read as follows:

CHAPTER 9

Ordinance 12.1. Legislative Intent

The Rockland County Legislature has authorized the installation of an E 911 system within the County which should reduce the response time for emergency services in every town and village throughout the County, resulting in benefit to the health, safety and welfare of all residents. In order to accomplish this purpose, the Board of Trustees of the Village of Upper Nyack recognizes the need to require that all parcels of real property within the Village be numbered and that the numbers must be conspicuously placed on said parcels so as to be identifiable for response by emergency services.

Ordinance 12.2. Assignment of Numbers

The Village Board of the Village of Upper Nyack shall have the authority to assign numbers to every parcel of real property within the Village. Such numbers shall be sequential with odd numbers on one side of a street and even numbers on the other side. In the event a parcel of vacant property is legally able to be subdivided, such parcel shall be allocated as many numbers as may be necessary to accomplish the purpose of this Chapter. All property owners shall be notified in writing of the number assigned to the property owned.

Ordinance 12. Numbering of Buildings and Properties (con't)

Ordinance 12.3. Location of Numbers

The number or numbers assigned to a parcel of real property as set forth in Section 2 of this Chapter, shall be conspicuously shown by placement on the principal building situated on the lot. Such numbers shall be placed on the side of the building facing the street upon which the property is situated. In the event the principal building on a lot is set back more than fifty (50) feet from the street line, the number or numbers shall be placed upon a mailbox gate post, fence, or other appropriate place so that it shall be visible from the street. Numbers on residential buildings shall be not less than three (3) inches in height. Numbers on non-residential buildings shall be not less than four (4) inches in height. All numbers shall be made of a durable and clearly visible material and shall be in a contrasting color to the building or place upon which it is affixed.

Ordinance 12.4. Responsibility of Owner of Property

Within thirty (30) days after notification that a number has been assigned to a parcel of real property, the owner of said real property or the agent of such owner shall place or cause to be placed on such real property the number or numbers assigned to such real property in owner or agent shall be required to maintain the placement of such number or numbers in accordance with such Section.

Ordinance 12.5. Penalties

Any owner of real property or the agent of such owner who violates any of the provisions of Section 3 and/or Section 4 shall be guilty of a violation and shall be subject to a fine not to exceed two hundred (\$200.00) dollar and/or imprisonment not to exceed fifteen (15) days for each such violation. Each day on which such violation continues shall constitute a separate violation.

Ordinance 12.6 Effective Date

This local law shall take effect immediately upon filing.

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CHAPTER 13

CREATION OF A RECORDS MANAGEMENT PROGRAM

[Local Law # 2 of 1993, Filed 12-24-93]

- 13.1. Department, Officer
 - 13.2. Powers and Duties
 - 13.3. Records Advisory Board
 - 13.4. Custody
 - 13.5. Replevin
 - 13.6. Disposal of Records
 - 13.7. Definitions
 - 13.8. Effective Date
-

Ordinance 13.1. Department, Officer

There shall be a records management program established under the aegis of Village Clerk and headed by a Records Management Officer (RMO), which shall be the Village Clerk. The officer will be responsible for administering the non-current and archival public records and storage areas for the Village of Upper Nyack in accordance with local, state and federal laws and guidelines.

Ordinance 13.2. Powers and Duties

The officer shall have all the necessary powers to carry out the efficient administration, determination of value, use, preservation, storage and disposition of the non-current and archival public records kept, filed or received by the offices and departments of the Village of Upper Nyack.

- a. The Records Management Officer shall continually survey and examine public records to recommend their classification so as to determine the most suitable methods to be used for the maintaining, storing and servicing of archival material:
 1. Obsolete and unnecessary records according to New York State Records Retention and Disposition Schedules thereby subject to disposition; or
 2. Information containing administrative, legal, fiscal, research, historical or educational value which warrant their permanent retention: or
 3. Records not subject to disposition according to State Law.
- b. Establishment guidelines for proper records management in any department or agency of the Village of Upper Nyack in accordance with local, state and federal laws and guidelines.
- c. Report annually to the chief executive official and the governing body on the powers and duties herein mentioned including, but not limited to, the cost/benefit ratio of programs effectuated by the department.
- d. The Officer shall operate a Records Management Center for the storage, processing and servicing of all non-current and archival records for all departments and agencies.
- e. The officer shall establish a (local government) Archives and perform the following functions:
 1. Advise and assist Departments in reviewing and selecting material to be transferred to the (local government) Archives for preservation.
 2. Continually survey and examine public records to determine the most suitable methods to be used for the creating, maintaining, storing, and servicing of archival materials.
 3. Establish and maintain as adequate repository for the proper storage, conservation, and servicing of archival records.
 4. Promulgate rules governing public access to and use of records in the archives, subject to the approval of the Records Advisory Board.
 5. Develop a confidentiality policy for archival records designated confidential, providing such policy does not conflict with any Federal or State statutes.
 6. Provide information services to other (local government) offices.
 7. Collect archival materials which are not official Village of Upper Nyack but which have associational value to the Village or a close relationship to the existing archival collection. Such collecting shall be subject to archival space, staff, and cost limitations, and to the potential endangerment of such materials if they are not collected by the Archives.
 8. Develop a procedure whereby historically important records are to be identified at the point of generation.

Ordinance 13.3. Records Advisory Board

There shall be a Records Advisory Board designated to work closely with and provide advice to the Records Management Officer. The Board shall consist of the Village Board and the Village Historian. The Board shall meet periodically and have the following duties:

- a. Provide advice to the Records management Officer on the development of the records management program;
- b. Review the performance of the program on an ongoing basis and propose changes and improvements;
- c. Review retention periods proposed by the Records management Office for records not covered by State Archives' schedules;
- d. Provide advice on the appraisal of records for archival value and to be the final sign-off entity as to what or is not archival.

Ordinance 13.4. Custody

- a. A local government department is the legal custodian of its records and shall retain custody of records deposited in the Records Center. Records transferred to or acquired by the Archives shall be under the custody and control of the Archives rather than the department which created or held them immediately prior to being transferred to the Archives.
- b. Records shall be transferred to the Archives upon the recommendation of the RMO, with the approval of the head of the department which has custody of the records and the approval of the Records Advisory Board.
- c. Records may be permanently removed from the Archives at the request of the RMO or the head of the department which had custody of the records immediately prior to the transfer of those records to the Archives, subject to the approval of the Records Advisory Board.

Ordinance 13.5. Replevin

The Legal Department may take steps to recover local government records which have been alienated from proper custody, and may, when necessary, institute actions of replevin.

Ordinance 13.6. Disposal of Records

No records shall be destroyed or otherwise disposed of by a department of the local government unless approval has been obtained from the Records Management Officer, the Records Advisory Board and Village Historian.

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Ordinance 13.7. Definitions

- a. “Archives” means those official records which have been determined by the officer and Advisory Committee to have sufficient historical or other value to warrant their continued preservation by the local government.
- b. “Records” means any documents, books, papers, photographs, sound recordings, microforms, or any other materials, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official local government business.
- c. “Records Management” means the planning, controlling, directing, organizing, training, promotion and other managerial use and records disposition, including, records preservation, records disposal and records centers or other storage facilities.
- d. “Records Disposition” means:
 - 1. the removal by the local government, in accordance with approved records control schedules, of records no longer necessary for the conduct of business by such agency through removal methods which may include:
 - a. the disposal of temporary records by destruction or donation; or
 - b. the transfer of records to the Record Center/Archives for temporary storage of inactive records and permanent storage of records determined to have historical or other sufficient value warranting continued preservation: and
 - 2. The transfer of records from one local government agency to any other local government agency.
- e. “Records Center” means an establishment maintained by the local government primarily for the storage, servicing, security and processing of records which must be preserved for varying periods of time and need not be retained in office equipment or space.
- f. “Servicing” means making information in records available to any agency for official use or to the public.

Ordinance 13.8. Effective Date

This Local Law shall take effect immediately upon adoption.

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CHAPTER 14

COMMUNITY FORESTRY

[LL #2 of 1994, Filed 4-29-94]

- 14.1. Definitions
 - 14.2. Creation of a Village Beautification Committee
 - 14.3. Term of Office
 - 14.4. Compensation
 - 14.5. Duties of the Committee
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 - 14.10. Utility Electric Lines
 - 14.11. Interference
 - 14.12. Pruning of Private Trees
 - 14.13. Utility Tree Trimming
 - 14.14. Village Board of Trustee's Input
 - 14.15. Penalty for Violation
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Ordinance 14.1. Definitions

STREET TREES: Street trees are defined as: trees, shrubs, bushes, and all other woody vegetation on land lying between the property lines on either side of all public streets.

VILLAGE TREES: Village trees are herein defined as: trees, shrubs, bushes and all woody vegetation in public places owned by the Village of Upper Nyack.

Ordinance 14.2. Creation of a Village Beautification Committee

There is hereby established a Village Beautification Committee which shall consist of three (3) members who are residents.

Ordinance 14.3. Term of Office

The term of the Committee members shall be for one year by appointment of the mayor subject to approval of the Board of Trustees at the annual Reorganization Meeting. In like manner, the Chairperson and successors to fill vacancies during the term of office shall be appointed by the Mayor.

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Ordinance 14.4. Compensation

Members of the Committee shall serve without compensation.

Ordinance 14.5. Duties of the Committee

It shall be the duty of the Committee to care for and maintain the preservation, pruning, planting, replanting, removal and overall disposition of trees, shrubs and bushes on land owned by the Village wherever situated in so far as there are funds provided therefore. A Committee Report shall be presented to the Village Board at each subsequent Annual Reorganization meeting.

Ordinance 14.6. Committee Records

The Committee shall keep minutes of its meetings and formulate its own rules of operation.

Ordinance 14.7. The List of Tree Species

The Committee shall maintain a list of desirable trees in three (3) categories based on size and mature height, i.e., Small – under 25ft.; Medium – 25 to 40ft.; and Large – over 40ft. In addition a list of unsuitable trees shall be designated by the Committee. Adequate spacing of planting and staking of trees shall accord with good horticultural practice.

Ordinance 14.8. Planting Distances

The distance between trees, or a tree from a curb, or a tree from a sidewalk will be regulated by the Committee's choice of a street tree species and unique features of mature growth and size which is deemed to be appropriate to occupy the planting spaces available.

Ordinance 14.9. Distances From Corners and Hydrants

In planting street trees a 30 foot sight visibility of traffic approaching corner road intersections shall be maintained free of obstructions. No street tree shall be planted within ten (10) feet of a fire hydrant.

Ordinance 14.10. Utility Electric Lines

The Committee shall select small street trees with a designated potential mature height that will not interfere with the vertical or horizontal planes of an existing electrical power line, exceeding service wires, ideally, if possible, a height growth under twenty-five (25) feet and a placement no closer than 15 feet of the lines vertical plane.

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Ordinance 14.11. Interference

Nothing herein shall abrogate the Village of Upper Nyack's absolute control or authority over all and any aspects of its public lands or the exercise of its police power to promote the morals, safety, health or general welfare of the Village.

Without a Special Village Permit, no individual, firm or corporation shall alter any street tree in any manner.

Ordinance 14.12. Pruning of Private Trees

Whenever a street light, of a Village or traffic sign, or street corner sight visibility or public safety or welfare is involved by trees on adjacent private property, the Village may require the owner to appropriately corrective action at the expense of the property owner.

Ordinance 14.13. Utility Tree Trimming

Nothing herein shall abrogate the responsibility of any utility company to maintain and clear all obstructions effecting maintenance of utility facilities in compliance with franchise agreements. Public utility tree trimming shall be in accordance with accepted electrical and horticultural standards. Utility tree trimming policies shall be reviewed by the Beautification Committee on a regular basis.

Ordinance 14.14. Village Board of Trustee's Input

The Village Board shall be consulted approve or reject planned actions by the Beautification Committee. Property owners may appeal from any ruling or order of the Committee to the Village Board who shall hear and finally decide all disputes.

Ordinance 14.15. Penalty for Violation

It is illegal for any person, corporation or partnership to cut, prune or destroy any tree on public lands within the Village. A violation of any provision of this local law shall be an infraction which upon conviction shall subject the violator to a maximum fine of \$250 dollars and/or fifteen (15) days in jail. Immediately upon filing with the Secretary of the State of New York, this law shall take effect.