

GENERAL CODE PUBLISHERS CORP.

INSTRUCTIONS

Village of Fort Edward Code Supplement No. 21

The enclosed new and/or replacement pages should be placed in your Code volume immediately! The dateline, on the bottom of the page, does not indicate the adoption date of the Code changes, but rather identifies the pages printed with this supplement. This instruction page should be placed in the front of your Code volume.

REMOVE

9401 - 9408
Supplemental Index,
SI-1 - SI-5

INSERT

9401 - 9414
Supplemental Index,
SI-1 - SI-6

Legislation, by number or date of adoption, included in this supplement: L.L. No. 1-2004.

**Code
of the
Village of Fort Edward**

COUNTY OF WASHINGTON

STATE OF NEW YORK

SERIAL NO. 40

GENERAL CODE PUBLISHERS CORP.

72 Hinchey Road

Rochester, New York 14624

1985

**Code
of the
Village of Fort Edward**

COUNTY OF WASHINGTON

STATE OF NEW YORK

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CERTIFICATION

VILLAGE OF FORT EDWARD

Office of the Village Clerk

I, **DANIEL J. SMATKO**, Village Clerk of the Village of Fort Edward, hereby certify that the chapters contained in this volume are based upon the original local laws, ordinances and certain resolutions of the Board of Trustees of the Village of Fort Edward and that said local laws, ordinances and resolutions, as revised and codified, renumbered as to sections and rearranged into chapters, constitute the Code of the Village of Fort Edward, County of Washington, State of New York, as adopted by local law of the Board of Trustees on April 7, 1986.

Given under my hand and the Seal of the Village of Fort Edward, County of Washington, State of New York, this seventh day of April 1986, at Fort Edward, New York.

s/DANIEL J. SMATKO

.....
Village Clerk

PREFACE

Like many municipalities, the Village of Fort Edward has passed through a process of legislative change. While only a few simple laws were necessary at the time of the original formation of the village, subsequent growth of the community, together with the complexity of modern life, has created the need for more and detailed legislation for the proper function and government of the village. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Board of Trustees ordered the following codification of the village's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation (local laws, ordinances and certain resolutions) of a general and permanent nature enacted by the Board of Trustees of the Village of Fort Edward, including revisions or amendments to existing legislation deemed necessary by the Board of Trustees in the course of the codification.

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, contains all legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other legislation of a regulatory nature. Legislation in this part generally imposes penalties for violation of the provisions contained therein, whereas that in Part I does not. The local law providing for the renumbering of village legislation

into an orderly and organized system and designating the body of such renumbered legislation as the "Code of the Village of Fort Edward" appears in Chapter 1, General Provisions, Article I.

Grouping of Legislation Arrangement of Chapters

The legislation of the village is organized into chapters, the order being an alphabetic progression from one subject to another. Whenever there are two or more items of legislation dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation pertaining to the regulation of taxation may be found in Part II, in the chapter entitled "Taxation." In such chapters, use of Article designations has preserved the identity of the individual items of legislation.

Table of Contents

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

Reserved Chapters

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

Pagination

A unique page-numbering system has been used, in which each chapter forms an autonomous unit. One hundred pages have been allotted to each chapter, and the first page of each is the number of

that chapter followed by the numeral "01." Thus, Chapter 22 begins of page 2201, Chapter 36 on page 3601, etc. By use of this system, it is possible to add or to change pages in any chapter without affecting the sequence of subsequent pages in other chapters and to insert new chapters without affecting the existing organization.

Numbering of Sections

A chapter-related section-numbering system is employed, in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the item of legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 22 is § 22-1, while the fourth section of Chapter 36 is § 36-4.

Scheme

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

Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the ordinance or local law number, if pertinent, and date of adoption. In the case of chapters containing Articles derived from more than one item of legislation, the source of each Article is indicated in the History. Amendment dates and sources for individual sections or subsections are noted in the text where appropriate.

General References; Editor's Notes

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

the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this Code is reserved for such legislation and for any other material that the community may wish to include.

Index

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

Supplementation

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

Acknowledgment

It has been a pleasure to work with the village on this codification project. The assistance of Daniel Smatko, Village Clerk, Lawrence Corbett, Village Attorney, the Mayor and Trustees and various other village officials is gratefully acknowledged. The tasks involved in the preparation of this Code — the research necessary and the reviewing

of the material — have made it an outstanding achievement of the Village of Fort Edward.

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

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PART I

**ADMINISTRATIVE
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Chapter 1

GENERAL PROVISIONS

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- § 1-13. Incorporation of provisions into Code.
- § 1-14. When effective.

ARTICLE II

Legislation Enacted During Codification

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward: Art. I, 4-7-86 as L.L. No. 1-1986. Amendments noted where applicable.]

ARTICLE I
Adoption of Code
[Adopted 4-7-86 as L.L. No. 1-1986]

Be it enacted by the Board of Trustees of the Village of Fort Edward as follows:

§ 1-1. Legislative intent; distribution table.

A. The local laws, ordinances and certain resolutions of the Village of Fort Edward, referred to in Subsection B of this section, together with the new regulations contained herein, shall be known collectively as the "Code of the Village of Fort Edward," hereafter termed the "Code," and the various parts and sections of such local laws, ordinances and resolutions shall be distributed and designated as provided and set forth in Subsection B of this section.

B. Distribution of local laws, ordinances and resolutions.

Parallel Table

(Sections providing for severability of provisions, repeal of conflicting legislation and effective dates, which are covered by the provisions of this local law, have been omitted from the Code, and such sections are indicated as "Omitted" in the table which follows.)

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
Chapter 6, Ethics		
Article I, Rules of Ethical Conduct	Resolution	11-2-70
§ 6-1	Section 1, first paragraph	
§ 6-2	Section 1, second paragraph	
§ 6-3	Section 2	
§ 6-4	Section 3	
§ 6-5	Section 4	
§ 6-6	Section 5	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 6-7	Section 6	
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Article II, Board of Ethics	Resolution	11-2-70
§ 6-8	Section 1	
§ 6-9	Section 2	
Chapter 11, Planning Board	Resolution	5-7-57
§ 11-1	First paragraph	
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§ 11-3	Fifth paragraph	
Chapter 22, Alcoholic Beverages	Ordinance	6-15-70
§ 22-2	Section 1	
§ 22-3	Section 2	
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Omitted	Section 4	
Chapter 25, Animals	1932 Ordinances	6-7-32
§ 25-1	SECTION 18	
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Chapter 32, Buildings, Unsafe	L.L. No. 1-1979	1-2-79
§ 32-1	25-1	
§ 32-2	25-2	
§ 32-3	25-3	
§ 32-4	25-4	
§ 32-5	25-5	
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§ 32-11	25-11	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 32-12	25-12	
§ 32-13	25-13	
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§ 32-15	25-15	
§ 32-16	25-16	
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§ 32-18	25-19	
Chapter 36, Curfew	SECTION 41 of the 1932 Ordinances	6-7-32, amended in its entirety 4-15-63
§ 36-1	First paragraph	
§ 36-2	Second paragraph	
§ 36-3	Third paragraph	
§ 36-4	Fourth paragraph	
§ 36-5	Fifth paragraph	
§ 36-6	Sixth paragraph	
Chapter 41, Entertainment, Public	SECTION 34 of the 1932 Ordinances	6-7-32
§ 41-1	First paragraph	
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§ 41-3	Third paragraph	
§ 41-4	Fourth paragraph	
§ 41-5	Fifth paragraph	
Chapter 69, Sewers		
Article I, Manholes	SECTION 32 of the 1932 Ordinances	6-7-32
§ 69-1	First paragraph	
§ 69-2	Second paragraph	
Chapter 74, Streets and Sidewalks		
Article I, General Regulations	1932 Ordinances	6-7-32
§ 74-1	SECTION 4	
§ 74-2	SECTION 5	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 74-3	SECTIONS 6, 7 and 8	
§ 74-4	SECTION 9	
§ 74-5	SECTION 10	
§ 74-6	SECTION 12	
§ 74-7	SECTION 13	
§ 74-8	SECTION 14	
§ 74-9	SECTION 19	
§ 74-10	SECTION 20	
§ 74-11	SECTION 21	
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Chapter 79, Taxation		
Article I, Alternative Veterans Exemption	L.L. No. 1-1984	10-1-84
§ 79-1	Section 1	
§ 79-2	Section 2	
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Chapter 85, Vehicles, Abandoned and Junked	Ordinance	10-5-64
§ 85-1	Section 1	
§ 85-3	Section 2	
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Chapter 92, Vehicles, Unlicensed Motor-Driven	L.L. No. 1-1985	7-15-85
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New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
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§ 92-6	§ 1-6	
§ 92-7	§ 1-7	
§ 92-8	§ 1-8	
§ 92-9	§ 1-9	
§ 92-10	§ 1-10	
§ 92-11	§ 1-11	
Omitted	§ 1-12	
Omitted	§ 1-13	

§ 1-2. Continuation of existing provisions.

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

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

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

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

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

- A. Any right or liability established, accrued or incurred under any legislative provision of the Village of Fort Edward prior to the effective date of this local law, or any action or proceeding brought for the enforcement of such right or liability.
- B. An offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Village of Fort Edward, or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered, prior to the effective date of this local law, brought pursuant to any legislative provision of the Village of Fort Edward.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Fort Edward.
- E. Any local law or ordinance of the Village of Fort Edward providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Village of Fort Edward or any portion thereof.
- F. Any local law or ordinance of the Village of Fort Edward appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Village of Fort Edward or other instruments or evidence of the village's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- II. The levy or imposition of special assessments or charges.
- I. The dedication of property.

- J. Any local laws or ordinances relating to salaries, providing for employee benefits, establishing policies pertaining to personnel or making appointments.
- K. Any local law or ordinance regulating vehicles and traffic.
- L. Local Law No. 2-1979, regulating fire prevention.
- M. Any local law adopted after July 15, 1985 (L.L. No. 1-1985).

§ 1-5. Effect on previously adopted legislation.

In compiling and preparing the local laws, ordinances and certain resolutions of the village for publication as the "Code of the Village of Fort Edward," as distributed and designated in the table in § 1-1B hereof, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided in § 1-12.

§ 1-6. Severability.

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

§ 1-7. Copy of Code on file; publication.

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

local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-8. Amendments to Code.

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

§ 1-9. Code book to be kept up-to-date.

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

§ 1-10. Sale of Code book; supplementation.

Copies of the Code may be purchased from the Clerk of the Village of Fort Edward upon the payment of a fee to be set by resolution of the Board of Trustees, which Board may also arrange by resolution for procedures for the periodic supplementation thereof.

§ 1-11. Penalties for tampering with Code.

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

§ 1-12. Changes in previously adopted legislation; new regulations.

- A. In compiling and preparing the legislation for adoption and revision as part of the Code pursuant to § 20 of the Municipal Home Rule Law, as amended, certain grammatical changes and other minor changes were made in one (1) or more of pieces of said legislation. It is the intention of the Board of Trustees of the Village of Fort Edward that all such changes be adopted as part of the Code as if the legislation so changed had been previously formally amended to read as such.
- B. In addition, the following revisions to existing legislation are made herewith and the following new regulations are hereby enacted, to become effective upon the effective date of this local law. The section number references are to the legislation as it has been renumbered and appears in the Code.¹

¹ Editor's Note: Pursuant to § 1-12B, the following sections were added or amended at time of adoption of Code and the following new regulations were enacted: §§ 6-6, 11-1, 22-1, 22-4 and 22-5; Ch. 25; Ch. 29; §§ 32-1, 32-2, 32-15, 32-17, 36-1, 36-2, 36-3, 36-6 and 41-5; Ch. 45; Ch. 52; Ch. 59; Ch. 64; Ch. 66; Ch. 69, Art. I; Ch. 74, Art. I; Ch. 79, Art. II; §§ 85-2, 85-5 and 92-10; and Ch. 94.

§ 1-13. Incorporation of provisions into Code.

The provisions of this local law are hereby made Chapter 1 of the Code of the Village of Fort Edward, to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-14, inclusive.

§ 1-14. When effective.

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

ARTICLE II**Legislation Enacted During Codification**

[During the process of codification, certain new local laws were approved by the Board of Trustees for inclusion in the Code of the Village of Fort Edward. Such new enactments are noted in the histories of individual chapters as "...adopted during codification; see Ch. 1, General Provisions, Art. II." During the course of normal supplementation, specific dates of adoption will be inserted where pertinent in the chapter histories. The enumeration appearing below lists each chapter adopted during codification. The complete text of any new enactments is on file in the office of the Village Clerk where it may be inspected during office hours.]

Chapter	Local Law Number	Adoption Date
Ch. 100. Zoning	2-1986	7-7-86

Chapter 3

ASSESSMENT

§ 3-1. Legislative intent.

§ 3-2. Termination as an assessing unit.

§ 3-3. Abolishment of Board of Assessors.

§ 3-4. Abolishment of Board of Assessment Review.

§ 3-5. Town to act as assessing unit.

§ 3-6. Copies to be filed with town and State Board of Equalization and Assessment.

§ 3-7. Provisions subject to permissive referendum.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 9-8-87 as L.L. No. 3-1987. Amendments noted where applicable.]

§ 3-1. Legislative intent.

The intent of the Village Board of Fort Edward is to implement § 402, Subdivision 3, of the Real Property Tax Law providing for the voluntary termination of the village's status as an assessing unit, as now provided in the Village Law and the Real Property Tax Law. It is also the intent of this chapter to abolish the position of Board of Assessors and to terminate any and all responsibility as provided by law for the review of the assessments of real property located within the Village of Fort Edward.

§ 3-2. Termination as an assessing unit.

On or after the effective date of this chapter, the Village of Fort Edward shall cease to be an assessing unit.

§ 3-3. Abolishment of Board of Assessors.

The position of Board of Assessors in the Village of Fort Edward is hereby abolished.

§ 3-4. Abolishment of Board of Assessment Review.

The Board of Assessment Review in the Village of Fort Edward is hereby abolished.

§ 3-5. Town to act as assessing unit.

On or after the effective date of this chapter, taxes in the Village of Fort Edward shall be levied on a copy of the applicable part of the assessment roll of the Town of Fort Edward with the taxable status date of such town controlling for village purposes.

§ 3-6. Copies to be filed with town and State Board of Equalization and Assessment.

Within five (5) days of the effective date of this chapter, the Board of Trustees of the Village of Fort Edward shall file a copy of such chapter with the Clerk of the Board of Assessors of the Town of Fort Edward and with the State Board of Equalization and Assessment.

§ 3-7. Provisions subject to permissive referendum.

This chapter shall take effect immediately upon filing with the Secretary of State; provided, however, that such chapter is subject to a permissive referendum, and the Village Clerk shall forthwith proceed to notice such fact and conduct such referendum if required by law.¹

¹ Editor's Note: No valid petition requesting a permissive referendum was filed.

ETHICS

Chapter 6

ETHICS

ARTICLE I Rules of Ethical Conduct

- § 6-1. Legislative findings; purpose.
- § 6-2. Construal of provisions.
- § 6-3. Definitions.
- § 6-4. Standards of conduct.
- § 6-5. Claims for personal injury or property damage.
- § 6-6. Distribution.
- § 6-7. Penalties for offenses.

ARTICLE II Board of Ethics

- § 6-8. Establishment; compensation; membership.
- § 6-9. Powers and duties.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward: Art. I, 11-2-70 by resolution; Art. II, 11-2-70 by resolution. Section 6-6 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 11.

ARTICLE I
Rules of Ethical Conduct
[Adopted 11-2-70 by resolution]

§ 6-1. Legislative findings; purpose.

Pursuant to the provisions of § 806 of the General Municipal Law, the Board of Trustees of the Village of Fort Edward recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this Article to promulgate these rules of ethical conduct for the officers and employees of the Village of Fort Edward. These rules shall serve as a guide for official conduct of the officers and employees of the Village of Fort Edward.

§ 6-2. Construal of provisions.

The rules of ethical conduct of this Article, as adopted, shall not conflict with but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 6-3. Definitions.

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

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

MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the Village of Fort Edward, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a chief engineer or assistant chief engineer.

§ 6-4. Standards of conduct.

Every officer or employee of the Village of Fort Edward 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 twenty-five dollars (\$25.) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official duties or was intended as a reward for any official action on his part.
- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- C. Representation before one's own agency. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Board of Trustees and any officer or employee of the Village of Fort Edward, whether paid or unpaid, who participates in the discussion or gives official opinion to the Board of Trustees on any legislation before the Board of Trustees shall publicly disclose on the offi-

cial record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.

- F. Investments in conflict with official duties. He shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with his official duties.
- G. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- H. Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Village of Fort Edward 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.

§ 6-5. Claims for personal injury or property damage.

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

§ 6-6. Distribution.¹

The Mayor of the Village of Fort Edward shall cause a copy of this Article to be distributed to every officer and employee of the village within ten (10) days after the effective date of this Article. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment. However, failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such Article nor the enforcement of provisions thereof.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 6-7. Penalties for offenses.

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

ARTICLE II**Board of Ethics**

[Adopted 11-2-70 by resolution]

§ 6-8. Establishment; compensation; membership.

There is hereby established a Board of Ethics consisting of three (3) members to be appointed by the Board of Trustees and so shall serve without compensation and at the pleasure of the Board of Trustees. A majority of such members shall be persons other than officers or employees of the Village of Fort Edward but shall include at least one (1) member who is an elected or appointed officer or employee of the Village of Fort Edward.

§ 6-9. Powers and duties.

The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall render advisory opinions to the officers and employees of the Village of Fort Edward with respect to Article 18 of the General Municipal Law and any code of ethics adopted pursuant to such article, under such rules and regulations as the Board may prescribe. In addition, the Board may make recommendations with respect to the drafting and adoption of a code of ethics or amendments thereto upon request of the Board of Trustees.²

² Editor's Note: The line which next followed this section in the original resolution, and which gave the names of the members of the Board of Ethics, was deleted at time of adoption of Code.

Chapter 11**PLANNING BOARD****§ 11-1. Establishment.****§ 11-2. Powers and authority.**

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 3-6-2000 by L.L. No. 1-2000.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Ethics — See Ch. 6.

Streets and sidewalks — See Ch. 74.

§ 11-1. Establishment.

The Planning Board will consist of a five-member Board appointed by the Village Board.

§ 11-2. Powers and authority.

- A. The Planning Board shall have the full power and authority to prepare a master plan and to make such investigations, maps and reports and recommendations in connection therewith relating to the planning and development of the village as it seems desirable to report upon matters referred to it by the Board of Trustees.
- B. The Planning Board is authorized and empowered to approve plats showing new streets in the village.

¹ Editor's Note: This local law superseded former Ch. 11, Planning Board, adopted 5-7-1957, as amended.

- C. The Planning Board is authorized and empowered either to confirm land plats presented to it or to make reasonable changes.

PART II

**GENERAL
LEGISLATION**

Chapter 22

ALCOHOLIC BEVERAGES

§ 22-1. Definitions.

§ 22-2. Prohibited acts.

§ 22-3. Presumption of possession.

§ 22-4. Applicability.

§ 22-5. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 6-15-70. Sections 22-1 and 22-4 added and § 22-5 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Public entertainment — See Ch. 41.

§ 22-1. Definitions.¹

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

OPEN BOTTLE OR CONTAINER — Any open, unsealed, resealed or partially filled bottle, can, glass or other receptacle suitable for or used to hold any liquid, in which an alcoholic beverage is contained.

§ 22-2. Prohibited acts.

No person shall have in his possession any open bottle or container containing liquor, beer, wine or other alcoholic beverage while such person is on any public highway, public street, public sidewalk, public parking area or in any vehicle or public place, excepting those

¹ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

premises duly licensed for sale and consumption of alcoholic beverages on the premises.

§ 22-3. Presumption of possession.

An open bottle or open container in any vehicle shall be presumptive evidence that the same is in possession of all occupants thereof and in violation hereof.

§ 22-4. Applicability.²

The provisions of this chapter shall not be deemed to apply to any person drinking an alcoholic beverage while operating a motor vehicle upon a public highway in violation of § 1227 of the Vehicle and Traffic Law of the State of New York.

§ 22-5. Penalties for offenses.³

Any person violating any provisions of this chapter shall be liable to a fine of not more than two hundred fifty dollars (\$250.) or imprisonment for not more than fifteen (15) days, or both.

² Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 25¹

(RESERVED)

¹ Editor's Note: Former Ch. 25, Animals, adopted 6-7-1932 as Sections 18 and 35 of the 1932 Ordinances; amended in its entirety at time of adoption of Code 4-7-1986 by L.L. No. 1-1986, was repealed 8-7-1995 by L.L. No. 1-1995.

Chapter 26**BRUSH, GRASS AND WEEDS****§ 26-1. Definitions.****§ 26-2. Restrictions on growth of vegetation.****§ 26-3. Duty of owner, lessee, lessor or occupant.****§ 26-4. Severability.****§ 26-5. Penalties and offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 3-6-2000 by L.L. No. 1-2000.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 74.

§ 26-1. Definitions.

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

CODE ENFORCEMENT OFFICER — The person authorized by the Board of Trustees to enforce the village codes.

IMPROVED PROPERTY — Any property within the Village of Fort Edward which has been altered from the original state.

PERSONS — Includes one or more persons, receiverships, corporations, partnerships, associations,

¹ Editor's Note: This local law superseded former Ch. 26, Brush, Grass and Weeds, adopted 10-2-1995 by L.L. No. 4-1995.

joint-stock companies, societies and any other type of entity of any kind.

§ 26-2. Restrictions on growth of vegetation.

No persons leasing or occupying improved property within the Village of Fort Edward shall permit any grass, weeds or vegetation whatsoever to grow or remain upon their property line so as to exceed a height of 10 inches or to emit noxious odors or conceal debris. Any grass, weeds or other vegetation growing upon any premises in the village in violation of any of the provisions of this section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Village of Fort Edward.

§ 26-3. Duty of owner, lessee, lessor or occupant.

It shall be the duty of any owner, lessee, lessor or occupant of any such lot or plot of land in the Village of Fort Edward to cut and remove or cause to be cut and removed all such weeds, grass or other vegetation five days after receipt of such notice.

§ 26-4. Severability.

Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this chapter as a whole, or any part thereof, other than the section or part so decided to be unconstitutional or invalid.

§ 26-5. Penalties and offenses.

Any person committing an offense against any provisions of this chapter, shall be guilty of a violation and, upon conviction thereof, shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both, plus costs incurred by the village for the removal of debris. Each day of

§ 26-5

BRUSH, GRASS AND WEEDS

§ 26-5

continued violation shall constitute a separate additional violation.

Chapter 29

BUILDINGS, MOVING OF

§ 29-1. Permit required.

§ 29-2. Application procedure.

§ 29-3. Issuance of permit; conditions.

§ 29-4. Cash deposit or bond required.

§ 29-5. Return of deposit or bond.

§ 29-6. Fee.

§ 29-7. Liability of village.

§ 29-8. Penalties for offenses.

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

GENERAL REFERENCES

Unsafe buildings — See Ch. 32.

Fire Prevention and Building Code — See Ch. 49.

§ 29-1. Permit required.

No person shall move any dwelling, house, barn, garage, outbuilding or other structure over or upon any public streets or avenues of the village unless the Board of Trustees shall grant a written permit for such moving, signed by the Mayor and countersigned by the Village Clerk.

§ 29-2. Application procedure.

No permit hereunder shall be granted except upon the written petition of the owner of the structure to be moved, stating the route

intended to be pursued, the place from which and to which the building is to be moved and the size of the structure.

§ 29-3. Issuance of permit; conditions.

The Board of Trustees may, in its discretion, grant a permit hereunder and attach thereto such conditions and restrictions as said Board may deem necessary and proper.

§ 29-4. Cash deposit or bond required.

No permit issued pursuant to this chapter shall be granted for the removal of any structure over or upon any of the public streets or avenues of the village unless the owner of such structure shall deposit with the Village Clerk cash in an amount specified by the Board of Trustees or a surety bond in a form which shall be approved by said Board and in an amount specified by said Board, conditioned for the removal of such structure in such manner as not to cause any injury to the person or property of another, including the property of the village.

§ 29-5. Return of deposit or bond.

When the moving or removal of a building or structure shall be completed, any cash deposited or bond furnished as provided in § 29-4 shall be returned to such depositor upon his application, when it shall appear to the satisfaction of the Board of Trustees that there are no claims against such deposit or bond for any injury as aforesaid; in the event that it shall appear that the person or property of another or the property of the village shall have been injured, such deposit or bond shall not be returned until said claim for damages shall have been determined and settled.

§ 29-6. Fee.

There shall be a nonrefundable fee of two hundred fifty dollars (\$250.) for each permit issued pursuant to this chapter, and no per-

mit shall be issued until such fee shall have been paid by the applicant.

§ 29-7. Liability of village.

The provisions of this chapter shall not be construed as imposing upon the village or any official or employee thereof any liability or responsibility for damages to any person or property injured by the performance of any act for which a moving permit is issued hereunder, nor shall the village or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any building movement or removal.

§ 29-8. Penalties for offenses.

Any person committing an offense against any of the provisions of this chapter shall be punished, upon conviction, by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment.

BUILDINGS, UNSAFE

Chapter 32

BUILDINGS, UNSAFE

- § 32-1. Definitions.
- § 32-2. Standards for determination.
- § 32-3. Jurisdiction.
- § 32-4. Investigation and report.
- § 32-5. Notice.
- § 32-6. Acceptance or rejection of notice and order.
- § 32-7. Compliance with notice and order; time limit.
- § 32-8. Hearing.
- § 32-9. Notice of survey.
- § 32-10. Making of survey; determination.
- § 32-11. Compensation and reimbursement for survey.
- § 32-12. Application to Supreme Court.
- § 32-13. Execution of Superior Court order.
- § 32-14. Interference with work.
- § 32-15. Reimbursement for cost of work; assessment.
- § 32-16. Emergencies.
- § 32-17. Penalties for offenses.
- § 32-18. Title; effective date.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 1-2-79 as L.L. No. 1-1979. Sections 32-1, 32-2, 32-15 and 32-17 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Moving of buildings — See Ch. 29.

Fire Prevention and Building Code — See Ch. 49.

§ 32-1. Definitions.

- A. The following definitions shall apply in the interpretation and enforcement of this chapter:

DANGEROUS BUILDING — Any building or structure or well excavation which has any of the following conditions:

- (1) Those where any interior wall or walls, or other structural load-bearing members, list, lean or buckle to such an extent that a plumb line passing from any overhead supporting member through the center of gravity falls outside the middle third of its base.
- (2) Those which, exclusive of the foundations, show thirty-three and one-third percent ($33\frac{1}{3}\%$) or more of deterioration of the supporting member or members, or fifty percent (50%) or more damage to or deterioration of the nonsupporting enclosing or exterior walls or covering.
- (3) Those which have improperly distributed loads upon the floors or roofs or in which the floors or roofs are overloaded or which have insufficient strength to be reasonably safe for the purpose used and which do not meet minimum standards prescribed by the New York State Uniform Fire Prevention and Building Code.¹
- (4) Those having inadequate or insufficient facilities for ingress or egress in the event of fire, panic or other emergency or those having insufficient stairways, elevators, fire escapes, aisles, passageways, corridors or other means of access, and which do not meet minimum standards prescribed by the New York State Uniform Fire Prevention and Building Code.²
- (5) Those which have parts thereof which are so attached or connected in such a manner that they may fall, collapse or

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

cause damage and injury to the occupants thereof or other persons or property.

- (6) In addition to the foregoing, those which, in whole or in part, used for residential, mercantile, industrial, storage, assembly, institutional or any other purpose, for want of repair, lack of sufficient fire escapes or exits or by reason of age or dilapidated condition or from any other cause, may now be or shall at any time hereafter become dangerous or unsafe structurally or a fire hazard or a nuisance to the general public.
- (7) A vacant building, or an unguarded building or one which is open at a door or window.
- (8) An abandoned or unprotected well, open basement or excavation or hole which was a basement or is intended to be a basement, which is unprotected, dangerous or a nuisance.

NUISANCE — Whatever is dangerous to human life or detrimental to health, and shall include but not be limited to:

- (1) A public nuisance.
- (2) A building, structure or part thereof which has an existing electrical wiring system which is defective or which fails to meet ventilation requirements as prescribed by applicable provisions of law or which has plumbing, sewage and drainage facilities that are not in conformity with applicable building and plumbing codes or which is overcrowded.

OWNER — Includes the record owner of any premises, and also for the purpose of serving a notice, either personally or by registered mail, upon anyone exercising the rights of ownership therein, his agents, successors or assigns as indicated by the records of the receiver of taxes or by the records of the County Clerk of Washington County.

PERSON — Includes a partnership, corporation, association or trustee.

PERSONS, INTERESTED — Includes the owner, as herein defined, and all other persons interested in the property to which such words refer.

POSTING — The fastening, mailing, tacking or substantially securing by any other means of any notice, survey, order, directive or official decision on a building or structure.

PRESIDING SUPERVISOR — The Presiding Supervisor of the Village of Fort Edward.

REPAIR — Includes any alteration, structural change or the performance of any act necessary or requisite for the elimination of any hazardous, dangerous or unsafe condition of any dangerous building or structure within the purview of this chapter.

SUPERINTENDENT OF BUILDINGS — The official, duly appointed by the Village Board, who is the Building Inspector of the Village of Fort Edward.

SURVEY — A written determination in a report, after an on-site inspection by a designated inspector of the Village of Fort Edward, in conjunction with a registered architect or licensed professional engineer, chosen or appointed by the Village Board, and a practical builder, engineer or architect appointed by the owner of the subject premises, to be made after refusal or neglect of the owner who has been served with a notice to make safe, repair or demolish and remove the dangerous building or structure.

VILLAGE — The Village of Fort Edward.

- B. The words "or" and "and," as used herein, may be construed to be interchangeable where such meaning is necessary to effectuate the purpose of this chapter. Where necessary, the singular shall include the plural and the plural shall include the singular.

§ 32-2. Standards for determination.³

The fact that a building or structure exists in violation of the applicable provisions of the New York State Uniform Fire Prevention

³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

and Building Code or of an earlier village building code or the New York State Standard Building Code for Places of Public Assembly or the statewide Multiple Residence Law, as the case may be, or of any local law of the Village of Fort Edward, when found as other violations in addition to conditions deemed to be in violation of this chapter, may be considered in determining whether a building or structure is hazardous, dangerous or unsafe.

§ 32-3. Jurisdiction.

Under this chapter, the Superintendent of Buildings shall have jurisdiction for the purpose of demolishing, taking down or removing any hazardous, dangerous or unsafe building or structure or, alternatively, for taking remedial action toward making any of said building or structure safe and secure.

§ 32-4. Investigation and report.

- A. Upon the receipt of information that a building or structure may be dangerous, the Superintendent of Buildings shall cause an investigation of the premises to be made and an inspection report submitted and filed in the Village Clerk's office.
- B. After the report is filed in the Village Clerk's office, and if the report shall confirm the existence of a dangerous building or structure, the Superintendent of Buildings shall cause a notice to be served upon the owner, executor, administrator, agent, lessee or any person or persons having a vested or contingent interest in the subject unsafe building, as shown by the records of the receiver of taxes of the Village of Fort Edward or of the County of Washington, either personally or by registered mail, containing specifications as set forth.

§ 32-5. Notice.

The notice shall contain a description of the dangerous building or structure with particulars which set forth the manner in which the building or structure is dangerous, and the notice shall also outline the manner in which the building or structure is to be made safe and secure or demolished and removed. The notice shall contain an order

requiring the dangerous building or structure to be made safe and secure or demolished and removed, and if the service of the notice is made by registered mail, a copy of the notice shall be posted on the premises.

§ 32-6. Acceptance or rejection of notice and order.

Within ten (10) days of the receipt of the notice set forth above, the person who receives the notice may certify his written acceptance or rejection of the particulars and order contained in the notice by either personal service or by registered mail upon the Superintendent of Buildings or a person designated by him to accept service in his behalf. Any failure on the part of the person receiving the notice to respond, as herein prescribed, shall constitute a rejection of the notice.

§ 32-7. Compliance with notice and order; time limit.

If the person served with the notice shall immediately certify his assent to the securing or demolition and removal of the dangerous building or structure in question, he shall be permitted seventy-two (72) hours within which to commence the abatement of the dangerous conditions affecting the building or structure and shall employ sufficient labor and assistance to secure or demolish and remove such building or structure within a reasonable period of time thereafter. The person served shall notify the Board of his compliance with the aforesaid order and the Board shall thereafter issue a certificate of compliance.

§ 32-8. Hearing.

Any person affected by the notice described in § 32-5 of this chapter may request and shall be granted a hearing on the matter before the Superintendent of Buildings, or Building Inspector designated by him, provided that such person shall file a verified petition with the office of the Superintendent of Buildings within ten (10) days after the day the notice was served upon the petitioner requesting the hearing, and setting forth a brief statement of the grounds therefor.

Upon receipt of said petition, the Superintendent of Buildings shall set a time and place for a hearing and shall give the petitioner ten (10) days' written notice thereof. At the hearing, the petitioner shall be given an opportunity to be heard and to give reasons why the proceedings for the securing or removal of the dangerous building or structure shall be modified or withdrawn. The hearing shall be commenced not later than twenty (20) days after the day on which the petition was filed, provided that upon application of any interested party, the Superintendent of Buildings may postpone the date of the hearing for any reasonable time beyond the twenty-day period if, in his judgment, the interested party has submitted a good and sufficient reason for the postponement, but in no event shall the hearing be postponed longer than sixty (60) days. In any case, if no such written petition shall be so filed within the ten-day period as aforesaid, or if the notice shall be rejected, the Village Attorney is authorized to make application to the Supreme Court, at Special Term, as hereinafter provided.

§ 32-9. Notice of survey.

- A. Upon refusal, neglect or failure of the person or persons served with a notice and order to comply with requirements and specifications therein or upon his or their rejection of such notice, a notice of survey shall be served upon him by the Superintendent of Buildings, either in person or by registered mail, giving notice that a survey of the premises described in the notice will be made at a time and place therein specified.
- B. The notice of survey shall state the date, time and place where the survey will be made and that, in the event that the report of such survey indicates that such building or structure is dangerous, an application will be made at a Special Term of the Supreme Court, Washington County, for an order determining the building or structure to be a public nuisance and directing that it shall be repaired and secured or demolished, taken down and removed and for the assessing of the expenses and costs thereof.

§ 32-10. Making of survey; determination.

- A. The survey shall be made by three (3) competent persons, of whom one (1) shall be the Superintendent of Buildings or a

Building Inspector designated by him, another shall be a registered architect or a licensed professional engineer appointed by the Village Board and the third shall be a practical builder, registered architect or a licensed professional engineer appointed by the person served with the notice.

- B. Within ten (10) days after the survey is completed, the determination thereof shall be made by such persons in writing and filed in the office of the Village Clerk, and a copy thereof shall be posted on the subject building or structure.
- C. All notices posted pursuant to any provision of this chapter are to remain on the building or structure until it is repaired, demolished or removed, or made to comply with the directions which have been given the owner.
- D. In the event that the person or persons served with the notice of survey, as described in § 32-5 hereof, shall fail, neglect or refuse to appoint a competent person to assist in the survey, the other two (2) persons designated pursuant to the provisions of this section shall make the survey, and should they disagree, they shall appoint a third person, whose decision shall be final, to take part in the survey, who shall be a practical builder, licensed professional engineer or registered architect, either one having at least ten (10) years' practice in his respective profession.
- E. The Building Inspector shall notify the assessors of the time the demolition is completed.

§ 32-11. Compensation and reimbursement for survey.

The architect or engineer appointed by the Village Board as hereinbefore provided, who may act on any survey required by this chapter, or the third surveyor who may be called in the event of a disagreement, as provided in § 32-10 hereof, shall be entitled to a fee to be determined and fixed by the Village Board, which is to be paid upon the voucher of the Superintendent of Buildings. A cause of action is hereby created for the benefit of the village against the owner of the dangerous building or structure surveyed, and of the lot or

parcel of land on which the dangerous building or structure is located, for the amount disbursed by the village for such survey with interest.

§ 32-12. Application to Supreme Court.

Whenever such survey shall determine that the building or structure surveyed is dangerous, the Village Attorney shall apply to the Supreme Court, Washington County, at Special Term for an order determining the building or structure to be a public nuisance and directing either that it shall be repaired and secured or that it shall be taken down or removed, and reimbursement of expenses of the proceeding and repair or demolition of the building.

§ 32-13. Execution of Supreme Court order.

Upon receipt of the order of the Supreme Court, the Superintendent of Buildings shall immediately proceed to execute the provisions therein contained and may employ and furnish whatever labor, assistance and materials may be necessary for that purpose.

§ 32-14. Interference with work.

It shall be unlawful for any person, whether interested or not in the property affected by this chapter, to interfere, obstruct or hinder the Superintendent of Buildings or his representative, or any person acting in his behalf, in performing the work directed by the determination of the Supreme Court as herein provided, or ordered by the Superintendent of Buildings under the terms and provisions of such determination as hereinabove described.

§ 32-15. Reimbursement for cost of work; assessment.⁴

The village shall be reimbursed for the cost of the work performed or service rendered, as hereinabove provided, by assessment against and collection from the lots or parcels of land where such work was

⁴ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

performed or services rendered for so much of the actual and complete costs as incurred upon and from each lot or lots in the manner provided for the assessment of the cost of public improvements by Article 22 of the Village Law.

§ 32-16. Emergencies.

Any provisions of this chapter to the contrary notwithstanding, where it reasonably appears that there is imminent danger to the life or safety of any person, unless a "dangerous building" or structure as defined herein, is immediately repaired, vacated or demolished, the Building Inspector, on order of the Village Board, shall cause the immediate repair, vacating or demolition of such dangerous building or structure. For this purpose, he may at once enter such structure or land on which it stands, or abutting land or structure with such assistance and at such cost as may be necessary. He may vacate adjacent structures and protect the public by appropriate barricades or such other means as may be necessary, and for this purpose may close a public or private way. The cost of such emergency repair, vacating or demolition of such dangerous building or structure shall be collected in the same manner as provided in § 32-15 hereof.

§ 32-17. Penalties for offenses.⁵

Any person removing the notice provided for in § 32-5 hereof, or any other notice prescribed by this chapter, shall, upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars (\$250.) or imprisonment for not more than fifteen (15) days, or both, for each offense.

§ 32-18. Title; effective date.

This chapter shall be known as Local Law No. 1 of 1979, entitled "Dangerous Buildings and Structures," and shall go into effect pursuant to the provisions of the Village Law on the second day of January 1979.

⁵ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 36**CURFEW**

§ 36-1. Curfew established.

§ 36-2. Parental responsibility.

§ 36-3. Sounding of siren.

§ 36-4. Definitions.

§ 36-5. Authority to grant certain privileges.

§ 36-6. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 3-6-2000 by L.L. No. 1-2000.¹ Amendments noted where applicable.]

§ 36-1. Curfew established.

No child attending school or under the age of 18 years shall be in or upon any of the streets, parks or public places in the village after the hour of 10:00 p.m. Eastern standard or daylight saving time, Sunday through Thursday, and 11:00 p.m. Eastern standard or daylight saving time on Friday and Saturday, unless accompanied by his or her parent, guardian or other person having legal care or control of such child.

§ 36-2. Parental responsibility.

No parent, guardian or other person having the legal care and custody of any child under the age of 18 years shall allow or permit such child to be in or upon any of the streets, parks or

¹ Editor's Note: This local law superseded former Ch. 36, Curfew, adopted 6-7-1932 as Section 41 of the 1932 Ordinances, as amended.

public places in said village after the hours stated in § 36-1 of this chapter.

§ 36-3. Sounding of siren.

At the discretion of the Village Board, a siren shall sound at 9:45 p.m., Sunday through Thursday, and at 10:45 p.m. on Friday and Saturday.

§ 36-4. Definitions.

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

GUARDIAN OR OTHER PERSON — Any relative or person over the age of 21.

§ 36-5. Authority to grant certain privileges.

The Board of Trustees shall have the power to exercise, at its discretion, the right to grant certain privileges to extend the curfew to students attending the school system of the Village of Fort Edward when required by school officials.

§ 36-6. Penalties for offenses.

Any parent, guardian or person having legal custody of a minor who violates the curfew shall be subject to a fine of up to \$100 for each offense.

Chapter 38¹

(RESERVED)

¹ Editor's Note: Former Ch. 38, Dogs, adopted 11-7-1988 as L.L. No. 2-1988, was repealed 8-7-1995 by L.L. No. 2-1995.

Chapter 39**DOGS AND OTHER ANIMALS**

- § 39-1. Title.
- § 39-2. Purpose.
- § 39-3. Statutory authority.
- § 39-4. Definitions.
- § 39-5. Prohibited conduct.
- § 39-6. Enforcement.
- § 39-7. Duties of Animal Control Officer.
- § 39-8. Records of the Animal Control Officer.
- § 39-9. Presumption of ownership.
- § 39-10. Seizure, impoundment, redemption and adoption.
- § 39-11. Penalties for offenses.
- § 39-12. Separate offenses.
- § 39-13. Severability.
- § 39-14. Effective date.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 8-7-1995 as L.L. No. 3-1995. Amendments noted where applicable.]

§ 39-1. Title.

This chapter shall be known as the "Control of Dogs and Other Animals in the Village of Fort Edward."

§ 39-2. Purpose.

The purpose of this chapter is to promote the health, welfare and safety of the citizens of the Village of Fort Edward and protect and preserve their property.

§ 39-3. Statutory authority.

This chapter is hereby enacted pursuant to the authority granted by § 10 of the New York State Municipal Home Rule.

§ 39-4. Definitions.

As used in this chapter, unless otherwise expressly stated or unless the context of the subject matter requires otherwise, the following terms have the meanings indicated:

ANIMAL CONTROL OFFICER — Any individual appointed by the village to assist in the enforcement of this chapter.

AT LARGE — Off the premises of the owner and not under the control of the owner.

DOG — Any member of the species *canis familiaris*.

HARBOR — To provide food or shelter to a dog or other animal.

HARBORER — Any person who provides food and shelter for a domesticated animal on a periodic or continuing basis.

OTHER ANIMALS — All animals other than dogs, including but not limited to cats, birds, reptiles and fish, which are harbored, kept or owned within the Village of Fort Edward.

OWNER — A person who harbors or keeps a dog or any other animal, except if the person is under eighteen (18) years, the owner shall be the parent or guardian of such person.

PERSON — Any individual, corporation, partnership, association or other organized group of persons, municipality or other legal entity.

§ 39-5. Prohibited conduct.

A. It shall be unlawful for any owner of a dog to:

- (1) Allow their dogs to travel unattended upon public lands, streets, sidewalks, highways or other public places without restraining and controlling their dog with the use of a leash or other restraining device not to exceed six (6) feet in length.
- (2) Harbor or keep a dog which has attacked a person in a place where that person was lawfully present.
- (3) Allow their dog to damage or destroy property of any kind.
- (4) Allow their dog to bark, whine, howl or make other frequent and continual noises so as to unreasonably disturb the peace of any person.
- (5) Allow their dog to defecate on public lands, streets, highways or other public places without immediately removing such defecation.
- (6) Treat their dog or other animal in a cruel or inhuman manner.

B. No person who owns, harbors or has custody of any horse, bird or reptile shall allow such animal to run, crawl or otherwise move about within the Village of Fort Edward, except as follows:

- (1) Within a factory-manufactured cage or device specifically produced for the purpose of transporting such animal or within a homemade cage or device of sufficient strength and design to restrain the animal without causing physical damage.

- (2) During a recognized event, including but not limited to parades, bazaars or exhibitions.
- (3) Horses in their performance of recreation or work-related activities, provided that animal waste is properly disposed of by the owner or agent.

C. The keeping, maintaining or harboring of certain animals within the Village of Fort Edward such as fowl, pigs, goats, sheep, horses, mules, donkeys, cows or other cattle, rabbits, hares, mink and other fur-bearing animals customarily kept or raised for their pelts of fur, alligators, any poisonous or dangerous reptile, insect or arachnid or any vicious or dangerous animal, bird or fowl, wild or domestic, is hereby declared to be a nuisance. It shall be unlawful to keep, maintain or harbor any such animal, fowl, bird, reptile, insect or arachnid within the village and it shall be unlawful for the owner, occupant, lessor or lessee of any land within the village to permit or allow any land owned, occupied, leased or controlled by such person to be used for the keeping, maintaining or harboring of any such animal, fowl, reptile, insect or arachnid.

§ 39-6. Enforcement.

To effectuate the implementation of this chapter of the Village Code, the Board of Trustees of the Village of Fort Edward is hereby authorized, pursuant to Article 56 of the General Municipal Law, to contract with the Town of Fort Edward or any other municipality for the services of the Animal Control Officer.

§ 39-7. Duties of Animal Control Officer.

The duties of the Animal Control Officer are to:

- A. Enforce any provision of this chapter within the Village of Fort Edward.

- B. Cooperate with and work in conjunction with the Fort Edward Police Department so as to enforce the provisions of this chapter and the provisions of any applicable state statute in the Village of Fort Edward.
- C. When there is a violation of this chapter or the state statutes in the Village of Fort Edward, issue a summons in the appropriate court.
- D. Seize, contain or impound any dogs found on any public roads, streets, sidewalks, highway or other public places within the Village of Fort Edward when said dogs are not restrained in accordance with the provisions of this chapter.
- E. Appear in Village Court when requested by the Village Attorney so as to prosecute any violations of this chapter.
- F. Adhere to the provisions of the Agriculture and Markets Law of the State of New York.
- G. Aid and assist in the filing of complaints with the Village Attorney and/or Local Justice.

§ 39-8. Records of the Animal Control Officer.

It shall be the responsibility of the Animal Control Officer to:

- A. Maintain accurate records and to complete and submit the following records to the Mayor and Board of Trustees on a weekly basis or when requested by the Mayor and Board of Trustees:
 - (1) A listing of all complaints, including the name, address and phone numbers of each complainant and the type of complaint and the resolution of each complaint.
- B. Make available any records required to be maintained by the Town of Fort Edward.

§ 39-9. Presumption of ownership.

Any person owning or harboring a dog or other animal for a period of one (1) week prior to the filing of any complaint alleging a violation of this chapter shall be deemed to be the owner of such dog for the purpose of this chapter.

§ 39-10. Seizure, impoundment, redemption and adoption.

In addition to the provisions set forth in this chapter, the seizure of dogs, redemption periods and impoundment fees and adoption of dogs of this chapter are to be governed by § 118 of the Agriculture and Markets Law of the State of New York.

§ 39-11. Penalties for offenses.

Any violation of the provisions of this chapter shall be deemed a violation and shall be punishable by a fine of at least twenty-five dollars (\$25.) but not to exceed two hundred fifty dollars (\$250.) or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment.

§ 39-12. Separate offenses.

Each separate offense shall constitute a separate violation.

§ 39-13. Severability.

Should any section or provision of this chapter be deemed by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any part thereof, other than the section or part so decided by the courts to be unconstitutional or invalid.

§ 39-14. Effective date.

This chapter shall take effect upon proper filing with the New York Secretary of State.

Chapter 41¹

(Reserved)

¹ Editor's Note: Former Ch. 41, Public Entertainment, adopted 6-7-1932 as Section 34 of the 1932 Ordinances, as amended, was repealed 3-6-2000 by L.L. No. 1-2000.

Chapter 45**ADULT ENTERTAINMENT****§ 45-1. Purpose and intent.****§ 45-2. Definitions.****§ 45-3. Local restrictions.****§ 45-4. Registration required; application.****§ 45-5. Live entertainment.****§ 45-6. Promotion of pornography unlawful.****§ 45-7. Penalties for offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 5-1-2000 by L.L. No. 2-2000.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 100.

§ 45-1. Purpose and intent.

It is the purpose of this chapter to promote the health, safety, morals and general welfare of the citizens of Fort Edward and to establish reasonable and uniform regulations regarding the location and concentration of adult businesses and the promotion of pornography within the village. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor the effect of this chapter to restrict or deny

¹ Editor's Note: This local law also repealed former Ch. 45, Female Exposure, adopted 4-7-1986 by L.L. No. 1-1986.

access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; neither is it the intent nor the effect of this chapter to condone or legitimize the distribution of obscene materials. Therefore, it is recognized that special regulation of these adult businesses is necessary to:

- A. Preserve the character and quality of life in the village neighborhoods and business areas.
- B. Maintain property values.
- C. Prevent crime.
- D. Protect retail trade.
- E. Restrict minors' access to adult businesses.
- F. Maintain the general welfare and safety for Village of Fort Edward residents.

§ 45-2. Definitions.

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

ADULT — Any person 18 years of age or older. (A minor is any person under the age of 18.)

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, videos, computer software, other periodicals, films or viewing on the premises, by use of motion-picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or male or female genitalia or anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material, and which establishment customarily excludes any minor by virtue of age.

ADULT BUSINESS — An adult bookstore, adult cabaret, massage establishment or any establishment that engages in the use, sale or display of sexually explicit materials or the use of sexually oriented entertainment.

ADULT CABARET — A public or private establishment, or any part thereof, which presents any of the following entertainments or services on one or more occasions for the observation by patrons therein and which is operated for profit: topless female dancers; strippers (male or female); male or female impersonators; exotic dancers; topless waitresses, bussing or service; or service or entertainment where the servers or entertainers wear pasties or G-strings, or both. Adult cabarets customarily exclude minors by reason of age.

DISSEMINATE — To manufacture, issue, publish, sell, lend, distribute, transmit, broadcast, exhibit or present materials or to offer or agree to do the same or to have in one's possession with intent to do the same.

MASSAGE ESTABLISHMENT — Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition also shall exclude any establishments which do not receive their primary source of revenue through the administration of massages.

§ 45-3. Local restrictions.

Adult businesses, including but not limited to adult bookstores, adult cabarets and massage establishments, shall be permitted, subject to the following restrictions:

- A. No such adult business shall be allowed within 500 feet of another adult business.
- B. No such adult business shall be located within 500 feet of the boundaries of any zoning district which is zoned for residential uses.
- C. No such adult business shall be located within 500 feet of recreational facilities, a preexisting school, place of worship, cemetery, park or playground or other area where a large number of minors travel or congregate.
- D. Adult businesses may be located only in a commercial zone (C1).

§ 45-4. Registration required; application.

The owner of a building or premises, his agent for the purpose of managing or controlling or collecting rents or any other person managing or controlling a building or premises, any part of which contains an adult business, shall register the following information with the Village Clerk of the Village of Fort Edward:

- A. The address of the premises.
- B. The name and address of the owner of the premises and the names and addresses of the beneficial owners if the property is in a land trust.
- C. The name of the business or the establishment subject to the provisions of this chapter.
- D. The date of initiation of the business use.
- E. The nature of the business.
- F. If the premises or building is leased, a copy of the lease.

§ 45-5. Live entertainment.

- A. The purpose of this section is to regulate nudity as a form of commercial exploitation, to avoid adverse consequences of having nudity presented in any establishment.
- B. No establishment shall permit entertainment on the licensed premises, whether provided by a professional entertainer(s), employee(s) of the licensed premises or any other person(s), when the entertainment involves:
 - (1) The performance of acts or simulated acts of any sexual activity or any other sexual acts, which are prohibited by law.
 - (2) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals.
 - (3) The actual or simulated displaying of the genitals, pubic hair, buttocks, anus or any portion of the female breasts at or below the areola area thereof.
 - (4) The permitting by any licensee of any person to remain in or upon the licensed premises who exposes to any public view any portion of his or her genitals or anus or female breasts at or below the areola area thereof.
- C. For the purposes of this section, the words "displaying" and "expose" shall mean being unclothed or uncostumed or not covered by fully opaque cloth or textile material or employing any device or covering which is intended to give the appearance of or to simulate the genitals, pubic hair, buttocks, anus or the portions of the female breast at or below the areola area thereof.

§ 45-6. Promotion of pornography unlawful.

- A. Until a license is obtained by the village, it shall be unlawful for any person to promote pornography.

B. A person commits the offense of promoting pornography if, knowing its content and character, he:

- (1) Disseminates or causes to be disseminated any pornographic material in or from a public place or vehicle or for valuable consideration or has in his possession any pornographic material with intent to so disseminate or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him for such dissemination of pornographic material.
- (2) Sells an admission ticket or pass to premises where there is being exhibited or is about to be exhibited material or a performance which is pornographic.
- (3) Admits, by accepting a ticket or pass, a person to premises where there is being exhibited or is about to be exhibited material or a performance which is pornographic.
- (4) Produces, presents, directs or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him to be used for a pornographic performance before an audience.
- (5) Participates in that portion of a live performance before an audience which makes it pornographic.
- (6) Panders, displays publicly or disseminates door-to-door any pornographic material or performance or causes such pandering, public display or door-to-door dissemination.

§ 45-7. Penalties for offenses.

Any person found guilty of violating this chapter shall be subject to imprisonment not to exceed 15 days or a fine to be fixed by the court not to exceed \$1,000, or both.

Chapter 47

FIREARMS

§ 47-1. Title.

§ 47-2. Definitions.

§ 47-3. Discharge prohibited.

§ 47-4. Exceptions.

§ 47-5. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 9-7-89 as L.L. No. 2-1989. Amendments noted where applicable.]

§ 47-1. Title.

This chapter shall be known as the "Firearms Local Law of the Village of Fort Edward."

§ 47-2. Definitions.

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

FIREARM — Any pistol, revolver, rifle, shotgun, air gun, sling shot or bow and arrow which discharges a bullet, cartridge, shell, shot, arrow, bolt or other missile propelled by the burning or explosion of gunpowder, by high pressure from pumping or other means, by a spring which is set by a cocking operation or by the application and release of tension or pressure to a bow spring attached to such weapon or instrument.

§ 47-3. Discharge prohibited.

No person shall, except in self defense and when reasonably necessary for the protection of life and property, fire or discharge or cause to be fired or discharged any projectiles firing ammunition from any firearm as defined in this chapter within the boundaries of the Village of Fort Edward.

§ 47-4. Exceptions.

- A. The prohibitions in this chapter shall not apply to any officer of the law while engaged in the protection of the safety of the people within the Village of Fort Edward.
- B. The Village Board of Trustees may permit the discharge of firearms within the Village of Fort Edward upon any appropriate occasion of public ceremony.

§ 47-5. Penalties for offenses.

Any person who violates any provision of this chapter shall, upon conviction thereof, be subject to a fine of no more than two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment.

FIRE PREV. & BLDG. CODE

Chapter 49

**FIRE PREVENTION AND
BUILDING CODE, UNIFORM**

**ARTICLE I
General Provisions**

- § 49-1. Title.
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**ARTICLE II
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- § 49-5. Code Enforcement Official designated.
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- § 49-9. Permit required.
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FORT EDWARD CODE

§ 49-15. Revocation.

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§ 49-17. Compliance with code.

§ 49-18. Occupied dwelling units.

§ 49-19. Access to premises.

§ 49-20. Warrants for inspection.

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§ 49-25. Building permits.

§ 49-26. Certificates of occupancy.

ARTICLE VII Enforcement

§ 49-27. Compliance required.

§ 49-28. Stop-work orders.

FIRE PREV. & BLDG. CODE

§ 49-29. Failure to comply.

§ 49-30. Penalties for offenses; other remedies.

ARTICLE VIII Records and Appeals

§ 49-31. Records.

§ 49-32. Actions which may be appealed.

§ 49-33. Forms for appeals; fee.

ARTICLE IX Miscellaneous Provisions

§ 49-34. Promulgation of rules and regulations.

§ 49-35. Severability.

§ 49-36. When effective.

§ 49-37. Municipal cooperation.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 11-7-88 as L.L. No. 3-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Moving of buildings — See Ch. 29.
Unsafe buildings — See Ch. 32.
Flood damage prevention — See Ch. 52.
Zoning — See Ch. 100.

ARTICLE I
General Provisions

§ 49-1. Title.

The Board of Trustees of the Village of Fort Edward, pursuant to Section 1 of Chapter 707 of the Laws of 1981 [Executive Law, § 381 (2)] now formally adopts this chapter, to be known as, "A Local Law Authorizing Village Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code."

§ 49-2. Statutory authority.

This chapter is hereby enacted pursuant to the authority granted by § 10 of the New York State Municipal Home Rule Law.

§ 49-3. Purpose.

This chapter shall provide the method for administration and enforcement of the New York State Uniform Fire Prevention and Building Code ("the code") in the Village of Fort Edward and shall establish powers, duties and responsibilities in connection therewith.

§ 49-4. Standards of construction.

All new construction, alterations, improvements, removal or demolition of any building or structure shall be in compliance with the most recent edition of the New York State Uniform Fire Prevention and Building Code, prepared by the New York State Division of Housing and Community Renewal.

ARTICLE II
Enforcement Officials

§ 49-5. Code Enforcement Official designated. [Amended 6-27-1997 by L.L. No. 2-1997¹]

The Washington County Department of Code Enforcement is designated as the "Code Enforcement Official" with the approval of the Village of Fort Edward Board of Trustees.

§ 49-6. Powers and duties of Code Enforcement Official.

- A. The Code Enforcement Official shall be considered an official of the Village of Fort Edward.
- B. The Code Enforcement Official shall:
 - (1) Except as otherwise specifically provided by law or except as herein otherwise provided, administer and enforce all of the provisions of the Uniform Fire Prevention and Building Code applicable to the plans, specifications or permits for the construction, alteration and repair of buildings and structures, the installation and use of materials and equipment therein and the location, use and occupancy thereof in regard to building construction specifications and fire prevention requirements.
 - (2) Receive applications, approve plans and specifications and issue permits for the erection and alteration of buildings or structures or parts thereof and shall examine the premises for which such applications have been received, plans approved or such permits have been issued, for the purpose of insuring compliance with the code.
 - (3) Make inspections and issue in writing all appropriate notices or orders, including stop orders,

¹ Editor's Note: This local law also provided that this change in authority would take effect January 1, 1998.

to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of the code.

- (4) Make all building construction and fire prevention inspections which are necessary and proper for the carrying out of duties as required by the code.
- (5) Issue a certificate of occupancy, where appropriate, for a building constructed or altered in accordance with the provisions of the Uniform Fire Prevention and Building Code, which shall certify that the building conforms to the requirements of the code.

§ 49-7. Acting Code Enforcement Official.

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

§ 49-8. Inspectors.

The Mayor, with the approval of the Board of Trustees, may appoint one inspector or more, as the need may appear, to act under the supervision and direction of the Code Enforcement Official and to exercise any portion of the powers and duties of the Code Enforcement Official as he may direct. The compensation of such inspector shall be fixed by the Board of Trustees.

ARTICLE III
Building Permits

§ 49-9. Permit required.

No person, firm, corporation, association or other organization shall commence the erection, construction, alteration, improvement, removal or demolition of any building or structure, except agricultural buildings or structures, or the installation of heating equipment without having applied for and obtained a building permit from the Code Enforcement Official. At the request of the applicant, building

(Cont'd on page 4907)

permit requirements may be waived where the work to be done involves minor interior or exterior alterations.

§ 49-10. Applications.

Applications for building permits shall be available through the Village Clerk's Office.

§ 49-11. Submission of applications.

Applications for building permits shall be delivered in person to the Village Clerk's Office.

§ 49-12. Application fees.

Building permit application fees must be paid and are set forth in § 100-31 of the Village Code of the Village of Fort Edward.

§ 49-13. Contents of applications.

The building permit applications shall specify, at a minimum: the items set forth in § 100-28 of the Village Code of the Village of Fort Edward; the requisite number of copies of certified plan specifications and maps; the signature of the applicant or authorized agent; the work site; a statement of the use or occupancy of all parts of the land and of the proposed building or structure; a brief description of the proposed work, including plans and specifications; the estimated cost of the proposed work; the name and address of the owner and applicant; the fee for the building permit as set forth under § 100-31 of the Village Code of the Village of Fort Edward; and, if either is a corporation, the names and addresses of responsible officers.

§ 49-14. Issuance of permit.

- A. The Code Enforcement Official shall examine or cause to be examined building permit applications and plans, specifications and documents filed therewith. The application shall be

approved or disapproved in accordance with § 100-38 of the Village Code of the Village of Fort Edward.

- B. Upon approval of the application, plans and specifications shall be endorsed with the word "approved." One (1) set of such approved plans and specifications shall be retained in the files of the Code Enforcement Official, and one (1) set shall be returned to the applicant, together with the building permit, and shall be kept by the applicant at the building site, open to inspection by the Code Enforcement Official at all reasonable times.
- C. If the application, together with plans, specifications and other documents filed therewith, describes proposed work which does not conform to all the requirements of the applicable building code regulations, the Code Enforcement Official shall disapprove the same and shall return the plans and specifications to the applicant. Upon request of the applicant, the Code Enforcement Official shall cause such refusal, together with the reasons thereof, to be transmitted to the applicant in writing.

§ 49-15. Revocation.

The Code Enforcement Official may revoke a building permit previously issued in the following instances:

- A. Where it is found that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based;
- B. Where it is found that the building permit was issued in error and should not have been issued in accordance with the applicable provisions of the code;
- C. Where it is found that the work performed under the permit is not being completed in accordance with the provisions of the application, plans or specifications of the code; or
- D. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Code Enforcement Official.

§ 49-16. Expiration; renewal.

A building permit shall expire one (1) year from the date of issuance or upon the issuance of a certificate of occupancy, whichever occurs first. A building permit may, upon written request, be renewed for successive one-year periods, provided that the permit has not been revoked or suspended at the time the application for renewal is made. The relevant information in the application for renewal must be up to date in order to obtain an extension.

**ARTICLE IV
Inspections****§ 49-17. Compliance with code.**

All dwellings, structures and uses regulated under the State Uniform Fire Prevention and Building Code, including but not limited to those buildings and structures for which a building permit has been obtained, shall be inspected for compliance with the building construction and fire prevention provisions of the code.

§ 49-18. Occupied dwelling units.

Except as otherwise required by the code, no regular or periodic inspections of occupied dwelling units shall be required. This shall not, however, be a limitation on inspections conducted at the invitation of the occupant or by an affected property owner where conditions on the premises are shown to threaten or present a hazard to public health, safety or welfare.

§ 49-19. Access to premises.

Access to building and premises by the Code Enforcement Official to conduct inspections shall be made only after reasonable prior notice has been given to the owner or his authorized representative, with the following exceptions:

- A. In the event that the owner or his authorized representative can not be located with due diligence; or

- B. In the event that the occupant makes a complaint that the conditions within the premises pose a threat to the health, safety or welfare of its occupants.

§ 49-20. Warrants for inspection.

If entrance to make an inspection is refused or cannot be obtained, the Code Enforcement Official may apply for a warrant to make an inspection to any court of competent jurisdiction.

§ 49-21. Responsibility of owner for building construction inspections.

Upon issuance of a building permit, it shall be the responsibility of the owner, the applicant or their authorized agent to arrange inspections with the Code Enforcement Official.

§ 42-22. Fire prevention inspections.

The Department of Code Enforcement shall conduct required inspections for compliance with the fire prevention provisions of the code.

**ARTICLE V
Certificates of Occupancy**

§ 42-23. Issuance required for use.

The Code Enforcement Official or the Enforcement Officer, as designated in § 100-21 of the Village Code of the Village of Fort Edward, upon determination that a dwelling or structure undergoing construction or alteration has complied with the provisions of the code, shall issue a certificate of occupancy. A certificate of occupancy must be issued before any occupancy or use of the dwelling or structure is allowed.

§ 49-24. Temporary certificates of occupancy.

Upon request from the owner, the applicant or his agent, the Code Enforcement Official or the Enforcement Official, as designated in § 100-21 of the Village Code of the Village of Fort Edward, may issue a temporary certificate of occupancy for a building or structure, or a part thereof, before the entire work covered by the building permit shall have been completed, provided that such portion or portions as have been completed may be occupied safely without endangering life or the public health or welfare. A temporary certificate of occupancy shall remain effective for a period not exceeding three (3) months from its date of issuance. For good cause, the Code Enforcement Official or the Enforcement Official, as designated in § 100-21 of the Village Code of the Village of Fort Edward, may allow a maximum of two (2) extensions for periods not exceeding three (3) months each.

**ARTICLE VI
Contents of Documents**

§ 49-25. Building permits.

The building permit issued pursuant to this chapter shall specify, at a minimum: the address of the proposed construction or structural alteration activity; the activity for which the permit is issued; the date of permit issuance; any conditions relevant or required as part of the issuance; and the signature of the Code Administrator or Code Enforcement Officer.

§ 49-26. Certificates of occupancy.

The certificate of occupancy issued pursuant to this chapter shall specify, at a minimum: the address of the dwelling or structure inspected; the use for which the certificate of occupancy is issued; the date the dwelling or structure was inspected and the date the building permit was issued; any conditions relevant or required as part of the issuance; and the signature of the Code Enforcement Official.

**ARTICLE VII
Enforcement****§ 49-27. Compliance required.**

It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provision of the New York State Uniform Fire Prevention Building Code or this chapter, as well as any regulation or rule promulgated by the Code Enforcement Official in accordance with applicable laws, or to fail in any manner to comply with a notice, directive or order of the Code Enforcement Official or to construct, alter, use or occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy. In the event of a violation and the failure to comply, neither a building permit nor a certificate of occupancy shall be issued. If a certificate of occupancy has been previously issued and thereafter a violation is found, the certificate shall be revoked if such violation is not remedied.

§ 49-28. Stop-work orders.

Whenever the Code Enforcement Official has reasonable grounds to believe that work on any building or structure is being done in violation of the applicable provisions of the code or it is not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued or the work is being done in an unsafe and dangerous manner, the owner of the property, or the owner's agent, shall be notified, in the form of a stop order, to stop all work. Such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing and shall state the conditions under which the work may be resumed. It may be served upon a person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the order to him by certified mail at the address set forth in the building permit application, if such application shall have been made.

§ 49-29. Failure to comply.

Any person who shall fail to comply with a written order of the Code Enforcement Official within the time fixed for compliance and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any building, who shall knowingly violate any of the applicable provisions of this chapter or any lawful order, notice, permit or certificate of the Code Enforcement Official shall be subject to a fine and/or penalty consistent with the provisions of Article 18, § 382, of the Executive Law of the State of New York and the penalties imposed under this chapter.

§ 49-30. Penalties for offenses; other remedies.

- A. Any person, firm or corporation who violates any provision of the code or any rule or regulation of this chapter or the terms or conditions of any building permit or any certificate of occupancy issued by the Code Enforcement Official shall be liable to a civil penalty of not more than two hundred fifty dollars (\$250.) for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Village Board on its own initiative or at the request of the Code Enforcement Official.
- B. Alternatively, or in addition to an action to recover the civil penalties provided by Subsection A of this section, the Village Board may institute any appropriate action or proceeding to present, restrain, enjoin, correct or abate any violation of, or to enforce, any provisions of the code or the terms or conditions of any certificate of occupancy issued by the Code Enforcement Official.
- C. Any person who shall willfully fail to comply with a written order of the Code Enforcement Official within the time fixed for compliance herewith and any owner, builder, architect, tenant, contractor, subcontractor, plumber, construction superintendent or their agents, or any other person taking part in assisting in the construction or use of any building,

who shall violate any of the applicable provisions of this chapter or any lawful order, notice, directive, permit or certificate of the Code Enforcement Official made thereunder or, in addition to any other remedies provided for in this chapter, any person who shall violate any of the provisions of this chapter, the code, any rules or regulations adopted pursuant to this chapter or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, shall severally for each and every such violation be guilty of a misdemeanor, punishable by a fine of not less than fifty dollars (\$50.) nor more than two hundred fifty dollars (\$250.) or by imprisonment for not more than thirty (30) days, or both fine and imprisonment. The imposition of one (1) penalty for any violation shall not excuse the violation nor permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that the prohibited condition(s) or violation continues shall constitute a separate offense. The imposition of any such penalty shall not be held to prohibit the enforced removal of prohibited conditions by any appropriate remedy, including immediate application for an injunction.

ARTICLE VIII Records and Appeals

§ 49-31. Records.

- A. The Code Enforcement Official shall keep permanent official records of all transactions and activities conducted by him, including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by the municipality and notices and orders issued. All such reports shall be public information open to public inspection during normal business hours.

- B. The Code Enforcement Official shall submit to the Mayor and Village Board a written report of all business conducted. Said report is to be submitted on a monthly basis or any periodic basis that the Mayor or Board of Trustees deems proper.

§ 49-32. Actions which may be appealed.

Any owner or authorized representative of a building or premises affected by the State Uniform Fire Prevention and Building Code or this chapter may appeal the following actions to the appropriate New York State Regional Board of Review:

- A. The application of the code where practical difficulties or unnecessary hardship may result.
- B. Any order or determination, or the failure within a reasonable time to make such order or determination, by an administrative official charged with the enforcement of, or purporting to enforce, the code.

§ 49-33. Forms for appeals; fee.

An appeal to the Regional Board of Review shall be in writing, on forms prescribed by the Secretary of State, and accompanied by a fee determined by the state.

**ARTICLE IX
Miscellaneous Provisions**

§ 49-34. Promulgation of rules and regulations.

The Board of Trustees may, after public notice and publication at least five (5) days prior to the effective date thereof in the official Village newspaper and in other newspapers with general circulation in the village, adopt by resolution further procedural/administrative rules and regulations as the Board deems reasonable to carry out the provisions of this chapter. The Code Enforcement Official may also make recommendations to the Village Board to adopt, amend or appeal such rules and regulations as they may relate to efficient administration and enforcement of the provisions of the Uniform Fire

Prevention and Building Code. Such rules and regulations shall not conflict with the code, this chapter or any other provisions of law.

§ 49-35. Severability.

Should any section or provisions of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any part thereof, other than the section or part so decided to be unconstitutional or invalid.

§ 49-36. When effective.

This chapter shall take effect upon its proper filing with the New York Secretary of State.

§ 49-37. Municipal cooperation.

To effectuate implementations of the New York State Uniform Fire Prevention and Building Code, the Village Board of the Village of Fort Edward is hereby authorized, pursuant to Article 5G of the General Municipal Law, to contract with the Town of Fort Edward or any other municipality for services on an as-needed basis in the administration and enforcement of the Uniform Fire Prevention and Building Code.

FLOOD DAMAGE PREVENTION

Chapter 52

FLOOD DAMAGE PREVENTION

- § 52-1. Findings.
- § 52-2. Purpose.
- § 52-3. Objectives.
- § 52-4. Definitions.
- § 52-5. Applicability.
- § 52-6. Basis for establishing areas of special flood hazard.
- § 52-7. Interpretation; construal of provisions.
- § 52-8. Penalties for offenses.
- § 52-9. Warning and disclaimer of liability.
- § 52-10. Local administrator designated.
- § 52-11. Development permit.
- § 52-12. Powers and duties of local administrator.
- § 52-13. Certificate of compliance.
- § 52-14. General standards.
- § 52-15. Specific standards.
- § 52-16. Floodways.
- § 52-17. Variances.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 3-30-87 as L.L. No. 1-1987.¹ Amendments noted where applicable.]

¹ Editor's Note: This local law superseded former Ch. 52, Flood Damage Prevention, adopted at time of adoption of Code 4-7-86 by L.L. No. 1-1986.

GENERAL REFERENCES

Zoning — See Ch. 100.

§ 52-1. Findings.

The Village Board of the Village of Fort Edward finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Fort Edward and that such damages may include the destruction or loss of private and public housing, damage to public 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 chapter is adopted.

§ 52-2. Purpose.

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

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, are protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages.
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 52-3. Objectives.

The objectives of this chapter are:

- A. To protect human life and health.
- B. To minimize expenditure of public money for costly flood control projects.
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. To minimize prolonged business interruptions.
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.
- F. 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.
- G. To provide that developers are notified that property is in an area of special flood hazard.
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 52-4. Definitions.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

APPEAL — A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM), with base flood depths from one (1) to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a 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, A1-99, V, VO, VE or V1-30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING — Any structure built for support, shelter or enclosure for occupancy or storage.

CELLAR — Same as "basement."

COASTAL HIGH-HAZARD AREA — The area subject to high-velocity waters, including but not limited to hurricane wave wash. The area is designated on a FIRM as Zone V1 - 30, VE, VO or V.

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 located within the area of special flood hazard.

ELEVATED BUILDING — A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or sheer walls.

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 watercourses studied in detail in the Flood Insurance Study.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (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 defined but no water surface elevation is provided.

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 — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles as well as the Flood Boundary - Floodway Map and the water surface elevations of the base flood.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — Same as "regulatory floodway."

FLOOR — The top surface of an enclosed area in a building, including basement, i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

FUNCTIONALLY DEPENDENT USE — a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, 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.

LOWEST FLOOR — The lowest level, including basement or cellar, of the lowest enclosed area. An unfinished or flood-resistant enclosure usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME — A structure, transportable in one (1) 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 also includes park trailers, travel trailers and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other data to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME — Same as "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this chapter.

ONE-HUNDRED-YEAR FLOOD — Same as "base flood."

PRINCIPALLY ABOVE GROUND — At least fifty-one percent (51%) of the actual cash value of the structure, excluding land value, is above ground.

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 § 52-12B of this chapter.

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION — The initiation, excluding planning and design, of any phase of a project or physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; the installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building materials. For manufactured homes, the actual start means the affixing of the manufactured home to its permanent site.

STRUCTURE — A walled and roofed building, a manufactured home or a gas- or liquid-storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE — A grant of relief from the requirements of this chapter, which permits construction or use in a manner that would otherwise be prohibited by this chapter.

§ 52-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Fort Edward.

§ 52-6. Basis for establishing areas of special flood hazard.

The areas of special flood hazard are identified by the Federal Emergency Management Agency in a scientific and engineering report entitled the "Flood Insurance Study for the Village of Fort Edward of Washington County, New York," dated February 15, 1984, with accompanying Flood Insurance Rate Maps and Flood Boundary - Floodway Maps, which is hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and maps are on file at the Village Clerk's office, 118 Broadway, Fort Edward, New York.

§ 52-7. Interpretation; construal of provisions.

- A. This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter 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.

§ 52-8. Penalties for offenses.

No structure 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 chapter and any other applicable regulations. Any infraction of the provisions of this chapter 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 chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars (\$250.) or imprisoned for not more than fifteen (15) days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Fort Edward from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter, for which the developer and/or owner has not applied for and received an approved variance under § 52-17, will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 52-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter 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 chapter does not imply that land outside the areas of special flood hazard or that uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Village of Fort Edward, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 52-10. Local administrator designated.

The Building Inspector is hereby appointed local administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 52-11. Development permit.

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 52-6. Application for a development permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

A. Application stage. The following information is required where applicable:

- (1) The elevation, in relation to mean sea level, of the proposed lowest floor, including basement or cellar, of all structures.
- (2) The elevation, in relation to mean sea level, to which any nonresidential structure will be floodproofed.

- (3) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 52-14C(1).
 - (4) A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 52-15.
 - (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- B. Construction stage. Upon placement of the lowest floor or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. 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.

§ 52-12. Powers and duties of local administrator.

Duties of the local administrator shall include but not be limited to:

- A. Permit application review. The local administrator shall:
- (1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.
 - (2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
 - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
 - (4) Review all development permits for compliance with the provisions of § 52-14E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 52-6, Basis for establishing areas of special flood hazard, 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 § 52-14D(4), in order to administer § 52-15, Specific standards, and § 52-16, Floodways.
- C. Information to be obtained and maintained. The local administrator shall:
- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures and whether or not the structure contains a basement or cellar.
 - (2) For all new or substantially improved floodproofed structures:
 - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed.
 - (b) Maintain the floodproofing certifications required in §§ 52-14 and 52-15.

- (3) Maintain for public inspection all records pertaining to the provisions of this chapter, including variances, when granted, and certificates of compliance.

D. Alteration of watercourses. The local administrator shall:

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM boundaries.

- (1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.
- (2) Base flood elevation data established pursuant to § 52-6 and/or § 52-12B, when available, shall be used to accurately delineate the area of special flood hazards.
- (3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the areas of special flood hazard when base flood elevations are not available.

F. Stop-work orders.

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 52-8 of this chapter.
- (2) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a

stop-work order shall be subject to the penalties described in § 52-8 of this chapter.

- G. 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 that the development is in compliance with the requirements of either the development permit or the approved variance.

§ 52-13. Certificate of compliance.

- A. It shall be unlawful to use or 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 chapter.
- B. All other development occurring within the designated flood hazard area will have, upon completion, a certificate of compliance issued by the local administrator.
- C. All certifications shall be based upon the inspections conducted subject to § 52-12G and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 52-14. General standards.

In all areas of special flood hazard, the following standards are required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two (2) feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include but are not to be limited to the use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments, including proposals for manufactured home parks and subdivisions, greater than either fifty (50) lots or five (5) acres.

E. Encroachments.

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the areas of special flood hazard set forth in § 52-12A(3). This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 52-12B or 52-14D(4) and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.
- (3) In all areas of special flood hazard where floodway data is provided or available pursuant to § 52-12B, the requirements of § 52-16, Floodways, shall apply.

§ 52-15. Specific standards.

- A. In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 52-6, Basis for establishing areas of special flood hazard, and § 52-12B, Use of other base flood and floodway data, the following standards are required:
- (1) Residential construction. New construction and substantial improvements of any resident structure shall:
 - (a) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
 - (b) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - [1] A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
 - [2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
 - [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 - (2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation or be floodproofed so that the structure is watertight below the base flood level, 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.

- (a) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically, without human intervention, allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- [1] A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
- [2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
- [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

- (b) If the structure is to be floodproofed:

- [1] A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

[2] A licensed professional engineer or licensed land surveyor shall certify the specific elevation, in relation to mean sea level, to which the structure is floodproofed.

(c) The local administrator shall maintain on record a copy of all such certificates noted in this section.

B. Construction standards for areas of special flood hazard without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation as may be determined in § 52-12B or two (2) feet above the highest adjacent grade where no elevation data is available.

(1) New construction or substantial improvement of structures, including manufactured homes, shall have the lowest floor, including basement, elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.

(2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically, without human intervention, allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

(a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.

(b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.

(c) Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

§ 52-16. Floodways.

Located within areas of special flood hazard are areas designated as floodways. (See § 52-4.) The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 52-6 and 52-12B, all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

§ 52-17. Variances.**A. Appeals Board.**

- (1) The Zoning Board of Appeals, as established by the Village Board, shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (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 chapter.
- (3) Those aggrieved by the decision of the Zoning Board 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 shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
 - (a) The danger that materials may be swept onto other lands to the injury of others.
 - (b) The danger to life and property due to flooding or erosion damage.

- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (d) The importance of the services provided by the proposed facility to the community.
 - (e) The necessity to the facility of a waterfront location, where applicable.
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (g) The compatibility of the proposed use with existing and anticipated development.
 - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
 - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (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 § 52-17A(4) and the purposes of this chapter, the Zoning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

- (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.

B. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 52-17A(4)(a) through (l) have been fully considered. As the lot size increases beyond the one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the contributing structures procedures set forth in the remainder of this section.
- (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 Subsection B(1), (4), (5) and (6) of this section are met.
 - (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) A showing of good and sufficient cause.
 - (b) A 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 or 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 that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Chapter 59

LITTERING

- § 59-1. Legislative intent.
- § 59-2. Word usage; definitions.
- § 59-3. Litter in public places.
- § 59-4. Litter from vehicles.
- § 59-5. Litter in parks, beaches and bodies of water.
- § 59-6. Litter on private property.
- § 59-7. Handbills.
- § 59-8. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward at time of adoption of Code 4-7-86 by L.L. No. 1-1986; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

§ 59-1. Legislative intent.

It is hereby declared the policy of the Village of Fort Edward to preserve and maintain the clean and wholesome character of its environs and to preserve and maintain the health and welfare of its residents within the incorporated area of the village, and in so doing it is necessary to establish regulations restricting the disposal of litter within the Village of Fort Edward.

§ 59-2. Word usage; definitions.

- A. Word usage. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular; words used in the singular number include the plural; and words in the masculine

include the feminine and the neuter. The word "shall" is always mandatory and not merely directory.

- B. Definitions. For the purpose of this chapter, the following words, phrases and terms and their derivations shall have the meanings given herein:

AUTHORIZED PRIVATE RECEPTACLE — A litter storage and collection receptacle of steel, aluminum or plastic, of ten (10) to thirty (30) gallons' capacity, with tight cover, or larger steel container with closed lid, not exceeding forty (40) gallons' capacity. [Amended 7-7-86 by L.L. No. 2-1986]

GARBAGE — Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

HANDBILL — Any printed or written matter, circular, leaflet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature.

LITTER — Garbage, refuse and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare or tends to create blight.

NEWSPAPER — A printed publication issued at regular intervals, including any periodical or current magazine regularly published with not less than four (4) issues per year and sold to the public, commonly containing news, comments, features and advertisements, including any "newspaper" duly entered with the Post Office Department of the United States in accordance with federal statute or regulation.

PARK — A park, reservation, playground, beach, recreation center or any other public area in the village, owned or operated by the village and devoted to active or passive recreation.

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

PRIVATE PREMISES — Any house, building or other structure not owned or operated by the village, whether inhabited or temporarily or continuously uninhabited or vacant, including any yard, ground, parking lot, walk, driveway,

porch, steps, vestibule or mailbox belonging or appurtenant to such house, building or other structure.

PUBLIC PLACE — Any and all streets, sidewalks, boulevards, alleys or other public ways, and any and all public parks, beaches, squares, spaces, grounds and buildings.

REFUSE — All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

RUBBISH — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as but not limited to paper, wrappings, cardboard, tin cans, wood, glass, bedding and crockery.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon a highway or public street.

VILLAGE — The Village of Fort Edward.

§ 59-3. Litter in public places.

- A. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the village except in public receptacles or in authorized private receptacles for collection.
- B. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements or animals upon any street, sidewalk or other public place or upon private property. [Amended 7-7-86 by L.L. No. 2-1986]
- C. No person shall sweep into or deposit in any gutter, street, catch basin or other public place within the village the accumulation of dirt or litter from any building or lot or from any public or private sidewalk or driveway.
- D. Persons owning or occupying property shall keep the sidewalks in front of their premises free of litter.

§ 59-4. Litter from vehicles.

- A. No person shall throw or deposit litter from any vehicle upon any street or public place within the village or upon private property.
- B. No person shall drive or move any vehicle or truck within the village, the wheels or tires of which carry onto or deposit in any street, alley or other public place sticky substances or foreign matter of such kind as adheres to the road surface.

§ 59-5. Litter in parks, beaches and bodies of water.

- A. No person shall throw or deposit litter in any park or beach within the village except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or beach or upon any street or other public or private place. Where public receptacles are not provided, all such litter shall be carried away from the park or beach by the person responsible for its presence and properly disposed of elsewhere, as provided herein.
- B. No person shall throw or deposit litter in any pond, river, stream or other body of water within the village.

§ 59-6. Litter on private property.

- A. No person shall throw or deposit litter on any private property within the village, whether owned by such person or not and whether occupied or vacant, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.
- B. The owner and/or person in control of private property or any portion thereof shall at all times maintain the premises or that portion controlled by him free of litter, except when stored properly in authorized private receptacles for collection, no

sooner than 12:00 noon the day before the scheduled day of collection, when such person shall have actual notice thereof or when said litter shall have been present a sufficient length of time to constitute constructive notice. [Amended 7-7-1986 by L.L. No. 2-1986]

§ 59-7. Handbills.

- A. In public places. No person shall throw or deposit any handbill in or upon any sidewalk, street or other public place within the village. No person shall hand out or distribute any handbill in any public place except to persons willing to accept it.
- B. On vehicles. No person shall throw or deposit any handbill in or upon any vehicle, except it shall not be unlawful in any public place for a person to hand out or distribute a handbill to any occupant of a vehicle who is willing to accept it.
- C. On private property. No person shall throw or deposit any handbill in or upon any private premises which are:
 - (1) Temporarily or continuously uninhabited or vacant.
 - (2) Posted with a sign placed in a conspicuous position near the entrance thereof, bearing the words "No Peddlers or Agents," "No Advertisements" or words of similar import indicating the desire of the occupants not to have such handbills left upon such premises, or where an occupant expressly directs the person not to throw, deposit or distribute the handbill on the premises.
 - (3) Inhabited but not posted or subject to an express warning by an occupant, except by handing or transmitting any such handbill directly to an occupant, unless the person so distributing places or deposits any such handbill so as to secure or prevent it from being blown or drifted about the premises or sidewalks, streets or other public ways.

- D. The provisions of this section shall not apply to the distribution of mail by the United States Postal Service nor to newspapers (as defined herein), except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

§ 59-8. Penalties for offenses. [Amended 5-6-1996 by L.L. No. 1-1996]

Any person violating the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine not to exceed two hundred fifty dollars (\$250.) for each offense, each day considered a separate offense, and/or by imprisonment of not more than fifteen (15) days, and/or the requirement of a signed agreement with either a private waste hauler or by arranging for weekly collection with the Town of Fort Edward.

Chapter 61**NOISE**

§ 61-1. Intent and purpose.

§ 61-2. Prohibited acts.

§ 61-3. Exceptions.

§ 61-4. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 5-3-1999 by L.L. No. 2-1999. Amendments noted where applicable.]

§ 61-1. Intent and purpose.

It is the intent of the Fort Edward Village Board to allow residents to enjoy the environment of the village without subjecting residents to disturbing, excessive or offensive noise which creates a detriment to the life, health or enjoyment of their property. This chapter is to be construed literally, but is not intended to discourage the enjoyment by residents of normal, reasonable and useful activities.

§ 61-2. Prohibited acts.

- A. No person shall cause, suffer, allow or permit to be made unreasonable noise. For the purpose of this chapter, unreasonable noise is any disturbing, excessive or offensive sound which disturbs a reasonable person of normal sensitivities.
- B. The following acts are declared to be evidence of a violation of this chapter:

- (1) Any unnecessary noise from any source between the hours of 11:00 p.m. and 7:00 a.m.
- (2) Noise from a dog or other pet that is continuous and exceeds 15 minutes.
- (3) Noise from a burglar alarm or other alarm system of any building, motor vehicle or boat which is continuous.
- (4) Noise from any sound reproduction system, operating or playing any radio, portable radio or tape player, television, tape deck or similar device that reproduces or amplifies sound in such a manner as to be heard 60 feet from its source or over any property line.
- (5) The erection, excavation, demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 9:00 p.m. except in the case of public safety or emergency.
- (6) The operation of power equipment between the hours of 10:00 p.m. and 7:00 a.m.
- (7) The sounding of any horn or signaling device of an automobile, motorcycle or other vehicle for any unnecessary reason or unreasonable period of time.
- (8) The making of improper noise or disturbance or operating a motor vehicle, snowmobile, all terrain vehicle or other motorized vehicle in such a manner as to cause excessive squealing or other excessive noise of tires.
- (9) Offering for sale anything by shouting or crying out upon the public streets and sidewalks.
- (10) The use of "jake brakes" is prohibited and may be used only in an emergency.

§ 61-3. Exceptions.

- A. The emission of sound for the purpose of alerting persons to the existence of any emergency.
- B. Noise from municipality-sponsored celebrations or events.
- C. Noise from individually sponsored events where a permit for public assembly has been obtained.
- D. The operation or use of any organ, radio, bell, chimes or other instrument, apparatus or device by any church or synagogue.
- E. Noise generated by the installation and maintenance of utilities.
- F. Noise generated by normal operations of the Village of Fort Edward.

§ 61-4. Penalties for offenses.

Any person violating any provision of this chapter shall be guilty of a violation and shall be subject to a fine not to exceed \$250 for each offense or imprisonment of 15 days, or both.

Chapter 63**OUTSIDE BURNING**

§ 63-1. Purpose.

§ 63-2. Restrictions.

§ 63-3. Outdoor grills; fireplaces.

§ 63-4. Burning by Village officials or Fire District.

§ 63-5. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 2-4-2002 by L.L. No. 1-2002. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 26.

Littering — See Ch. 59.

Property maintenance — See Ch. 65.

§ 63-1. Purpose.

The purpose of this chapter shall be to prevent the danger to the public health and safety posed by uncontrolled and unregulated outside burning.

§ 63-2. Restrictions.

A. No person or business shall burn, allow or permit the outside burning of any brush, leaves, lumber, plastic, tires, chemicals, trash, garbage, construction demolition, refuse or other related items within the limits of the Village of Fort Edward.

B. The use of burn barrels will be prohibited within the limits of the Village of Fort Edward.

- C. Exceptions. The requirements of Subsection A shall not apply where the outside burning operations result from:
- (1) Any contained fire set solely for recreational purposes.
 - (2) Any fire set solely for cooking food.
 - (3) Any contained fire for ceremonial purposes. All ceremonial fires must be approved by the Village Board.
- D. No fire shall be allowed in such a manner that:
- (1) The emissions interfere with the reasonable enjoyment of life or property.
 - (2) The emissions cause damage to vegetation or property.
 - (3) The emissions are or may be harmful to human or animal health.
- E. The Board of Trustees reserves the right to ban all fires within the limits of the Village of Fort Edward due to drought and any other unforeseen circumstance.

§ 63-3. Outdoor grills; fireplaces.

- A. Nothing contained herein shall prevent the operation of outdoor grills or fireplaces for the preparation of food or the use of said outdoor grills and fireplaces solely for recreational purposes where such fires are properly controlled and a hazard or a nuisance is not created.
- B. The following restrictions apply to fireplaces:
- (1) Fireplaces must be constructed so as to prevent the spread of fire and the flying of ashes therefrom.
 - (2) Newly constructed fireplaces shall not be closer than five feet to any property line, fence or any structure.
 - (3) Permissible burning in fireplaces must be attended at all times.

§ 63-4. Burning by Village officials or Fire District.

The Village Board may authorize the Highway Superintendent or the Fire District to burn structures, lumber, brush or other items.

§ 63-5. Penalties for offenses.

Any person convicted of violating any provision of this chapter shall be guilty of a violation punishable as follows: a fine of not more than \$250 or by imprisonment of not more than 15 days, or by both such fine and imprisonment.

Chapter 63A**PARKING FINES**

§ 63A-1. Title.

§ 63A-2. Purpose.

§ 63A-3. Penalties for offenses.

§ 63A-4. When effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 8-5-2002 by L.L. No. 2-2002. Amendments noted where applicable.]

GENERAL REFERENCES

Abandoned and junked vehicles — See Ch. 85.

Vehicles and traffic — See Ch. 90.

Unlicensed motor-driven vehicles — See Ch. 92.

§ 63A-1. Title.

This chapter shall be known as the "Parking Fine Law of the Village of Fort Edward."

§ 63A-2. Purpose.

It is the purpose of this chapter to promote safe parking habits within the Village of Fort Edward and to ensure the safety of vehicular and pedestrian traffic.

§ 63A-3. Penalties for offenses.

The following penalties will be levied for the following; in addition, penalties will double if not paid within 30 days of issuance.

Violation	Fine
Angle parking	\$25
Blocking intersection	\$25
Blocking driveway	\$25
Blocking sidewalk	\$25
Exceeding posted time limit	\$25
Parking in no parking zone	\$25
Parking during restricted hours	\$25
Parking too close to corner	\$25
Overnight parking violation	\$25
Parking in tow-away zone	\$25
Parking by fire hydrant	\$50
Parking in fire zone	\$50
Handicapped zone (state mandated)	\$55

§ 63A-4. When effective.

This chapter will become effective upon filing with the New York Secretary of State.

Chapter 64

PEDDLING AND SOLICITING

- § 64-1. Purpose.
- § 64-2. Definitions.
- § 64-3. Registration certificate required.
- § 64-4. Application for registration certificate.
- § 64-5. Investigation of applicant.
- § 64-6. Denial or issuance of certificate.
- § 64-7. Registration fee; renewal.
- § 64-8. Bonds.
- § 64-9. Appeals from denial of certificate.
- § 64-10. Conditions of registration.
- § 64-11. Restrictions on license holders.
- § 64-12. Revocation of certificate.
- § 64-13. Exemptions.
- § 64-14. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward at time of adoption of Code 4-7-86 by L.L. No. 1-1986; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

Public entertainment — See Ch. 41.

§ 64-1. Purpose.

This chapter is enacted for the purpose of regulating the distribution of certain materials, peddling, soliciting and related activities

within the Village of Fort Edward. The registration of persons engaged in the above-mentioned activities is required so that the identity of persons going door to door or distributing materials within the village may be established, so that general regulations may be more effectively enforced, for the protection and maintenance of the health, safety and welfare of the inhabitants of the village and to prevent dishonest business practices and dishonest solicitation of funds in the village.

§ 64-2. Definitions.

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

DISTRIBUTOR — Any person who distributes or causes to be distributed on any street or public place within the village any newspaper, periodical, book, magazine, handbill, circular, card or pamphlet or printed material of any kind.

GARAGE SALE — All sales of a private, non-retail nature, including but not limited to garage sales, yard sales, tag sales, moving sales and cellar sales, will require a registration certificate. [Added 7-7-86 by L.L. No. 2-1986]

MERCHANDISE — All goods, wares, food, meat, fish, ice cream, fruit, vegetables, magazines, periodicals, printed material, farm products, services and orders or contracts for services, home improvement or alterations and anything that may be sold or distributed by peddlers, solicitors or distributors as used herein.

PEDDLER — Any person, whether a resident of the village or not, who goes from house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other type of conveyance, carrying or transporting merchandise for the purpose of selling and delivering the merchandise to customers. The word "peddler" shall also include the words "hawker" and "huckster."

PERSON — Any individual, firm, partnership, corporation, organization, club, association or any principal or agent thereof.

SOLICITOR — Any person, whether a resident of the village or not, who goes from house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other type of conveyance, soliciting, taking or attempting to take orders for the sale of merchandise or services of any kind for future performance or delivery, whether or not such individual has, carries or exposes for sale a sample of the merchandise or services and whether or not he is collecting advance payments on such sales or orders, or who engages in any of the foregoing activities from a stationary location on any street or other public place. The word "solicitor" shall also include the word "canvasser" or any person who goes from door to door as described above for the purpose of soliciting and/or collecting funds from a stationary location or from any street or other public place.

TRANSIENT MERCHANT — Any person engaging in the activities commonly referred to as "transient merchant" or "itinerant vendor" who merchandises or sells with the intent to close out or discontinue such business within a period of one (1) year from the date of commencement and occupies a room, building, tent, lot or other premises for the purpose of selling merchandise.

§ 64-3. Registration certificate required.

- A. It shall be unlawful for any peddler, solicitor, distributor or transient merchant to sell, offer for sale or distribute merchandise, printed material or services within the village without first applying for and obtaining a registration certificate therefor from the Village Clerk.
- B. Garage sales. [Added 7-7-86 by L.L. No. 2-1986]
 - (1) It shall be unlawful for any person to conduct a garage sale within the village without first applying for and obtaining a registration certificate. A garage sale shall not exceed three (3) consecutive days. Each registration certificate shall be valid for a sale not to exceed a three-day period from the first day of sale.

- (2) Application for a garage sale registration certificate shall contain the following:
 - (a) The name of the applicant.
 - (b) The location of the residence at which the sale will be held.
 - (c) The tax map location number.
- (3) Registration certificate limitations.
 - (a) No more than three (3) registration certificates will be issued per calendar year to any one (1) tax residence.
 - (b) Registration certificates for additional garage sales will require a New York State sales tax identification number. A fee of twenty-five dollars (\$25.) will be charged per registration certificate.
 - (c) Nonprofit organizations are exempt from the provisions of this section.

§ 64-4. Application for registration certificate.

Every applicant for a registration certificate under the provisions of this chapter shall file with the Village Clerk a sworn written application, on a form to be furnished by said Clerk, which shall give or be accompanied by the following information or documents:

- A. The name and description of the applicant.
- B. The permanent home address and full local address of the applicant.
- C. A brief statement of the nature of the business and a description of the merchandise or service to be sold.
- D. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- E. The length of time for which the certificate is desired.
- F. If a vehicle is to be used, a description of such vehicle and its license number.

- G. The place where the merchandise or services to be sold or offered for sale are manufactured or produced, where such merchandise is located at the time such application is filed and the proposed method of delivery.
- H. Two (2) business references located in the County of Washington, State of New York, or, in lieu thereof, such other available evidence of the character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and responsibility.
- I. A statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

§ 64-5. Investigation of applicant.

- A. When the application is properly filled out and signed by the applicant, the original and duplicate thereof shall be filed with the Clerk, and the Clerk shall refer the original to the Chief of Police, who shall make or cause to be made within five (5) days such investigation of the applicant's business responsibility and character as he deems necessary for the protection of the public good.
- B. If, as a result of such an investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons therefor and shall return said application to the Clerk. Any determination by the Chief of Police that an

(Cont'd on page 6405)

application is unsatisfactory shall be based on one (1) or more of the following findings with respect to the applicant:

- (1) Conviction of a crime involving moral turpitude.
 - (2) Prior violation of a peddling or soliciting ordinance or law.
 - (3) Previous fraudulent acts or conduct.
 - (4) Record of breaches of solicited contracts.
 - (5) Concrete evidence of bad character.
- 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 Clerk.

§ 64-6. Denial or issuance of certificate.

- A. If an application is found unsatisfactory by the Chief of Police and he has endorsed his disapproval upon the application, the Clerk shall notify the applicant, by mail, that the application is disapproved and shall deny the applicant any registration certificate.
- B. If an applicant is found satisfactory by the Chief of Police, the Clerk shall issue a registration certificate addressed to the applicant to conduct the business applied for upon the payment of the proper fee by the applicant. Such certificate shall contain the signature of the issuing officer and shall show the name, address and photograph of the applicant, the type of business (peddler, solicitor, distributor or transient merchant) for which the applicant has registered, the kind of goods or services to be sold thereunder, the date of issue, the length of time the certificate shall be operative and the license number and other identifying description of any vehicle used in the activity licensed.

§ 64-7. Registration fee; renewal.

- A. At the time of the issuance of a registration certificate, a fee of twenty-five dollars (\$25.) per year or fraction thereof shall

be paid by the applicant to cover the costs of investigation and the administration and enforcement of this chapter.

- B. 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.
- C. Upon the expiration of a certificate, a new certificate 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 the investigation and waiting period therefor may be waived if approved by the Clerk and Chief of Police.

§ 64-8. Bonds.

- A. Prior to the issuance of any certificate, the applicant shall file with the Village Clerk a bond running to the village in the amount of one thousand five hundred dollars (\$1,500.), 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 certificate and shall be conditioned to indemnify and pay the village for any penalties or costs incurred in the enforcement of any of the provisions of this chapter and to indemnify or reimburse any purchase of personal property from the holder of the certificate in a sum equal to at least the amount of any payment such purchaser of personal property may have been induced to make through the misrepresentation as to the kind, quality or value of the personal property, whether the misrepresentations were made by the licensee or said licensee's agents, servants or employees either at the time of making the sale or through any advertisement 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 certificate.
 - (2) Violation of any of the provisions of this chapter by the applicant or his agents, servants or employees.

- C. The Board of Trustees 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.

§ 64-9. Appeals from denial of certificate.

Any person aggrieved by the action of the Chief of Police or of the Village Clerk in the denial of a certificate, as provided in § 64-6 of this chapter, shall have the right of appeal to the Board of Trustees. Such appeal shall be taken by 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 appeal. The Board of Trustees shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given in the same manner as provided in § 64-12 of this chapter for notice of hearing on revocation. The decision of the Board on such appeal shall be final and conclusive.

§ 64-10. Conditions of registration.

- A. Upon obtaining a registration certificate as hereinafter provided, a peddler, solicitor, distributor or transient merchant may conduct his activities within the village only as long as he adheres to the regulations set forth in this chapter.
- B. All certificates shall expire one (1) calendar year from the date of issuance.
- C. A registration certificate shall not be assignable. Any holder of a certificate who permits it to be used by any other person and any person who uses a certificate issued to any other person shall be guilty of an offense against this chapter.
- D. No applicant to whom a certificate has been refused or who has had a certificate revoked shall make further application until a period of at least twelve (12) months shall have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection or revocation no longer exists.

- E. Every peddler, solicitor, distributor or transient merchant shall, while conducting his activities, carry the certificate with him and shall exhibit the same upon demand to any police officer or citizen.

§ 64-11. Restrictions on license holders.

No person or license holder shall:

- A. Peddle, solicit or distribute merchandise, except between the hours of 8:00 a.m. and 6:00 p.m., unless specifically having been invited into a house by the occupant or having made an appointment with a person previously.
- B. Attempt to peddle, solicit or distribute merchandise or printed material without first having identified himself as a peddler, solicitor or distributor registered with the Clerk and displaying his certificate.
- C. Have exclusive right to any location in the public streets or operate in any congested area where his operations might impede or inconvenience the public.
- D. Leave at a property or house or in any public place circulars, samples or other matter, except a newspaper, which shall be defined as a periodical with a paid circulation of at least ninety percent (90%) of its total circulation, except when handed to a person willing to accept the same.
- E. Enter or attempt to enter the land of any resident in the village without an express invitation from the occupant of such land.
- F. Conduct himself in such a manner as to become objectionable to or annoy an occupant of any house.
- G. Shout, cry out, blow a horn, ring a bell or use any sound-making or -amplifying device upon any of the streets, parks or public places of the village or upon private premises in such a manner that sound of sufficient volume is emitted or produced to be capable of being plainly heard upon the streets, avenues, parks or other public places of the village or upon private premises therefrom, for the purpose of attracting attention to any merchandise or services.

- H. Distribute obscene merchandise or printed material or that which advocates unlawful conduct.
- I. Litter the streets, public places or properties within the village with any merchandise or printed material.

§ 64-12. Revocation of certificate.

- A. Certificates issued under the provisions of this chapter may be revoked by the Board of Trustees after notice and hearing for any of the following causes:
 - (1) Fraud, misrepresentation or a material incorrect statement contained in the application for a certificate.
 - (2) Fraud, misrepresentation or a material 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 or misdemeanor.
 - (5) Conducting the business of peddler, solicitor, distributor or transient merchant in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. A notice of a hearing for the revocation of a certificate 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 certificate at the address given on the application at least five (5) 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 (3) days prior to the date set for the hearing.
- C. Upon revocation, the certificate shall be surrendered to the Clerk.

§ 64-13. Exemptions.

- A. No part of this chapter shall be enforced so as to conflict with Article 4, § 32, of the General Business Law of the State of New York, providing for exemptions for veterans.
- B. The requirements of this chapter shall not apply to the following, provided that an official uniform, clothing or other suitable identification approved by the Board of Trustees is displayed:
 - (1) Any recognized local nonprofit religious, charitable, educational, civic or political organization.
 - (2) Any such organizations as the Boy Scouts, Girl Scouts or local volunteer firemen.
- C. Nothing in this chapter shall be held to apply to:
 - (1) Sales conducted pursuant to statute or by order of any court.
 - (2) Persons selling personal property at wholesale to dealers in such articles.
 - (3) Merchants having an established place of business within the village or their employees.
 - (4) The peddling of meats, fish, fruit and similar produce by farmers and persons who produce such commodities.
 - (5) Dealers in milk, baked goods, heating oil and daily newspapers.
 - (6) Licensed real estate brokers.

§ 64-14. 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 not more than two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. 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.

Chapter 65**PROPERTY MAINTENANCE**

§ 65-1. Purpose.

§ 65-2. Responsibility.

§ 65-3. Provisions to be minimum standards; conflict with other provisions.

§ 65-4. Exterior standards.

§ 65-5. Storage of commercial and industrial material.

§ 65-6. Responsibilities of occupants.

§ 65-7. Responsibilities of owners; persons considered to be owners.

§ 65-8. Inspection and enforcement.

§ 65-9. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 8-7-2000 by L.L. No. 3-2000. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 28.

Unsafe buildings — See Ch. 32.

Uniform Fire Prevention and Building Code — See Ch. 49.

Solid waste collection and disposal — See Ch. 71.

§ 65-1. Purpose.

It is the purpose of this chapter to promote the public interest in continued development, ensure regular maintenance and improvements to present structures, safeguard against blight, to fix certain responsibilities and duties upon owners and operators and distinct and separate responsibilities and duties

upon occupants and preserve property values and community standards and to establish maintenance standards to safeguard life, limb, health, safety, property and public welfare in the best interest of the residents of the Village of Fort Edward.

§ 65-2. Responsibility.

The owner of the premises shall maintain the structures and exterior property in compliance with these requirements. A person shall not occupy as owner-occupied or permit another person to occupy premises which are not in a satisfactory and safe condition and which do not comply with the requirements of the chapter. Occupants of a dwelling unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit that they occupy or control.

§ 65-3. Provisions to be minimum standards; conflict with other provisions.

- A. This chapter establishes certain minimum standards for the initial and continued occupancy and use of all structures and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the structure, the premises or the equipment or facilities contained therein, as are required by the New York State Uniform Fire Prevention and Building Code.¹
- B. In any case where a provision is found to be in conflict with any applicable zoning, building, plumbing, electrical, heating, ventilation, fire or safety code of the Village of Fort Edward, County of Washington, State of New York or United States of America the provision that establishes the higher standard, as determined by the Code Enforcement Officer, shall prevail.

¹ Editor's Note: See Ch. 49, Uniform Fire Prevention and Building Code.

§ 65-4. Exterior standards.

The exterior of the premises and the condition of the structures shall be maintained so that the premises and all buildings shall reflect a level of maintenance in keeping with the standards of the community and shall not constitute blight from the point of view of adjoining property owners or lead to the progressive deterioration of the neighborhood. Such maintenance shall include, without limitation, the following:

- A. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The owner and/or occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.
- B. Foundations, porches, decks, steps and walls shall be in good condition.
- C. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.
- D. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.
- E. All permanent signs exposed to public view permitted by reason of other regulations or as a lawful nonconforming use shall be maintained in good repair. Any signs that have become excessively weathered, those upon which the paint has excessively peeled or those whose supports have deteriorated so that they no longer meet the structural requirements of the New York State Uniform Fire Prevention and Building Code² shall, with their supports, be removed or put into a good state of repair.

² Editor's Note: See Ch. 49, Uniform Fire Prevention and Building Code.

All inoperative or broken electrical signs shall be repaired or shall be removed. Signs denoting a business, which is no longer on the premises, shall be removed within 30 days of the date on which the business ceases to occupy the premises.

- F. All storefronts and walls exposed to public view shall be kept in a good state of repair. Storefronts or any portion of the structure shall not show evidence of weathering or deterioration of any nature. Unoccupied storefronts shall be maintained in a clean, and neat appearance.
- G. All exposed exterior surfaces shall be maintained free of broken or cracked glass, loose shingles or loose or crumbling stones or bricks, loose shutters, railings, aerials, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance. Said conditions shall be corrected by repair or removal. All exterior surfaces, including but not limited to doors, door and window frames, cornices, porches and trim, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of the windows, doors and skylights, shall be maintained weather resistant and watertight. Floors, walls, ceilings, stairs and fixtures of buildings shall be maintained in a clean, safe and sanitary condition. Every floor, exterior wall, roof, porch or appurtenance thereto shall be maintained in a manner so as to prevent the collapse of the same or injury to the occupants of the building or to the public.
- H. All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against

decay or rust by periodic application of weather-coating materials, such as paint or other surface treatment.

- I. All doors, door assemblies and hardware shall be maintained in good condition.
- J. All vacant buildings shall be continuously guarded or sealed and kept secure against unauthorized entry. Materials and methods with which such buildings are sealed must meet the approval of the Code Enforcement Officer as to color, design and building material. Owners of such buildings shall take such steps and perform such acts as may be required to ensure that the building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property or to the public and that such property does not become infested with vermin or rodents.

§ 65-5. Storage of commercial and industrial material.

- A. There shall not be stored or used at a location visible from the sidewalk, street or other public areas equipment and materials relating to commercial or industrial use unless permitted under the Zoning Ordinance³ for the premises.
- B. Under no circumstances shall any of the stored materials exceed the height of the appropriate fencing for the specific zone.

§ 65-6. Responsibilities of occupants.

An occupant of premises shall be responsible for compliance with this chapter in regard to the following:

- A. Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.

³ Editor's Note: See Ch. 100, Zoning.

- B. Keeping exits from the building or occupants' portion thereof clear and unobstructed.
- C. Disposal of garbage and refuse in a clean and sanitary manner, in accordance with any applicable provisions of the Village of Fort Edward.⁴
- D. Extermination of rodents or other pests within the premises.
- E. Maintenance of yards and lawns in a clean, sanitary and safe condition and free from infestation by rodents or vermin, insofar as said occupant occupies or controls said yards, lawns or any parts thereof.
- F. Keeping domestic animals and pets in an appropriate manner and under control, in accordance with any other regulations of the Village of Fort Edward.⁵
- G. Elimination of all prohibited uses for that part of the premises that he occupies, controls or has accessibility thereto.

§ 65-7. Responsibilities of owners; persons considered to be owners.

A. Responsibilities.

- (1) Owners of premises shall be responsible for the compliance with the provisions of this chapter and shall remain responsible therefor, regardless of the fact that this chapter may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.
- (2) Owners and operators of buildings shall be responsible for the proper installation, maintenance,

⁴ Editor's Note: See Ch. 71, Solid waste collection and disposal.

⁵ Editor's Note: See Ch. 39, Dogs and other animals.

condition and operation of service facilities and for furnishing adequate heat and hot water supply where they have contracted to do so.

- B. Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the Village of Fort Edward as executor, administrator, trustee, guardian, operator or agent, such persons shall be deemed and taken to be the owner or owners of said property within the intent and meaning of this chapter and shall comply with the provisions of this chapter to the same extent as the owner of record.

§ 65-8. Inspection and enforcement.

- A. The Code Enforcement Officer is hereby authorized and directed to make inspections to determine compliance with this chapter. Every operator or owner shall cooperate with the Code Enforcement Officer in providing access to the premises. Whenever the Code Enforcement Officer determines that there is a violation of the provisions of this chapter, he shall cause a written notice to be served upon the owner or operator, which shall include:
- (1) An enumeration of conditions that violate the provisions of this chapter.
 - (2) An enumeration of the remedial action required to meet the standards of this chapter.
 - (3) A statement of a definite number of days from the date of the notice in which the owner or operator must commence and complete such remedial action.
 - (4) A statement of the penalties for noncompliance, as set forth herein.
- B. A copy of such notice shall be filed in the Village Clerk's office, and such notice shall be deemed sufficient if served upon the owner or operator as follows:

- (1) In person;
 - (2) By certified mail with return receipt requested; or
 - (3) By posting a copy of said notice on the building, only if the attempts to serve the owner or occupant by the first two methods set out above are unsuccessful.
- C. Upon failure to comply with said notice, the Code Enforcement Officer shall issue an appearance ticket returnable in the Village Court.

§ 65-9. Penalties for offenses.

A violation of any provision of this chapter shall be an offense punishable by a fine not to exceed \$1,000 or 15 days in jail for each violation.

Chapter 66

RECORDS, PUBLIC ACCESS TO

- § 66-1. Purpose and scope.
- § 66-2. Designation of records access officer; duties.
- § 66-3. Location of records.
- § 66-4. Hours for public inspection.
- § 66-5. Requests for access to records.
- § 66-6. Subject matter list.
- § 66-7. Denial of access to records; appeals.
- § 66-8. Fees.
- § 66-9. Public notice.

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

§ 66-1. Purpose and scope.

- A. The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. These regulations provide information concerning the procedures by which records may be obtained.
- C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.

- D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 66-2. Designation of records access officer; duties.

- A. The Board of Trustees is responsible for ensuring compliance with the regulations herein and designates the following person as records access officer: Village Clerk, Municipal Center, 118 Broadway, Fort Edward, New York.
- B. The records access officer is responsible for ensuring appropriate agency response to public requests for access to records. The designation of the records access officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.
- C. The records access officer shall ensure that personnel:
- (1) Maintain an up-to-date subject matter list.
 - (2) Assist the requester in identifying requested records, if necessary.
 - (3) Upon locating the records, take one (1) of the following actions:
 - (a) Make records available for inspection.
 - (b) Deny access to the records in whole or in part and explain in writing the reasons therefor.
 - (4) Upon request for copies of records, take one (1) of the following actions:
 - (a) Make a copy available upon payment of or an offer to pay the established fees, if any, in accordance with § 66-8.
 - (b) Permit the requester to copy those records.
 - (5) Upon request, certify that a record is a true copy.

(6) Upon failure to locate records, certify that:

- (a) The village is not the custodian for such records; or
- (b) The records of which the village is a custodian cannot be found after diligent search.

§ 66-3. Location of records.

Records shall be available for public inspection and copying at the Village Clerk's office, Municipal Center, 118 Broadway, Fort Edward, New York.

§ 66-4. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours that the Clerk's office is regularly open for business.

§ 66-5. Requests for access to records.

- A. A written request may be required, but oral requests may be accepted when records are readily available.
- B. A response shall be given within five (5) business days of receipt of any request reasonably describing the record or records sought.
- C. A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- D. If the records access officer does not provide or deny access to the record sought within five (5) business days of receipt of a request, he or she shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted or denied within ten (10) business days after the date of acknowledgment of receipt of a request, the request may be construed as a denial of access that may be appealed.

§ 66-6. Subject matter list.

- A. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in his or her possession, whether or not records are available pursuant to § 87, Subdivision 2, of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

§ 66-7. Denial of access to records; appeals.

- A. Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the body established to hear appeals.
- B. If requested records are not provided promptly, as required in § 66-5D of this chapter, such failure shall also be deemed a denial of access.
- C. The Mayor shall hear appeals for denial of access to records under the Freedom of Information Law.
- D. The time for deciding an appeal by the person designated to hear appeals shall commence upon receipt of a written appeal identifying:
 - (1) The date of the appeal.
 - (2) The date and location of the request for records.
 - (3) The records to which the requester was denied access.
 - (4) Whether the denial of access was in writing or due to failure to provide records promptly as required by § 66-5D.
 - (5) The name and return address of the requester.
- E. The person designated to hear appeals shall inform the requester of his decision in writing within ten (10) business days of receipt of an appeal.

- F. The person designated to hear appeals shall immediately forward to the Committee of Open Government copies of all appeals upon receipt and the ensuing determination thereon.

§ 66-8. Fees.

The following fees shall be charged:

- A. Inspection of records: no fee.
- B. Search for records: no fee.
- C. Any certification pursuant to this chapter: three dollars (\$3.).
- D. Photocopies not exceeding nine by fourteen (9 x 14) inches: twenty-five cents (\$0.25) per page.
- E. Fees for copies of records other than photocopies which are nine by fourteen (9 x 14) inches or less in size shall be the actual copying cost, excluding fixed agency costs such as salaries, except when a different fee is otherwise prescribed by statute.

§ 66-9. Public notice.

A notice containing the title or name and business address of the records access officers and appeals body and the location where records can be seen or copies shall be posted in a conspicuous location wherever records are kept.

Chapter 69

SEWERS

ARTICLE I
Manholes

§ 69-1. Prohibited acts.

§ 69-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward: Art. I, 6-7-32 as Section 32 of the 1932 Ordinances; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

ARTICLE I
Manholes

[Adopted 6-7-32 as Section 32 of the 1932 Ordinances; amended in its entirety at time of adoption of Code¹]

§ 69-1. Prohibited acts.

No unauthorized person shall in any way interfere with or open any manhole connected with the sewer system or water system of this village, or remove or break any of the covers thereof.

§ 69-2. Penalties for offenses.

Any person or corporation violating any of the provisions of this Article shall subject the offending party, upon conviction, to a penalty of a fine not exceeding two hundred fifty dollars (\$250.) or imprisonment not exceeding fifteen (15) days, or both.

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

Chapter 70**SIGNS**

- § 70-1. Purpose.
- § 70-2. Definitions.
- § 70-3. Permit required; application; approval.
- § 70-4. Exempt signs.
- § 70-5. General restrictions.
- § 70-6. Permitted signs.
- § 70-7. Regulations by district.
- § 70-8. Nonconforming signs.
- § 70-9. Removal of signs.
- § 70-10. Construction standards.
- § 70-11. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 5-7-2001 by L.L. No. 1-2001. Amendments noted where applicable.]

§ 70-1. Purpose.

- A. The purpose of this chapter is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or

advertising distractions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more visual open space and curb the deterioration of the community's appearance and attractiveness.

- B. This chapter is intended to promote attractive signs which clearly and simply present their visual messages in a manner that is compatible with their surroundings.

§ 70-2. Definitions.

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

SIGN — Any material, structure or device or part thereof composed of lettered or pictorial matter which is located out-of-doors or on the exterior of any building, displaying an advertisement, announcement, notice or names and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when placed in view of the general public.

- A. **AWNING SIGN** — Any visual message incorporated into an awning attached to a building.
- B. **COPY-CHANGE SIGN** — Any sign on which the visual message may be periodically changed.
- C. **DIRECTIONAL SIGN** — A sign limited to providing information on the location of any activity, business or event.
- D. **FREESTANDING SIGN** — Any sign not attached to or part of any building, but separate and permanently affixed by any other means in or upon the ground. Included are pole signs, nylon signs and masonry wall-type signs.

- E. ILLUMINATED SIGN — Any sign illuminated by electricity, gas or other artificial light, either from the interior or exterior of the sign, including reflective and phosphorescent light.
- F. OFF-PREMISES SIGN — A sign unrelated to a business or a profession conducted or to a commodity or service sold or offered upon the premises where such sign is located.
- G. PORTABLE SIGN — A sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building or another sign.
- H. PROJECTING SIGN — A sign which is attached to a building wall or structure and which extends horizontally more than 15 inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.
- I. TEMPORARY SIGN — A sign related to a single activity or event having a duration of no more than 30 days.
- J. BILLBOARD SIGN — An off-premises sign displaying advertising sign copy that is pasted, painted or fastened in a manner to permit its periodic replacement and that does not direct attention to a use, activity, facility, product or service existing on the lot on which the sign is placed.
- K. WALL SIGN — A sign which is painted on or attached to the outside wall of a building, with the face of the sign in the plane parallel to such wall and not extending more than 15 inches from the face of the wall.

§ 70-3. Permit required; application; approval.

- A. Except as otherwise provided; no person shall erect, alter or relocate any sign without first obtaining a permit from the Village Clerk. Within six months following the effective date of this chapter, a permit shall also be obtained for any sign in existence as of the effective date of this chapter, with no fee, unless excluded by the exempt signs provision under § 70-4. Subsequent to this initial application, no permit shall be required for a sign to be repainted, repaired or to have its message changed.
- B. Application procedure. Applications shall be made, in writing, to the Village Clerk on forms prescribed and provided by the Village of Fort Edward and shall contain the following information:
- (1) The name, address and telephone number of:
 - (a) The applicant.
 - (b) The owner of the property.
 - (2) The location of the building, structure or land upon which the sign now exists or is to be erected.
 - (3) Written consent or a copy of the contract made with the owner of the property upon which the sign is to be erected, if the applicant is not the owner.
 - (4) A fee of \$10.
- C. If a new sign is to be erected, elevation and plan drawings should be included. In addition, a full description of the placement and appearance of the proposed sign should be included and should cover the following:
- (1) The location on the premises, and specifically its position in relation to adjacent buildings, structures and property lines.
 - (2) The method of illumination, if any, and the position of any lighting devices.

- (3) The graphic design, including symbols, letters, materials and colors.
- (4) The visual message text, copy or content of the sign.
- D. Approval. Upon the filing of a completed application, the Code Enforcement Officer shall examine the plans, specifications and other data submitted and the premises on which the sign is to be erected or now exists. If it shall appear that the sign is in compliance with all the requirements of this chapter, he shall then give approval for the erection of the proposed sign or for an existing sign.

§ 70-4. Exempt signs.

The following types of signs may be erected without permits or fees, provided that such signs comply with the general requirements of this chapter and other pertinent regulations:

- A. Historical markers, tablets and statues, memorial signs and plaques; names and dates of buildings; and nonadvertising on-premises signs installed by religious or nonprofit organizations, not exceeding six square feet.
- B. Signs, notices or emblems installed by government bodies.
- C. Flags or insignias of any government, except when displayed in connection with commercial promotion.
- D. On-premises nonadvertising directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits, and similar signs not exceeding four square feet; freestanding signs not to exceed six feet in height. Business names and personal names shall be allowed, excluding advertising messages.
- E. Nonilluminated warning, "private drive," "posted" or "no trespassing" signs, not to exceed two square feet.

- F. One on-premises sign, either freestanding or attached, in connection with any residential building in any zoning district, for permitted professional offices or home occupations, not to exceed two square feet. Said sign must be set back at least 10 feet from the highway right-of-way.
- G. Number and name plates identifying residents, mounted on a house, apartment or mailbox, not to exceed one square foot in area.
- H. Private-owner merchandise sales signs for garage sales, yard sales, auctions and the like, not exceeding four square feet for a period not exceeding seven days.
- I. Temporary, nonilluminated "for sale," "for rent" and real estate signs of a similar nature concerning the premises upon which the sign is located, one sign not exceeding four square feet per side; in a business or industrial area, one sign not exceeding 50 square feet, set back at least 15 feet from all property lines. All such signs shall be removed within three days after closing the sale or the effective date of the lease or rental of the premises.
- J. One temporary sign for a roadside stand selling agricultural produce, in season, provided that such a sign shall not exceed 16 square feet and shall be set back at least 10 feet from the public right-of-way. Said sign shall be removed within three days after the produce is no longer for sale.
- K. Holiday decorations, including lighting, which may be displayed in any district.
- L. Temporary, nonilluminated, window signs and posters.
- M. At gasoline stations:
 - (1) Integral graphic or attached price signs on gasoline pumps.
 - (2) One portable sign per station, not exceeding 12 square feet and four feet in height.

- N. Temporary directional signs for meetings, conventions and other assemblies. Said signs may be displayed five days prior to said event and be removed within two days following the event.
- O. One sign, not exceeding six square feet in the residential districts or 16 square feet in the commercial or industrial districts, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation or repair is in progress. Said sign shall be removed within three days of completion of such work.
- P. Political posters, banners, promotional devices and similar signs not exceeding four square feet in the residential districts or 16 square feet in the commercial or industrial districts, provided that:
 - (1) Placement shall not exceed 30 days before nor three days following said event.
 - (2) The names and addresses of the sponsor and/or the person responsible for removal are identified on each such sign or poster.
 - (3) Such signage shall be set back at least 10 feet from all property lines and shall not be located within any public right-of-way.

§ 70-5. General restrictions.

- A. No off premises signs shall be allowed other than as permitted under the exempt signs provisions of § 70-4 above.
- B. No sign in any district shall be placed or located within or extend into the right-of-way of any public highway or roadway.
- C. No sign shall be illuminated by or contain flashing, intermittent, rotating or revolving lights, except to show time and temperature.

- D. No sign shall impair or cause confusion of vehicular or pedestrian traffic in its design, color or placement. No sign shall impair visibility for the motorist at a street corner or intersection by placement and location within 15 feet of the intersection of the street or highway lines.
- E. No sign or sign supports shall be placed upon the roof of any building.
- F. No sign shall consist of banners, pennant, ribbons, streamers, spinners or similar moving, fluttering or revolving devices.
- G. No advertising message shall be extended over more than one sign placed along a street or highway.
- H. No sign shall be attached to fences, utility poles or trees.
- I. No sign shall be erected in such a manner as to confuse or obstruct the view of any traffic sign, signal or device.
- J. No sign(s) shall be placed along a state highway without first obtaining permission from the New York State Department of Transportation in order to avoid conflict with any New York State law.
- K. No sign will exceed four feet high from the ground when it is placed between the curb and sidewalk or beside a roadway.
- L. No billboard-type sign shall be permitted in the limits of the Village of Fort Edward.

§ 70-6. Permitted signs.

The following permanent signs may be erected; provided, however, that the provisions of this section shall not serve to expand the number of signs otherwise allowed.

- A. Off-premises directional signs for the convenience of the general public and for the purpose of directing people to a business, activity, service or community facility may be erected, provided that such signs do not exceed 10 square

feet per establishment, nor total more than two such signs per establishment. The message shall be limited to name or identification, arrow or direction and distance.

- B. A nonilluminated, single-sided real estate development sign, including, industrial and commercial development and residential subdivision, or a construction sign denoting architect, engineer and/or contractor, not exceeding 32 square feet in commercial and industrial districts, nor 16 square feet in residential districts, may be erected on property being sold, leased or developed. Such sign shall be erected parallel to the fronting highway and set back a minimum of 20 feet from the property line or attached to the building face. Such sign shall be removed upon completion of the project and shall be in place for a period not exceeding two years.
- C. Signs or bulletin boards customarily incident to schools, places of worship, libraries, museums, social clubs or societies may be erected on the premises of such institutions. One such sign or bulletin board not exceeding 20 square feet may be erected for each entrance on a different street or highway.
- D. For multiple dwellings or apartment developments, one sign advertising availability of dwelling units, not exceeding 20 square feet, shall be permitted. One such sign shall be permitted for each entrance on a different street or highway.

§ 70-7. Regulations by district.

A. General regulations.

- (1) The total number of permitted signs on any lot in all districts shall not exceed two, of which only one may be freestanding.
- (2) The cumulative area of any sign permitted on any lot shall be as follows:
 - (a) Commercial districts: 100 square feet.

- (b) Industrial district: 100 square feet.
- (c) Residential district: 32 square feet.
- (3) The cumulative height above road grade of any sign and supporting structure permitted on any lot shall be as follows:
 - (a) Commercial district: 20 feet.
 - (b) Industrial districts: 20 feet.
 - (c) Residential districts: six feet.
- B. Specific regulations. Specific district regulations shall be as follows:
 - (1) Residential districts.
 - (a) Permitted nonresidential uses and legal nonconforming nonresidential uses may display one freestanding and/or one projecting sign pertaining to the use of property upon which the sign is situated. Freestanding signs shall have a total face area not exceeding 16 square feet and shall be set back five feet from any adjoining property boundaries. Projecting signs shall have a total face area of not more than six square feet and shall not project more than 40 inches from the principal building to which they are attached.
 - (b) Internally illuminated signs are not permitted in the residential districts. Externally illuminated permanent signs shall not be illuminated in such a manner that the illumination becomes an infringement to the adjoining residences.
 - (c) Temporary or portable signs referring to a specific event or activity are permitted for a period of five days prior to and two days following the activity or event to which they

pertain. In no instance shall this period exceed seven days.

(2) Commercial and industrial districts.

- (a) Where groups of three or more contiguous businesses are located together, one common freestanding sign denoting the name of the facility shall be permitted, not exceeding 50 square feet per side and with its bottom panel not more than eight feet above grade. All other signs shall be attached to buildings, of a wall, projecting or soffit type, and coordinated in material, shape, lettering, color and/or decorative elements.
- (b) Representational signs shall not project in any direction more than five feet beyond the principal structure to which they are attached and shall not exceed 15 square feet. Only one such sign per establishment shall be permitted, with the area of such sign structure included within the total sign area permitted.
- (c) Illuminated signs which indicate the time, temperature, date or similar public service information shall not exceed 32 square feet.
- (d) A new business or a business in a new location awaiting installation of a permanent sign may utilize a portable sign for a period of not more than 30 days or until installation of a permanent sign, whichever comes first. Such a portable sign must meet all construction standards. A separate permit for such portable sign shall be required.

§ 70-8. Nonconforming signs.

- A. In the event that a sign lawfully erected prior to the effective date of this chapter does not conform to the

provisions and standards of this chapter, then such sign may continue in use until replaced or until the sign no longer advertises an existing business conducted or product sold on the premises upon which such sign is located.

- B. A nonconforming sign shall not be enlarged or replaced by another nonconforming sign.
- C. Any maintenance, repair or alteration of a nonconforming sign shall not cost more than 50% of the current depreciated value of the sign as of the date of alteration or repair.

§ 70-9. Removal of signs.

- A. Any sign existing on or after the effective date of this chapter which no longer advertises an existing business conducted or product sold on the premises upon which such sign is located shall be removed.
- B. If the Code Enforcement Officer shall find that any sign regulated by this chapter is not used, is abandoned, unsafe or insecure or is a menace to the public, the Code Enforcement Officer shall give written notice to the named owner of the land upon which it is located, who shall remove or repair the sign within 30 days from the date of notice.
- C. The Code Enforcement Officer may cause any sign which is a source of immediate danger to persons or property to be removed immediately and without notice.

§ 70-10. Construction standards.

- A. General.
 - (1) All internally illuminated signs shall be constructed in conformance with the Standards for Electric Sign (UL48) of Underwriters' Laboratories, Inc., and bear the seal of Underwriters' Laboratories, Inc.

- (2) All transformers, wires and similar items shall be concealed. All wiring to freestanding signs shall be underground.
- (3) All freestanding signs shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of surface area.
- (4) All signs, including wall-mounted and projecting signs, shall be securely anchored.
- (5) All signs, sign finishes, supports and electrical work shall be kept clean, neatly painted and free from all hazards, such as but not limited to faulty wiring and loose supports, braces and anchors.
- (6) All projecting, freestanding or wall signs shall employ acceptable safety material.
- (7) All signs shall be painted and/or fabricated in accordance with generally accepted standards.

B. Design guidelines.

- (1) Signs shall be designed to be compatible with the surroundings and appropriate to the architectural character of the buildings or which they are placed. Sign panels and graphics shall be related with, and not cover, architectural features and should be in proportion to them.
- (2) Signs shall be appropriate to the types of activities they represent.
- (3) Layout shall be orderly and graphics should be of simple shape, such as rectangle, circle or oval.
- (4) Illumination shall be appropriate to the character of the sign and surroundings.
- (5) Groups of related signs shall express uniformity and create a sense of harmonious appearance.
- (6) All signage shall be professional in appearance and construction as not to visually detract from the

character of the area or have a negative effect upon the quality and value of surrounding properties.

C. Specific regulations of sign types. The following are descriptions of signs varying in construction and type which shall comply with the additional conditions set forth herein:

(1) Wall signs.

- (a) Wall signs shall not extend beyond the ends or over the top of the walls to which they are attached and shall not extend above the level of the second floor of the building.
- (b) Wall signs shall not extend more than nine inches from the face of the building to which attached, except that copy-change signs may extend 15 inches.
- (c) Any part of a sign extending over a pedestrian traffic area shall have a minimum clearance of eight feet.

(2) Projecting signs.

- (a) Projecting signs shall not have more than two faces.
- (b) The exterior edge of a projecting sign shall extend not more than five feet from the building face.
- (c) No part of a projecting sign shall extend into vehicular traffic areas, and any part extending over pedestrian areas shall have minimum clearance of eight feet.
- (d) Projecting signs shall not extend above the level of the second floor of the building to which attached or in any case be higher than 12 feet.
- (e) No projecting sign shall be closer than 15 feet to the corner of a building located at a street intersection.

(3) Freestanding signs.

- (a) No freestanding sign shall be located less than two feet from the front property line, nor less than five feet from the side property line. No freestanding sign shall obstruct the view or constitute a safety hazard.
- (b) No freestanding sign shall be more than 20 feet in height above finished grade.
- (c) No freestanding sign shall extend over or into the public right-of-way, nor shall it overhang the property lines.
- (d) Freestanding signs under which a pedestrian walkway or driveway passes must have a ten-foot clearance.
- (e) Masonry wall-type signs shall not exceed four feet in height and shall not be placed so as to impair visibility for motorists.

(4) Other signs.

(a) Awning signs.

- [1] No sign shall project from an awning.
- [2] Awning graphics may be painted or affixed flat to the surface of the front or sides and shall indicate only the name and/or address of the enterprise or premises.

§ 70-11. Penalties for offenses.

Any person, firm, or corporation, whether as owner, lessee, agent or employee, who proceeds to erect, re-erect, construct or structurally alter any sign without first applying for and obtaining the necessary permit or who in any other way violates any provision of this chapter shall be guilty of an offense punishable by a fine of not more than \$250, up to 15 days' imprisonment, or both.

Chapter 71**SOLID WASTE COLLECTION AND DISPOSAL**

- § 71-1. Purpose.
- § 71-2. Definitions.
- § 71-3. Residential collection.
- § 71-4. Maintenance of premises.
- § 71-5. Duty of owners and occupiers of property.
- § 71-6. Disposal regulations.
- § 71-7. Dumpsters and waste containers.
- § 71-8. Restrictions.
- § 71-9. Penalties for offenses.
- § 71-10. Effect on existing contracts.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 2-1-1988 by L.L. No. 1-1988; amended in its entirety 5-1-2000 by L.L. No. 2-2000. Amendments noted where applicable.]

GENERAL REFERENCES

Littering — See Ch. 59.

§ 71-1. Purpose.

- A. The purpose of this chapter is to protect, maintain and enhance the public health, safety and the general welfare by establishing requirements and procedures relating to the collection and disposal of solid waste in the Village of Fort Edward.

- B. It is hereby determined by the Board of Trustees of the Village of Fort Edward that the landfilling and/or incineration of solid waste within the Village of Fort Edward is likely to constitute a hazard and a menace to the health and safety of the residents of the Village of Fort Edward.
- C. It is further determined that the citizens of the Village of Fort Edward have vested legislative authority in their Board of Trustees, and that said Board is entrusted, among other duties, with the protection of the order, conduct, safety, health and well-being of persons and property therein and the protection and enhancement of said village's physical and visual environment.
- D. It is further determined that the village, by local law, may exercise its police power to regulate all aspects of solid waste within the Village of Fort Edward and to make appropriate rules, regulations, resolutions and laws intended to promote the general well-being of the persons and property situated therein.

§ 71-2. Definitions.

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

DUMPSTER — Any container used in the normal course of demolition or construction for the purpose of storing, containing and/or carting debris of any kind, or any container employed for garbage or refuse collection, provided by a garbage or refuse service for commercial or residential collection or mass storage of garbage and refuse, where the volume of the same shall exceed 55 gallons.

GARBAGE — Includes offal, filth, dirt, ordinary kitchen, cooking and household wastes, decaying vegetables, animal matter and food containers of metal, glass, paper, plastic and other similar material.

PERSON — Includes any individual, firm, partnership, corporation, municipality or association of persons.

SOLID WASTE — Garbage, refuse and other discarded materials, including but not limited to solid, semisolid, liquid and contained gaseous materials resulting from municipal, industrial, commercial, agriculture and residential units.

§ 71-3. Residential collection.

- A. Under the direction of the Town of Fort Edward, there shall be standard garbage collection and disposal services consisting of one collection per week for each residence.
- B. Regular collection service shall not include removal of items such as tires, refrigerators, air-conditioning units, furniture, pipe, auto parts, trees, yard waste and other like items.
- C. Under the direction of the Superintendent of Highways, the village shall maintain standard yard waste collection and disposal for each residence as may be required by the Superintendent of Highways.

§ 71-4. Maintenance of premises.

Owners and occupants of occupied premises and owners and persons in charge of unoccupied premises, including vacant lots within the village, are hereby charged with the duty of maintaining such premises at all times in a sanitary, clean and tidy condition and so as to prevent the accumulation there of solid waste which constitutes a nuisance or fire hazard.

§ 71-5. Duty of owners and occupiers of property.

- A. No person shall permit any solid waste to accumulate for a period of longer than seven days upon property owned

or occupied by said person in the Village of Fort Edward. Owners or occupiers of residential property are hereby required to make accumulated solid waste available for collection as scheduled under the terms hereof.

- B. All solid waste accumulated on any residential, commercial, industrial and institutional property in the Village of Fort Edward may be collected, conveyed and disposed of by an authorized collector in accordance with the provisions of this chapter. It shall be unlawful for any person to collect and dispose of any solid waste within the Village of Fort Edward except as provided in this chapter.
- C. It shall be the duty of the owner, lessee or occupant of every dwelling, store or other building within the Village of Fort Edward to keep such buildings free, clear and clean of all kinds of solid waste of any kind or description and to keep sidewalk and yard areas free, clear and clean of all solid waste of any kind or description.
- D. It shall be the responsibility of the owner of a multifamily unit to provide a sufficient number of containers for the storage of solid waste to prevent overflow between times of collection and to maintain the premises in accordance with the standards of this chapter. It shall be unlawful for the owner of such a multifamily unit to fail to provide such containers and to allow the occupants of such multifamily unit to accumulate solid waste.
- E. No person shall allow or permit the storage or placement of household furniture or appliances outside the living area of the property.

§ 71-6. Disposal regulations.

All garbage and solid waste shall be kept and disposed of in the following manner:

- A. No garbage receptacles shall be stored on or in any front yard. Garbage receptacles may be kept in side or rear yards but shall be screened and not visible from the street.
- B. All garbage receptacles or containers of rubbish shall be set out for collection no earlier than 5:00 p.m. on the day prior to the day scheduled for collection.

§ 71-7. Dumpsters and waste containers.

- A. No dumpster or other waste container shall be placed upon any sidewalk, street, highway or other public place within the Village of Fort Edward.
- B. Every dumpster or other waste container placed within the village shall comply with the following additional requirements:
 - (1) Every dumpster or waste container shall be conspicuously marked with the name and address of its owner.
 - (2) No dumpster or waste container shall create an offensive odor, be a health hazard or become a nuisance.
 - (3) All dumpsters and waste containers shall be covered at all times so as to prevent tampering or entry by unauthorized persons and to hinder the creation of offensive odors, health hazards and nuisances.

§ 71-8. Restrictions.

It shall hereafter be unlawful for any person or entity to landfill, incinerate and/or store solid waste, including but not limited to garbage, refuse, industrial and commercial waste, rubbish, ashes, incinerator residue, demolition and construction debris and all hazardous waste, within the Village of Fort Edward. Nothing herein shall be construed to restrict or impede

any lawfully conducted recycling operations within the Village of Fort Edward.

§ 71-9. Penalties for offenses.

Any person violating the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine not exceeding \$250 for each offense (each day of a violation of the terms of this chapter constitutes a separate offense) or by an imprisonment of not more than 15 days, or both.

§ 71-10. Effect on existing contracts.

This chapter, as adopted, shall not invalidate any presently existing solid waste contract to which the Village of Fort Edward is a party.

STREETS AND SIDEWALKS

Chapter 74

STREETS AND SIDEWALKS

ARTICLE I

General Regulations

- § 74-1. Street excavations.
- § 74-2. Failure to restore street as directed.
- § 74-3. Guarding of excavations.
- § 74-4. Permission required for encumbrances.
- § 74-5. Obstruction of public areas.
- § 74-6. Restriction on hauling of materials.
- § 74-7. New streets.
- § 74-8. Restriction on placement of pipes.
- § 74-9. Structures on or over streets and sidewalks.
- § 74-10. Maintenance of sidewalks.
- § 74-11. Obstruction of sidewalks.
- § 74-12. Awnings over sidewalks; merchandise in front of buildings.
- § 74-13. Digging in front of private premises.
- § 74-14. Liability of village in certain actions.
- § 74-15. Penalties for offenses.

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

GENERAL REFERENCES

Vehicles and traffic — See Ch. 90.

ARTICLE I
General Regulations
[Adopted 12-7-1998 by L.L. No. 1-1998¹]

§ 74-1. Street excavations.

No person other than an employee of the village shall excavate any street without first obtaining permission from the Highway Superintendent. Any person given permission to excavate shall restore the street to the condition prior to the excavation to the satisfaction of the Highway Superintendent. The person given permission shall indemnify the village against all damages or claims for damages, costs, suits, actions or judgements that may be brought against the village by persons resulting from such excavation. The village may require a certificate of insurance naming the village as a loss payee with a liability limit of at least \$1,000,000.

§ 74-2. Failure to restore street as directed.

If an excavation made by any person is closed in such a manner as to leave the street in a condition, in the opinion of the Highway Superintendent, is not in the same condition prior to the excavation, the Highway Superintendent shall report such condition to the Board of Trustees, who may require the person to restore, within a reasonable time, that portion which is defective. Upon failure to restore said street, the Board of Trustees will direct the Highway Superintendent to perform such work, and the expense incurred will be paid by the person causing such defect.

§ 74-3. Guarding of excavations.

- A. Any person given permission to make an excavation in any street shall, between sunset and sunrise that the

¹ Editor's Note: This local law superseded former Art. I, General Regulations, adopted 6-7-1932 as Sections 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 19, 20, 21, 22 and 23 of the 1932 Ordinances, as amended.

street remains open, keep the same fenced and lighted so as to properly warn all persons of such excavation.

- B. Any person making an excavation within five feet of the line of any street shall erect and maintain a barrier at least four feet in height between said street and the excavation, and place lighted warnings at such excavation.
- C. No person shall remove any barrier or guard erected for public safety.

§ 74-4. Permission required for encumbrances.

No person shall erect or cause to be erected any building or fixture or place any encumbrance which shall project into or over the line of any public area without obtaining the permission of the Highway Superintendent.

§ 74-5. Obstruction of public areas.

No person shall obstruct or use any street, sidewalk or other public ground in any manner other than which was originally intended.

§ 74-6. Restriction on hauling of materials.

No person shall transport or cause to be transported in any vehicle any material which is not so constructed as to prevent the material from dropping or sifting upon any streets of the village.

§ 74-7. New streets.

No street shall be accepted by the village Board of Trustees until such street is deemed satisfactory by the Highway Superintendent.

§ 74-8. Restriction on placement of pipes.

The village shall not place or caused to be placed any pipes in any street that have not been accepted by the village.

§ 74-9. Structures on or over streets and sidewalks.

No person shall construct or cause to be constructed any sign or structure upon or over any street or sidewalk in the village, nor shall any sign or structure now in existence be allowed without the consent of the Code Enforcement Official through an application to be provided by the Code Enforcement Official.

§ 74-10. Maintenance of sidewalks.

- A. The owner of every lot of land situated in the village shall keep the sidewalks adjoining said property clear of ice and snow and have snow and ice removed from the sidewalk within five hours after each snowstorm or ice storm. Every storm which ceases during the night shall be considered ceasing at 7:00 a.m.
- B. The owner of every lot of land situated in the village shall keep the sidewalk in a condition so as not to become dangerous to the welfare and safety of the traveling public. The Highway Superintendent is empowered by the Village Board to advise them of any sidewalks in disrepair. A notice will be sent to the owner to correct the situation within 30 days of receipt of notice. In the event of nonremoval of snow or ice, it will be at the discretion of the Highway Superintendent to have the sidewalk cleared by the village without notification to the owner and the costs be paid by the owner of said property.
- C. The village will reimburse the owner of any property who places or replaces their sidewalk used by the traveling public to the satisfaction of the Highway Superintendent at the rate of \$1.50 per square foot.

§ 74-11. Obstruction of sidewalks.

No person shall permit any animal, vehicle or other objects to obstruct the free use of any sidewalk or crosswalk in the village and no person shall obstruct the sidewalks with boxes, barrels, crates, goods, wares, merchandise or any other materials without obtaining permission from the Village Board.

§ 74-12. Awnings over sidewalks; merchandise in front of buildings.

No person shall erect, hang or maintain any awning over any sidewalk unless the same and its fixtures and flaps are at least seven feet above the surface of such sidewalk, nor shall such awning extend more than seven feet from the building to which it is attached, and no person shall suspend or place any wares, goods or merchandise in front of any store, shop or other building so as to obstruct the free passage of any sidewalk more than 30 inches from the front of any store, shop or other building.

§ 74-13. Digging in front of private premises.

No person shall dig into or across any sidewalk until permission is received by the Highway Superintendent and the sidewalk shall be put back in as good as the condition prior to the digging.

§ 74-14. Liability of village in certain actions.

- A. No civil action shall be maintained against the village for damages or injuries to persons or property sustained in consequence of any street, manhole cover, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed or for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any sidewalk, crosswalk, manhole cover, highway, bridge

or culvert unless written notice of the defective, unsafe, dangerous or obstructed condition or of the existence of the snow or ice relating to the particular place was given to the Village Clerk in writing and there was a failure or neglect by the village within a reasonable time after the receipt of such notice to repair or remove the defect, danger or obstruction complained of or to cause the snow or ice to be removed or the place otherwise made reasonably safe.

- B. The Village Clerk shall keep a record and index all notices given to the village pursuant to § 74-14A.
- C. In the event that personal injury or property damage shall result from the failure of any owner or occupant to comply with the provisions of § 74-10 requiring maintenance or snow removal, the owner and the occupant shall be liable to all persons injured, or whose property is damaged directly or indirectly thereby, and shall be liable to the Village of Fort Edward to the extent that said village is required by law or by any court to respond in damages to any injured party.

§ 74-15. Penalties for offenses.

Any violation of any of the provisions of this chapter shall subject the offending party, upon conviction, to a fine not to exceed two hundred fifty dollars or imprisonment not to exceed 15 days, or both.

TAXATION

Chapter 79

TAXATION

ARTICLE I

Alternative Veterans Exemption

§ 79-1. Purpose.

§ 79-2. Optional exemption granted.

ARTICLE II

Tax on Utilities

§ 79-3. Tax imposed.

§ 79-4. Definitions.

§ 79-5. Keeping of records.

§ 79-6. Filing of return.

§ 79-7. Payment of tax.

§ 79-8. Insufficient or unsatisfactory return.

§ 79-9. Notice procedure.

§ 79-10. Late penalty.

§ 79-11. Refunds.

§ 79-12. Tax to be part of operating costs.

§ 79-13. Action to enforce payment.

§ 79-14. Powers and duties of Treasurer.

§ 79-15. Confidentiality of returns.

§ 79-16. Disposition of taxes and penalties.

ARTICLE III
Solar and Wind Energy Exemption

§ 79-17. No exemption provided.

§ 79-18. Definitions.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward: Art. I, 10-1-1984 as L.L. No. 1-1984; Art. II, at time of adoption of Code 4-7-1986 by L.L. No. 1-1986 (see Ch. 1, General Provisions, Art. I); Art. III, 1-7-1991 as L.L. No. 2-1991. Amendments noted where applicable.]

ARTICLE I
Alternative Veterans Exemption
[Adopted 10-1-84 as L.L. No. 1-1984]

§ 79-1. Purpose.

The purpose of this Article is to reduce the maximum veterans exemption allowable pursuant to § 458-a of the Real Property Tax Law of the State of New York.

§ 79-2. Optional exemption granted.

- A. Qualifying residential real property shall be exempt from taxation to the extent of fifteen percent (15%) of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of six thousand dollars (\$6,000.) multiplied by the latest state equalization rate of one hundred four and ninety-three hundredths (104.93) for the Village of Fort Edward.
- B. In addition to the exemption provided by Subsection A of this section, where the veteran served in a combat theater or combat zone of operations, as documented by the award of a United States campaign ribbon or service medal, qualifying

residential real property also shall be exempt from taxation to the extent of ten percent (10%) of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of four thousand dollars (\$4,000.) or the product of four thousand dollars (\$4,000.) multiplied by the latest state equalization rate of one hundred four and ninety-three hundredths (104.93) for the Village of Fort Edward.

- C. In addition to the exemptions provided for in Subsections A and B of this section, where the veteran received a compensation rating from the United States Veteran's Administration because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by fifty percent (50%) of the veteran's disability rating; provided, however, that such exemption shall not exceed the

(Cont'd on page 7903)

lesser of twenty thousand dollars (\$20,000.) or the product of twenty thousand dollars (\$20,000.) multiplied by the latest equalization rate of one hundred four and ninety-three hundredths (104.93) for the Village of Fort Edward.

ARTICLE II

Tax on Utilities

[Adopted at time of adoption of Code¹]

§ 79-3. Tax imposed.

Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, a tax equal to one per centum (1%) of its gross income from and after the first day of May 1970, is hereby imposed upon every utility doing business in the Village of Fort Edward which is subject to the supervision of the State Department of Public Service, which has a gross income for the twelve (12) months ending May 31 in excess of five hundred dollars (\$500.), except motor carriers or brokers subject to such supervision under Article 7 of the Transportation Law, and a tax equal to one per centum (1%) of its gross operating income from and after the first day of May 1950, is hereby imposed upon every other utility doing business in the Village of Fort Edward which has a gross operating income for the twelve (12) months ending May 31 in excess of five hundred dollars (\$500.), which taxes shall have application only within the territorial limits of the Village of Fort Edward, and shall be in addition to any and all other taxes and fees imposed by any other provision of law. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of Fort Edward, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

§ 79-4. Definitions.

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

GROSS INCOME — Includes receipts received in or by reason of any sale, conditional or otherwise, (except sales herein-

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

after referred to with respect to which it is provided that profits from the sale shall be included in gross income) made or service rendered for ultimate consumption or use by the purchaser in the Village of Fort Edward, 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 materials used, labor or services or other costs, interest or discount paid 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 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 Fort Edward other than such as are received from a corporation, a majority of whose voting stock is owned by the taxpaying utilities, 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 Fort Edward whatsoever; provided, however, that the words "gross income" include, in the case of a utility engaged in selling telephony or telephone service, only receipts from local exchange service wholly consummated within the Village of Fort Edward, and in the case of a utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated with the Village of Fort Edward.

GROSS OPERATING INCOME — Includes 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 Fort Edward, 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 services or other costs, interest or discount paid or any other expenses whatsoever.

PERSON — Persons, corporations, companies, associations, joint-stock associations, copartnerships, estates, assignee of rents, any person acting in a fiduciary capacity or any other entity and persons, their assignees, lessees, trustees or receivers, appointed by any court whatsoever, or by any other means, except the state, municipalities, political and civil subdivisions of the state or municipality and public districts.

UTILITY — Includes every person subject to the supervision 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 railroads, and also includes every person (whether or not such person is subject to such supervision) who sells gas, electricity, steam, water, refrigeration, telephone or telegraphy, delivered through mains, pipes or wires, or furnishes gas, electric, steam, water, refrigeration, telephone or telegraph service by means of mains, pipes or wires, regardless of whether such activities are the main business of such person or are only incidental thereto or whether use is made of the public streets.

§ 79-5. Keeping of records.

Every utility subject to tax under this Article shall keep such records of its business and in such forms as the Village Treasurer may require, and such records shall be preserved for a period of three (3) years, except that the Village Treasurer may consent to their destruction within that period or may require that they be kept longer.

§ 79-6. Filing of return.

Every utility subject to tax hereunder shall file annually, on or before the 25th day of March, a return for the twelve (12) calendar months preceding such return date or any portion thereof for which the tax imposed hereby is effective; provided, however, that in lieu of

the annual return required by the foregoing provisions, any utility may file quarterly, on or before September 25, December 25, March 25 and June 25, a return for the three (3) calendar months preceding each such return date, and in the case of the first such return, for all preceding calendar months during which the tax imposed hereby was effective. Every return shall state the gross income or gross operating income for the period covered thereby. Returns shall be filed with the Village Treasurer on a form to be furnished by him for such purpose and shall contain such other data, information or matter as he may require to be included therein. The Village Treasurer, in order to ensure 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 him, and he may require any utility doing business in the Village of Fort Edward to file an annual return, which shall contain any data specified by him, regardless of whether the utility is subject to tax under this Article. Every return shall have annexed thereto an affidavit of the head of the utility making the same or of the owner or of a copartner thereof of a principal corporate officer to the effect that the statements contained therein are true.

§ 79-7. Payment of tax.

At the time of filing a return as required by this Article, each utility shall pay to the Village Treasurer the tax imposed by this Article 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.

§ 79-8. Insufficient or unsatisfactory return.

- A. In case any return filed pursuant to this Article shall be insufficient or unsatisfactory to the Village Treasurer, and if a corrected or sufficient return is not filed within twenty (20) days after the same is required by notice from him, or if no return is made for any period, the Village Treasurer shall determine the amount of tax due from such information as he is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. He shall give notice of

such determination to the person liable for such tax. Such determination shall finally, and irrevocably fix such tax, unless the person against whom it is assessed shall, within thirty (30) 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. Such decision may be reviewed by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York if application therefor is made within ninety (90) 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 is dismissed or the tax confirmed, the applicant 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 event the applicant shall not be required to pay such tax, interest and penalties as a condition precedent to the granting of such order.

- B. 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 (3) years from the date of the filing of a return; provided, however, that where no return has been filed as required by this Article, the tax may be assessed at any time.

§ 79-9. Notice procedure.

Any notice authorized or required under the provisions of this Article may be given by mailing the same to the persons 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 under this Article or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the

receipt of the same by the person to whom addressed. Any period of time, which is determined according to the provisions of this Article by the giving of notice, shall commence to run from the date of mailing of such notice.

§ 79-10. Late penalty.

Any person failing to file a return or corrected return or to pay any tax or any portion thereof within the time required by this Article, shall be subject to a penalty of five per centum (5%) of the amount of tax due, plus one per centum (1%) of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due; but the Village Treasurer, 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.

§ 79-11. Refunds.

If, within one (1) 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 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 78 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 Article. 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 any order to review such determination under said Article 78, subject to the provision hereinbefore contained relating to the granting of such an order.

§ 79-12. Tax to be part of operating costs.

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

§ 79-13. Action to enforce payment.

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

§ 79-14. Powers and duties of Treasurer.

In the administration of this Article, the Village Treasurer 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 Article, and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

§ 79-15. Confidentiality of returns.

- A. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Village

Treasurer or any agent, clerk or employee of the Village of Fort Edward to divulge or make known in any manner the amount of gross income or gross operating income, or any particulars set forth or disclosed in any return under this Article. 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 Fort Edward, New York, in an action or proceeding under the provisions of this Article 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 Article 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 Article, together with any relevant information which, in the opinion of the Village Treasurer, may assist in the collection of such delinquent taxes; or the inspection by the Village Attorney or other legal representatives of the Village of Fort Edward, New York, 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 Article.

- B. Any offense against the foregoing secrecy provisions shall be punishable by a fine not exceeding one thousand dollars (\$1,000.) or by imprisonment not exceeding one (1) year, or both, and if the offender is an officer, agent, clerk or employee of the Village of Fort Edward, he shall be dismissed from office and shall be incapable of holding any office or

employment in the Village of Fort Edward, New York, for a period of five (5) years thereafter.

- C. Notwithstanding any provisions of this Article, the Village Treasurer may exchange with the chief fiscal officer of any city or any other village in the State of New York information contained in returns filed under this Article, provided that such information is to be used for tax purposes only, and the Village Treasurer shall, upon request, furnish the State Tax Commission with any information contained in such returns.

§ 79-16. Disposition of taxes and penalties.

All taxes and penalties received by the Village Treasurer under this Article shall be paid into the treasury of the village and shall be credited to and deposited in the general fund of the village.

ARTICLE III

**Solar and Wind Energy Exemption
[Adopted 1-7-1991 as L.L. No. 2-1991]**

§ 79-17. No exemption provided.

The Village Board of the Village of Fort Edward hereby provides that no exemption under § 487 of the New York State Real Property Tax Law shall be applicable within the jurisdiction of the Village of Fort Edward, County of Washington, State of New York, with respect to any solar or wind energy system constructed subsequent to the effective date of this Article.

§ 79-18. Definitions.

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

SOLAR OR WIND ENERGY SYSTEM — The same as in § 487 of the New York State Real Property Tax Law.

Chapter 85

VEHICLES, ABANDONED AND JUNKED

- § 85-1. Legislative intent; purpose.
- § 85-2. Definitions.
- § 85-3. Outdoor storage prohibited.
- § 85-4. Notice to comply.
- § 85-5. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 10-5-64. Section 85-2 added and § 85-5 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 90.

§ 85-1. Legislative intent; purpose.

The seriousness of the matter of the outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles upon privately owned properties within the village increases with the passage of time. It is a source of vexation and annoyance, not only to the members of the traveling public, but to the owners and occupants of adjoining lands. The outdoor storage of such vehicles upon private lands is unsightly. It constitutes an attractive nuisance to children and a peril to their safety, in case of fire and explosion, whenever gasoline is left in the fuel tanks of such vehicles. It depreciates the value of neighboring properties. The preservation of peace and good order, the suppression of vice, the benefit of trade, the preservation of public health, the protection of property and the prevention and extinguishment of fires and explosions compel the Board of Trustees of

the Village of Fort Edward to legislate upon this subject matter. It is hereby declared that the adoption of this chapter has for its purpose the effective termination of such obnoxious practice.

§ 85-2. Definitions.¹

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

ABANDONED, JUNKED, DISCARDED AND/OR UNLICENSED MOTOR VEHICLE — Any nongaraged motor vehicle, originally intended for use on public highways, which is abandoned, stored, left or vacated by its owner or any other person or is permitted or condoned to be abandoned, stored, left or vacated by its owner or any other person on private premises in the village outside any establishment duly licensed by the village and which vehicle is currently unregistered by the State of New York or any other state and is either not operable or no longer intended or in condition for legal use on the public highway. The term shall include vehicles in such condition as to cost more to repair in order to place such motor vehicle in operating condition than the value of the motor vehicle at any given time and shall include any motor vehicle which has not been licensed with the proper authorities for a period of at least thirty (30) days from the expiration of the last valid licensing, with the exception of those motor vehicles in the possession of authorized used car dealers or garagemen for the purpose of sale or repair.

§ 85-3. Outdoor storage prohibited.

It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise, to store or deposit, or cause or permit to be stored or deposited, an abandoned, junked, discarded or unlicensed motor vehicle or motor vehicles upon any private land or upon the surface of such land within the corporate limits of the Village of Fort Edward.

¹ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 85-4 VEHICLES, ABANDONED AND JUNKED § 85-5

§ 85-4. Notice to comply. [Amended 9-8-87 by L.L. No. 2-1987]

If the provisions of the foregoing section are violated, the Village Clerk shall serve written notice, either personally or by mail, upon the owner, occupant or person having charge of any such land to comply with the provisions of this chapter. The notice shall be in substantially the following form:

"To the owner, occupant or person having charge of land known on the Assessment Map of the Village of Fort Edward as Lot(s) _____, Number(s) _____, page _____, Block, _____, or Number_____ Street or Avenue.

"Notice is hereby given that an abandoned, junked, discarded and/or unlicensed motor vehicle has been found stored or deposited outside upon the above-described property in the Village of Fort Edward. This automobile must be removed within five (5) days from the date of this notice.

"In the case you fail or refuse to comply with this notice on or before the expiration of the said five (5) days from the date of this notice, the Village of Fort Edward, acting through its duly authorized Police Department, will issue an appearance ticket returnable before the Village Court of the Village of Fort Edward, and you will be subject to the penalties provided by § 85-5 of the Code of the Village of Fort Edward."

§ 85-5. Penalties for offenses. [Amended 4-7-86 by L.L. No. 1-1986]

Any owner, occupant, lessee, agent or tenant who shall neglect and refuse to remove said abandoned, junked, discarded and unlicensed motor vehicle, as directed by this chapter, or who shall fail or refuse to comply with the provisions of any notice herein provided for or who shall violate any of the provisions of any notice herein provided for or who shall violate any of the provisions of this chapter or who shall resist or obstruct the duly authorized agents, servants, officers and employees of the village in the removal and destruction thereof shall, upon conviction thereof, be fined a sum of not exceeding two hundred fifty dollars (\$250.) or imprisoned for up to fifteen (15) days, or both, for each violation thereof.

VEHICLES AND TRAFFIC

Chapter 90

VEHICLES AND TRAFFIC

[Comprehensive vehicles and traffic legislation was being considered for adoption by the Board of Trustees at the time of the printing of this Code. Upon final adoption, said vehicles and traffic legislation will be included here.]

Chapter 92

VEHICLES, UNLICENSED MOTOR-DRIVEN

- § 92-1. Legislative intent.
- § 92-2. Definitions.
- § 92-3. Operation on public property or village-owned land prohibited.
- § 92-4. Operation on private property restricted.
- § 92-5. Careless or negligent operation prohibited.
- § 92-6. Operation by village personnel.
- § 92-7. Responsibilities of parents and guardians.
- § 92-8. Notice of alleged violation.
- § 92-9. Impoundment of vehicles in violation.
- § 92-10. Penalties for offenses.
- § 92-11. Conflicts with state law.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 7-15-85 as L.L. No. 1-1985. Section 92-10 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Abandoned and junked vehicles — See Ch. 85.

§ 92-1. Legislative intent.

The Board of Trustees recognizes the potential adverse impact on the health, safety and general welfare of the residents of the Village

of Fort Edward and to property within the village by the use of unlicensed motor-driven vehicles and, therefore, deems it appropriate to control the use of said vehicles.

§ 92-2. Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated:

PUBLIC PROPERTY — All streets, sidewalks, easements or any other areas dedicated or commonly used for vehicular or pedestrian traffic.

UNLICENSED MOTOR-DRIVEN VEHICLE — Any type of unlicensed motor-driven vehicle or conveyance, including but not necessarily limited to snowmobiles, two-wheeled motor vehicles known as "trail bikes" and "motor scooters" and four-wheeled or three-wheeled motor vehicles commonly known as "go-carts" or "all-terrain vehicles," but not including mopeds or any vehicle used for agricultural, landscaping or lawn maintenance purposes.

VILLAGE-OWNED LAND — All parks, recreation areas, ball parks, lake and river areas, storage facilities, garage areas, parking areas and any and all other village-owned land and premises.

§ 92-3. Operation on public property or village-owned land prohibited.

It shall be unlawful for any person to operate any unlicensed motor-driven vehicle upon any public property or village-owned land in the Village of Fort Edward.

§ 92-4. Operation on private property restricted.

- A. The operation of an unlicensed motor-driven vehicle is prohibited upon private property unless the operator of said unlicensed motor-driven vehicle has the express permission of the

owner of said private property to operate said vehicle on said property.

- B. Any driver or operator of an unlicensed motor-driven vehicle who enters or remains upon private property which is either fenced or otherwise enclosed in a manner designed to exclude intruders, to where notice against trespassers is given by posting in a conspicuous manner or where notice against trespassing has been personally communicated to such person by the owner of such land or other authorized person, shall be presumed to be operating without the permission of the owner of said property.

§ 92-5. Careless or negligent operation prohibited.

It shall be unlawful to operate any unlicensed motor-driven vehicle in a careless, reckless or negligent manner so as to endanger the safety of any person or the property of any person.

§ 92-6. Operation by village personnel.

- A. It shall not be unlawful for any employee of the Village of Fort Edward to operate unlicensed motor-driven vehicles for the purpose of maintaining, repairing or doing any public work within the scope of his employment.
- B. Nothing herein shall prohibit the use or operation of unlicensed motor-driven vehicles on premises duly approved for such use by the appropriate officials or municipal regulatory bodies of the Village of Fort Edward.

§ 92-7. Responsibilities of parents and guardians.

It shall be unlawful for the parent, guardian or any person having the care, custody and control of any child under the age of sixteen (16) years knowingly to permit such child to operate an unlicensed motor-driven vehicle in violation of the terms of this chapter.

§ 92-8. Notice of alleged violation.

Whenever any child under the age of sixteen (16) years is alleged to have violated this chapter, his parent, guardian or any person having the care, custody or control of the child shall be notified by the Chief of Police or any person designated by him to give such notice.

§ 92-9. Impoundment of vehicles in violation.

The police shall immediately impound any unlicensed motor-driven vehicle operated in violation of this chapter. The unlicensed motor-driven vehicle shall be returned upon payment of the fine or upon the direction of the court.

§ 92-10. Penalties for offenses.¹

Any operator or parent, as defined in § 92-8, who shall violate any of the provisions of this chapter shall, upon conviction thereof, be sentenced to a fine not exceeding two hundred fifty dollars (\$250.).

§ 92-11. Conflicts with state law.

Should any section or portion of this chapter be in conflict with the laws of the State of New York applicable to the operation, registration, ownership or control of unlicensed motor vehicles, then, in that instance, said laws of the State of New York shall prevail.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

WATER

Chapter 94

WATER

- § 94-1. Definitions.
- § 94-2. Village liability for water shutoff.
- § 94-3. Maintenance and repair of water fixtures.
- § 94-4. Location of water fixtures; connection.
- § 94-5. Water for individual premises only.
- § 94-6. Right to inspect property.
- § 94-7. Leaks in pipes.
- § 94-8. Curb box.
- § 94-9. Request for discontinuance of service.
- § 94-10. Reconnection of water service.
- § 94-11. Payment of rents.
- § 94-12. Meters.
- § 94-13. Maintenance by Village and property owners; complaints.
- § 94-14. Use of villages water system; right to impose restrictions.
- § 94-15. Use of fire hydrants.
- § 94-16. Approved water supply, plumbing fixtures and piping; inspection of systems.
- § 94-17. Potable water supply systems, cross connections.
- § 94-18. Unlawful acts; arrest.
- § 94-19. Authorized Village personnel.
- § 94-20. Industrial process water supply.

- § 94-21. Deposits to cover connection charges.
- § 94-22. Right to increase rates and change classifications.
- § 94-23. Unpaid charges to become lien upon property.
- § 94-24. Penalties for offenses.
- § 94-25. Liability for expenses, losses or damages.
- § 94-26. Modification or amendment of rules and regulations.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 3-30-2004 by L.L. No. 1-2004.¹ Amendments noted where applicable.]

§ 94-1. Definitions.

- A. Terms defined as used in this chapter shall have the meanings indicated:

BACKFLOW — The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable supply of water from any source or sources other than its intended source.

BACK-SIPHONAGE — The flowing back of used, contaminated or polluted water from a plumbing fixture or vessel into a water supply pipe due to negative pressure in such pipe.

BUILDING — A structure built, erected and framed of component structural parts designed for the housing, shelter, enclosure or support of persons, animals or property of any kind.

¹ Editor's Note: This local law supersedes former Ch. 94, Water, adopted 4-7-1986 by L.L. No. 1-1986.

BUILDING WATER SERVICE — That pipe which extends from the termination of the public water service pipe to the water distribution system of the building served.

CROSS-CONNECTION — Any connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable origin, or steam, gas or chemical, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

DWELLING UNIT or FAMILY UNIT — A building or part thereof arranged or designed to provide living and sanitary facilities for only one family.

MULTIPLE DWELLING UNIT or MULTIFAMILY RESIDENCE — A building containing two or more dwelling or family units.

OWNER — A proprietor; one who owns or has exclusive right of possession.

PERSON — Any individual, his or her heirs, executors, administrators and includes a firm, partnership, corporation, company, association, society, church, school and its successors.

PLUMBING FIXTURES — The installed receptacles, devices or appliances which are supplied with water or which receive or discharge liquids.

POLLUTED WATER — Water in which there are micro-organisms, chemical or waste materials in a concentration which renders the water harmful or objectionable.

POTABLE WATER — Water which is satisfactory for drinking, cooking and domestic purposes and meets the requirements of the health authority having jurisdiction.

PUBLIC WATER MAIN — Water supply pipe for public use controlled by the Village.

PUBLIC WATER SERVICE PIPE or PUBLIC WATER SERVICE — That part of the water service pipe to the building which is constructed by the Village from the public water main in the public way to the property line.

PUBLIC WATER SUPPLY SYSTEM or WATERWORKS — The works, structures, equipment and processes required to supply, treat and distribute water to people at large or to any considerable number of members of the public indiscriminately for domestic, commercial, industrial and fire uses.

SINGLE-FAMILY DWELLING or SINGLE FAMILY RESIDENCE — A building arranged or designed to provide living and sanitary facilities for only one family.

SUPERINTENDENT — The Superintendent of Waterworks, Street Superintendent in the Village of Fort Edward or his authorized officers or agents.

VILLAGE — The Trustees of Village of Fort Edward, a municipal corporation of the State of New York and/or its duly authorized officers or agents.

WATER MAIN or MAIN — The principal pipes of a water supply system to which water services may be connected.

WATER PLUMBING SYSTEM — The water supply and distribution pipes, plumbing fixtures and traps and water-treating or water-using equipment, including their respective connection within the property line of the premises.

WATER SERVICE PIPE or WATER SERVICE — The pipe from the water main to the building served.

WATER SUPPLY PIPING — The water-distributing pipes and necessary connecting pipes, fittings, and control valves in a building which convey water from the

water service pipe to plumbing fixtures and other water outlets.

§ 94-2. Village liability for water shutoff.

The Village will not be liable for any damage which may result to water customers from the shutting off of a water main or service for any purpose, even when no notice is given, and no deduction from bills will be made.

§ 94-3. Maintenance and repair of water fixtures.

Persons taking Village water must keep the meter and pipes in good repair and protected from freezing at their expense. Any costs incurred by the Village will be billed to the property owner.

§ 94-4. Location of water fixtures; connection.

- A. Applicants for Village water must designate the position of water fixtures to the Street Superintendent so it can be determined the location of the fixtures will prohibit the fixtures from freezing. All excavations for building water service installation shall be adequately guarded with barricades and lights to protect the public from hazard or injury. Streets, sidewalks, and other public property disturbed in the course of the work will be restored in a manner satisfactory to the Village.
- B. The applicant for the building water service permit shall notify the Village when the building water service is ready for inspection and connection to the public water service and before the water service installation is backfilled or covered. The connection will be made under the supervision of the Street Superintendent or other authorized Village representative. The applicant shall obtain the Street Superintendent's approval before backfilling or covering the water service pipe.

§ 94-5. Water for individual premises only.

No water user will be allowed to supply water to others. A violation of this section could result in termination of water service. No more than one building will be supplied by a single tap.

§ 94-6. Right to inspect property.

The Village may enter the premises of any water user at a reasonable time to examine water fixtures. If a fixture is found to be damaged or tampered with the Village will terminate water service and prosecute the water user.

§ 94-7. Leaks in pipes.

All leaks on premises must be promptly repaired by the owner or occupant. Failure to promptly repair may result in termination of service.

§ 94-8. Curb box.

Metallic curb boxes must be used. Wooden boxes are prohibited.

§ 94-9. Request for discontinuance of service.

Any water user wishing to discontinue water service must give written notice to the office of the Village Clerk.

§ 94-10. Reconnection of water service.

Whenever water service has been terminated for nonpayment of water bills or for violation of rules and regulations, the Village Board must approve the continuance of service.

§ 94-11. Payment of rents.

All bills are payable semiannually during the months of April and October at the office of the Village Clerk. A penalty of 10% will be added to all bills not paid by a specific date determined by the Village Board. In the event the bills are unpaid, the Village may terminate water service, and payment will be enforced pursuant to Chapter 507, Laws of the State of New York. In the event a meter cannot be installed at the premises, the Village Board will establish a minimum usage.

§ 94-12. Meters.

- A. The Village Board reserves the right to attach meters to any service pipe at any time, whenever it shall deem it appropriate, and charge for the quantity of water measured.
- B. Each property owner shall install a water meter for each dwelling or building connected to the Village's water system. The water meter will remain under the ownership of and will be maintained by the Village as far as ordinary wear and tear is concerned. The property owner shall be responsible for any damage to the meter not caused by the Village.
- C. The Village will determine the we and type of any water meter.
- D. It shall be unlawful for any person not specifically authorized by the Village to interfere with, remove, replace or tamper with a meter or meter seal.
- E. No connectors shall be made to any water service pipe between the water main and the meter; all water used shall pass through the meter. If an unlawful connection is found, the water wilt be shut oft and the premises fined.
- F. Where the water meter fails to register the total amount of water used, the property owner shall pay for the period estimated amount based on consumption in a

similar period. The property owner shall notify the Village of any damage to, or any cessation in registration of, the water meter as soon as it comes to knowledge. If an estimated consumption for a similar period is unavailable, a minimum usage of 25,000 gallons will be used for billing purposes.

- G. Any property owner who fails to install a water meter, which will be supplied by the Village, as required pursuant to this chapter within 30 days after such written notice to the property owner by ordinary first class mail at his address stated in the Village property tax rolls shall be liable to the Village for the following additional charge: \$150 per billing period until the water meter has been installed.
- H. If a property owner has difficulty or hardship in installing a water meter as required under this chapter, the Village may grant the property owner a variance in installation of such water meter, but subject to terms and conditions as the Village deems appropriate. Rates for properties receiving variances will be reviewed from time to time by the Village.
- I. It shall be the duty of the Village or such employee of the Village to seal all water meters, and bypass valves on waterlines of metered customers. The type and kind of seal used shall be determined and furnished by the Village. The breaking of any seal, or the authorizing thereof, or the opening of any water meter by pass valve, or the authorizing thereof by any person, firm or corporation is prohibited except by the Village or its representative.
- J. After three attempts by the Village to get access to the owners' property to check or repair the meter, the owners will be charged \$200 per billing period until the water meter is repaired.

§ 94-13. Maintenance by Village and property owners; complaints.

- A. The Village will maintain all water service from the street main to the property line.
- B. All pipes and appurtenances on private property shall be maintained by, and at the expense of, the property owner. The Village, where it shall deem such action necessary, may do maintenance or repair work on private property, in which case the cost, including overhead expenses, shall be paid by the property owner. The cost of any work outside of the property line made necessary by the neglect or through the action of a property owner or tenant shall be charged to the property owner.
- C. In the event of a complaint regarding a leak on a water service, the Village will determine if the leak is a public hazard, in which case the leak will then be repaired by the Village. If it is found that the leak is not the Village's responsibility the owner will be notified, and it shall be his responsibility to have the leak repaired at once by a plumber at the owner's expense. If the property owner fails to make such repairs within five days after written notification by the Village, the Village, in order to conserve water and protect the health of the residents, will make such repairs as are necessary and will bill the owners for the cost of such work.

§ 94-14. Use of villages water system; right to impose restrictions.

Water from the Village's system may be used for residential, business, industrial and public purposes. The Village reserves the right to impose at any time such restrictions on the use of water as, in its judgment, may be necessary.

§ 94-15. Use of fire hydrants.

- A. No person, other than an authorized employee of the Village or a member of the Fire Department acting under order of the Fire Chief or his representative in the performance of his duties, may operate a public fire hydrant, unless in possession of a permit from the Village.
- B. Public or private fire hydrants may not be used for flushing or for any other purposes except for special written permission of the Village, for the time and at the location specified. If such permission is granted, the water used shall be paid for by the user, who shall be charged for the water at the prevailing water rates.

§ 94-16. Approved water supply, plumbing fixtures and piping; inspection of systems.

- A. All buildings which are served with public water from the Village's system shall have approved water supply and plumbing fixtures and piping. Where the fixtures do not exist, or are not in good condition, in the judgment of the Village, they shall be altered or repaired, as the case may be, in such a manner as shall be required and within the time named, by notice served by the Village upon the property owner or occupant.
- B. The Village may at any time inspect existing plumbing systems and require such modifications as in its judgment may be necessary to put said plumbing in an approved, sanitary condition.

§ 94-17. Potable water supply systems, cross connections.

- A. Potable water supply systems shall be designed, installed and maintained in such manner as to prevent nonpotable liquids, solids, or gases from being introduced

into the potable water supply through cross-connections or any other piping connections to the system.

- B. Piping conveying potable water shall be constructed of nontoxic material. No chemicals or other substances that could produce either toxic conditions, taste, odor or discoloration in a potable water system shall be introduced into or used in such systems. The interior surface of a potable water tank shall not be lined, painted or repaired with any material which will affect either the taste, odor, color or potability of the water supply when the tank is placed in or returned to service.
- C. No physical connection or cross-connection shall be permitted between the public water supply and an industrial, fire or other auxiliary or emergency water supply source. This prohibition applies to all piping systems, whether inside or outside of any building or buildings.
- D. Backflow or back siphonage.
 - (1) No plumbing fixture or device shall be installed which will provide a cross-connection between the Village's water supply and a drainage or sewerage system so as to permit or make possible the backflow of sewage or waste into the Village's water supply, nor shall any plumbing fixture or device be installed which will provide a possible cross-connection between the Village's water supply system and any well, spring, cistern, river or other private source of water supply. No water closet bowl shall be supplied directly from a domestic water supply system through a flush valve unless such valve is set above the water closet bowl in a manner so as to prevent any possibility of polluting the water supply and the valve is protected by an approved air-break or backflow preventors.
 - (2) In order to prevent back-siphonage, all heating plants connected to the water system shall have a Village-approved check valve installed on the

waterline supplying the plant, and the check valve shall be installed ahead of the plant's automatic water feed or ahead of the boiler shut-off valve.

- (3) All humidifiers or similar devices having the water inlet below the overflow level shall be equipped with a Village-approved nonsiphon ball cock.
- (4) Water which has been used for cooling or heating purpose shall not be reused for domestic purposes.
- E. For soda, bar, laboratory, dental, medical, surgical and other appliances requiring either a waste supply connection and plumbing fixtures, no such fixture may be connected to either a waste or water supply unless the fixture is approved as free of any possibility of cross-connection or back siphonage. Dental, surgical, or other aspirators shall not be of the type operated by water pressure, unless equipped with a Village-approved vacuum break device.

§ 94-18. Unlawful acts; arrest.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure or equipment which is a part of the waterworks. Any person violating this provision shall be subject to immediate arrest under the charge of disorderly conduct or for violation of the laws of the State of New York.

§ 94-19. Authorized Village personnel.

The Village and other duly authorized employees or representatives of the Village bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspections, observations, measurements, sampling, meter reading and repair, removing and testing water meters.

§ 94-20. Industrial process water supply.

The Village or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the interconnection of potable water supply lines with industrial process water supply systems and on the amounts of water required from the public water supply system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

§ 94-21. Deposits to cover connection charges.

The Village is authorized to require a deposit of up to 100% of the estimated cost of connecting to the Village water mains. All costs and expense incidental to the installation and connection of the building water service will be borne by the owner. The owner will indemnify the Village from any loss or damage that may directly or indirectly be the result of the installation of the building water service. No unauthorized person shall uncover, make any connectors with, use, or disturb any public water main or water service without first obtaining a written permit from the Village Board or its representatives. There shall be three classes of building water service permits: (1) residential service, (2) commercial service, (3) industrial service. In each case, the owner or his agent shall make application to the Village for a permit. When requested, the permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Village.

§ 94-22. Right to increase rates and change classifications.

The Village reserves the right to increase or decrease the rates and charges and to establish different classifications as to rates for residential, commercial or industrial use and for special use where multiple units or dwelling units are served by a single building water service or by two or more water services.

§ 94-23. Unpaid charges to become lien upon property.

All rates, charges and/or fines referred to shall constitute a lien on the real estate served and shall be collectable in the same manner as Village taxes.

§ 94-24. Penalties for offenses.

Any person committing an offense against any of the provisions of this chapter shall be punished, upon conviction, by a fine not exceeding \$250 or by imprisonment not exceeding 15 days, or both such fine and imprisonment.

§ 94-25. Liability for expenses, losses or damages.

Any person found violating any provision of this chapter shall become liable to the Village for any expense, loss or damage which occurred as a result of the violation.

§ 94-26. Modification or amendment of rules and regulations.

The Village Board reserves the right to modify or amend these rules and regulations at any time and to make additional reasonable rules as may seem best to regulate the water supply.

ZONING

Chapter 100

ZONING

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ZONING

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§ 100-38. Parking.

Schedule of Lot and Bulk Regulations

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward during codification 7-7-86 by L.L. No. 2-1986;¹ see Ch. 1, General Provisions, Art. II. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 11.

Unsafe buildings — See Ch. 32.

Uniform Fire Prevention and Building Code — See Ch. 49.

Flood damage prevention — See Ch. 52.

Abandoned and junked vehicles — See Ch. 85.

ARTICLE I
Title; Definitions

§ 100-1. Title.

This chapter shall be known as the "Zoning Ordinance of the Village of Fort Edward."

¹ Editor's Note: This local law also amended Ch. 59, Littering, and Ch. 64, Peddling and Soliciting.

§ 100-2. Word usage; terms defined.**A. Word usage.**

- (1) Words used in the present tense include the future tense.
- (2) The singular includes the plural.
- (3) The word "person" includes a corporation as well as an individual.
- (4) The word "lot" includes the word "plot" or "parcel."
- (5) The term "shall" is always mandatory.
- (6) The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

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

ACCESSORY USE/ STRUCTURE — A structure, the use of which is incidental to that of the main building, and which is attached thereto or is located on the same premises; a use, occupancy or tenancy customarily incidental to the principal use or occupancy of a building.

ADDITION — Extension or increase in area, height or equipment of a building.

ALTERATION — Any change, rearrangement or addition to a building, other than repairs; any modification in construction or in building equipment.

APARTMENT HOTEL [Repealed 4-3-89 by L.L. No. 1-1989]

APARTMENT HOUSE [Repealed 4-3-89 by L.L. No. 1-1989]

BAZAAR — Includes a group of booths for the sale or exhibit of merchandise or curiosities, and shall not include a circus, carnival, tent show, medicine show, side show, carousel or similar performance.

BERTH — The place where a vessel lies when at anchor or at wharf. [Added 1-7-1991 by L.L. No. 1-1991]

BOATHOUSE — A structure which has direct access to a body of navigable water, is used for the storage of vessels and associated equipment, does not have bathroom or kitchen facilities and is not designed or used for lodging or residency. [Added 1-7-1991 by L.L. No. 1-1991]

BOAT STORAGE — A place, site or structure used to park, house or store on any one (1) lot one (1) or more vessels. [Added 1-7-1991 by L.L. No. 1-1991]

(Cont'd on page 10005)

BUILDING — Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or property.

BUILDING SIDE LINE — A line extending along the building from front to rear, generally parallel with the side line of the lot.

CELLAR — That space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

DWELLING — A building containing not more than two (2) dwelling units occupied exclusively for residential uses.

DWELLING, ONE-FAMILY — A building arranged for one (1) dwelling unit.

DWELLING, TWO-FAMILY — A building arranged for two (2) family units.

DWELLING UNITS — One (1) or more rooms with provision for living, cooking, sanitary or sleeping facilities arranged for the use of one (1) family.

FAMILY — Any number of individuals related by blood, marriage or adoption, or not more than four (4) persons who are not so related, living together as a single housekeeping unit, using rooms and housekeeping facilities in common and having such meals as they may eat at home generally prepared and eaten together.

FENCE — Any structure, regardless of composition, except a living fence, that is erected or maintained for the purpose of enclosing a piece of land or dividing a piece of land into distinct portions.

FRONT YARD — A yard across the full width of the lot extending from the front line of the building to the front line of the lot.

GARAGE, PRIVATE — A roofed or enclosed space primarily designed or used for the storage of one (1) or more motor vehicles, provided that no business, occupation or service is conducted for profit therein, whether detached or not.

GARAGE, PUBLIC — A building or part thereof used for the storage, hiring, selling, greasing, washing, servicing and repair of motor vehicles, operated for gain.

GASOLINE STATION — Any area of land, including structures therein, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof.

HABITABLE SPACE — Space occupied by one (1) or more persons for living, sleeping, eating or cooking. Kitchenettes shall not be deemed to be "habitable space."

HOME OCCUPATION — Any personal or professional service customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the residential character thereof.

HOTEL — A building used for the housing of the transient public in single rooms or suites of rooms.

JUNKYARD — A lot, land or structure or part thereof used primarily for collecting, storage and sale of wastepaper, rags, scrap, metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

KENNEL — Any lot, building, structure or premises or any part thereof in which there is kept or harbored more than three (3) dogs and each dog is older than six (6) months of age. [Added 4-3-89 by L.L. No. 1-1989]

KITCHEN — Space, sixty (60) square feet or more in floor area, used for cooking or preparation of food.

KITCHENETTE — Space, less than sixty (60) square feet in floor area, used for the cooking or preparation of food.

LAUNDERETTE — A business premises equipped with individual clothes washing and drying machines for the use of retail customers.

(Cont'd on page 10007)

LOT — A parcel of land occupied or capable of being occupied by one (1) building or a group of buildings united by a common interest, and including accessory buildings with such open areas as are required by this chapter.

LOT AREA — The total horizontal area included within lot lines, except that no part of the area within a public or private right-of-way may be included in the computation of "lot area."

LOT, CORNER — A parcel of land at the junction of and fronting on two (2) or more intersecting streets.

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

LOT LINE — Any line dividing one (1) lot from another.

MANUFACTURED HOME — A structure transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, and when erected on site is 320 or more square feet and is designed as a dwelling with a permanent foundation and which is permanently connected to the plumbing, heating, air conditioning and electrical systems. [Added 3-3-1997 by L.L. No. 1-1997]

MARINA — Any waterfront facility which provides accommodation services for vessels by engaging in any of the following: the sale, lease, rental or any other provision of storage, wharf space or mooring for vessels not registered to the owner of said facility, a member of the owner's immediate family, the owner or lessee of the immediately adjoining upland property, members of their immediate families or an overnight guest on said property. [Amended 1-7-1991 by L.L. No. 1-1991]

MOORING — Any anchor, chain, buoy, pennant or other object by which a vessel is secured at one (1) point. [Added 1-7-1991 by L.L. No. 1-1991]

MOTEL — A multiple dwelling, intended primarily for motorists, not over two (2) stories in height, in which the exit from each dwelling unit or sleeping room is directly to the exterior, including but not limited to the terms "motor court," "motor hotel" and "tourist court."

MULTIPLE DWELLING — Any building designed, arranged or intended to be occupied for residential purposes by two (2) or more dwelling units.

NONCONFORMING BUILDING OR STRUCTURE — A building or structure, the size, dimension or location of which was lawful prior to the adoption or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

NONCONFORMING USE — A use or activity which was lawful prior to the adoption or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

NONHABITABLE SPACE — Space used as kitchenettes, pantries, baths, toilet, laundry, rest, dressing, locker, storage, utility, heater and boiler rooms, closets and other spaces for service and maintenance of the building and those spaces used for access and vertical travel between stories.

PARKING SPACE — A space available for one (1) motor vehicle.

PROPERTY LINE — A line establishing the boundaries of the premises.

REAR YARD — A yard across the full width of the lot extending from the rear line of the building to the rear line of the lot.

REPAIRS — Any work done to the exterior of a building which does not enlarge the ground space occupied by the building, or any work done to the interior of the building

which does not increase the number of occupancies for which the building is designed.

RESTAURANT — Any structure designed, intended as or used in whole or part for the retail sale of prepared food and/or beverages for on- and/or off-premises consumption, including what are commonly termed "diners," "lunchrooms," "lunch counters," "night clubs," "taverns," "delicatessens" and "snack bars."

RETAIL STORES — Any building or structure in which one (1) or more articles of merchandise or commerce are sold at retail, including department stores.

SEASONAL MOORING — Any vessel that is secured at a mooring that is owned, leased or rented by one (1) entity for more than a period of seven (7) consecutive days. [Added 1-7-1991 by L.L. No. 1-1991]

SETBACK LINES — The distance from the center of the street to the part of the structure nearest the street, measured at right angles to the street line.

SIDE YARD — A yard between the building and the adjacent side line of the lot and extending from the front yard to the rear line of the building.

SIGN — Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or government agency, or of any civic, charitable, religious, patriotic, fraternal and similar organization.

SIGN AREA — The area of the single smallest geometric shape which can encompass the facing of a sign, including copy, insignia, background and borders.

SOLAR ENERGY SYSTEM — An arrangement or combination of components and structures designed to provide heating, cooling, hot water or electricity through the process of collecting, converting, storing or protecting

against unnecessary dissipation and distributing solar energy.

STREET — A thoroughfare dedicated and accepted by a municipality for public use or legally existing on any map of a subdivision filed in the manner provided by law.

STREET LINE — The dividing line between the street and the premises fronting thereon.

STRUCTURE — Includes anything constructed or erected other than walks and driveways, the use of which requires temporary or permanent location on or support of the soil and which is attached to anything on the soil, other than fences.

SWIMMING POOLS — A large artificial basin for filling with water for swimming.

TRAILER — Any sort of vehicle known as a "house trailer," "mobile home," "trail mobile" or any type of vehicle in which one (1) or more persons may dwell and use or occupy for residential, business or any other purpose.

USE — Includes the purposes for which a building, structure or premises, or any part thereof, is or are occupied or, if unoccupied, the purpose for which they may be occupied.

YACHT CLUB — Any facility or facilities offering paid membership to members of the public, which facility or facilities are to be used for one (1) or more of the following purposes: marina, boat storage and any recreational activities, including but not limited to swimming, tennis, racquetball, fishing, boating, picnicking, children's playground activities, camping, etc. Said facility or facilities may be private or public, or both, in the discretion of the yacht club ownership.
[Added 1-7-1991 by L.L. No. 1-1991]

YARD — An open unoccupied space on a lot, plot or parcel of land on which the building stands, which extends the entire length of the front or rear interior lot line.

ARTICLE II

Districts Established; Zoning Map; District Boundaries.

§ 100-3. Zoning districts established. [Amended 4-3-1989 by L.L. No. 1-1989; 1-7-1991 by L.L. No. 1-1991; 3-3-1997 by L.L. No. 1-1997]

For purpose of promoting the health, safety and general welfare of the village, to regulate the size of buildings and to restrict the percentage of lot that may be occupied, structures and land for trade, industry, residence or other purposes, the Village of Fort Edward is hereby divided into the following zones:

Zone R-1	Residential
Zone R-2	Residential
Zone R-3	Residential
Zone C-1	Commercial
Zone C-2	Parks/Recreation
Zone C-3	
Zone C-4	
Zone I	Industrial
Zone N-1	Marina

§ 100-4. Zoning Map.

The locations and boundaries of the zones hereby established are shown on the Zoning Map of the Village of Fort Edward, New York. The map and all explanatory matter herein becomes an integral part of this chapter upon approval.¹

¹ Editor's Note: The Zoning Map is included in a pocket part at the end of this volume.

§ 100-5. District boundaries.

- A. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:
- (1) Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, highway right-of-way lines or lot lines, such street lines, highway right-of-way lines or lot lines shall be construed to be such boundaries.
 - (2) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale on said Zoning Map.
- B. If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a district boundary, the Board of Appeals shall determine the location of said line.

ARTICLE III**Use Regulations; Exceptions****§ 100-6. R-1 Residential Zone.**

- A. In Zone R-1 no building shall be erected, altered, extended, constructed or reconstructed which is intended, designed or arranged to be used in whole or in part except for one (1) or more of the following purposes, and no land shall be used except for one (1) or more of the following purposes:
- (1) A one-family detached dwelling.

- (2) An attached or detached private garage as defined in § 100-2.
 - (3) Offices for members of the learned professions or the office of a business not conducted on the premises, provided that no goods or merchandise are sold, displayed or offered for sale therein and no manual labor is performed therein.
 - (4) Gardens, including the sale of produce raised on the premises.
- B. There shall also be permitted accessory uses customarily incident to the above uses. The term "accessory uses," however, does not include a business or any building or use not located on the same lot to which it is accessory. A "for sale" or "for rent" sign or temporary notice of construction work not exceeding four (4) square feet in area shall be permitted as an accessory use. The sign shall be removed when the building is occupied.
- C. Accessory use shall include any sign indicating the use of the premises which shall not exceed two (2) square feet in area, except that signs for existing mercantile establishments shall not exceed twelve (12) square feet in area.

§ 100-7. R-2 Residential Zone.

- A. In Zone R-2 no building shall be erected, altered, extended, constructed or reconstructed which is intended, designed or arranged to be used in whole or in part except for one (1) or more of the following purposes, and no land shall be used except for one (1) or more of the following purposes:
- (1) A one-family detached dwelling.
 - (2) An attached or detached private garage as defined in § 100-2.

- (3) Offices for members of the learned professions or the office of a business not conducted on the premises, provided that no goods or merchandise are sold, displayed or offered for sale therein and no manual labor is performed therein.
- (4) Gardens, including the sale of produce raised on the premises.
- (5) Multiple dwellings [no more than three (3) dwelling units].
- (6) Two-family dwellings.
- (7) Farming, dairying, gardening, greenhouses and nurseries, including the sale of products raised or produced on the premises.

§ 100-7.1. R-3 Residential Zone. [Added 3-3-1997 by L.L. No. 1-1997]

A. In Zone R-3 no building shall be erected, altered, extended, constructed or reconstructed which is intended, designed or arranged to be used in whole or in part except for one or more of the following purposes, and no land shall be used except for one or more of the following purposes:

- (1) A one-family detached dwelling.
- (2) An attached or detached private garage as defined in § 100-2 of this chapter.
- (3) One-family manufactured homes with the following restrictions:
 - (a) Current regulations for new lots and setbacks will apply.
 - (b) There will be a minimum of 960 square feet of living space, and the minimum width of the home will be 24 feet.

- (c) Must be positioned to have the front of the home face the street.
- (d) Must have minimum $\frac{3}{12}$ roof pitch with type of shingle commonly used in standard residential construction and shall have a minimum rating of 30 psf snow load.
- (e) Exterior siding must be similar to siding commonly used in standard residential construction.
- (f) All towing devices, wheels, axle springs and hitches must be removed within 60 days of arrival on lot.
- (g) Home must be fastened to a foundation or slab. There shall be a weatherproof access opening to the crawl space and the walls must be constructed of a masonry product (no vinyl skirting) extending from the foundation or slab to the bottom of the unit. [Amended 5-3-1999 by L.L. No. 1-1999]
- (h) Must be installed in accordance with ANSI Standard 225.1 regarding manufactured home installation.
- (i) Must meet or exceed New York State building codes regarding manufactured homes and Department of Housing and Urban Development standards.
- (j) All placement and installation of manufactured homes shall be approved by the Building Inspector.

§ 100-8. C-1 Commercial Zone.

- A. In Zone C-1 no building shall be erected, altered, extended, constructed or reconstructed which is intended, designed or arranged to be used in whole or in

part except for one or more of the following purposes, and no land shall be used except for one or more of the following purposes:

- (1) Multiple dwellings (no more than four dwelling units).
- (2) Two-family dwellings.
- (3) Farming, dairying, gardening, greenhouses and nurseries, including the sale of products raised or produced on the premises.
- (4) An attached or detached private garage as defined in § 100-2.

(Cont'd on page 10013)

- (5) Offices for members of the learned professions or the office of a business not conducted on the premises, provided that no goods or merchandise are sold, displayed or offered for sale therein and no manual labor is performed therein.
- (6) Gardens, including the sale of produce raised on the premises.
- (7)¹ Accessory apartments may be located in commercial buildings in a commercial area; however, no apartments may be located on the ground floor or below the ground floor. [Added 9-6-1990 by L.L. No. 2-1990]
- (8) Retail stores.
- (9) Shops for custom work or the making of articles to be sold at retail on the premises.
- (10) Offices and banking establishments.
- (11) Restaurants and grills.
- (12) Any establishment which provides goods and/or services directly to the consumer.
- (13) Theaters, bowling alleys, skating rinks, dance halls, billiard halls and similar amusement establishments.
- (14) Gas and motor oil stations and garages for storage or repairs, including automobile sales rooms.
- (15) Billboards and advertising signs as regulated by laws and ordinances.
- (16) Light manufacture of any article found by the Planning Board to be acceptable.
- (17) Any additional use which the Planning Board may find to be substantially similar to the uses permitted in this section and not injurious to property or to the uses herein specified, but no such additional use shall be permitted by the Planning Board until after an application has been filed specifying the proposed use in full and a public hearing shall have been held, after reasonable notice shall

¹ Editor's Note: Former Subsection A(7), Apartment houses, was repealed 4-3-89 by L.L. No. 1-1989.

have been given to all adjoining holders of real estate, and a decision therein shall have been made in writing.

- (18) Accessory uses customarily and necessarily incident to the foregoing uses.

§ 100-9. C-2, C-3 and C-4 Zones.

A. In Zone C-2, the following uses shall be permitted:

- (1) Recreational uses only (such as tennis, softball, baseball, basketball and children's play areas) with no camping facilities or overnight camping.

B. [Added 4-3-89 by L.L. No. 1-1989] In Zone C-3, the following uses shall be permitted:

- (1) Historical, archeological and/or cultural facilities.
(2) Government facilities.

C. [Added 4-3-89 by L.L. No. 1-1989] In Zone C-4, the following uses shall be permitted:

- (1) The study, designation, protection, restoration, rehabilitation and use of buildings, structures, districts, areas, sites or objects significant in the history, architecture, archeology or culture of this state, its communities or the nation.

§ 100-10. I Industrial Zone.

A. In Zone I, no building shall be erected, altered, extended, constructed or reconstructed which is intended, designed or arranged to be used in whole or in part except for one (1) or more of the following purposes, and also no land shall be used except for one (1) or more of the following purposes:

- (1) Multiple dwellings of three (3) or more dwelling units.
(2) Attached or detached private garages as defined in § 100-2.
(3) Any industrial use which the Planning Board may find to be not injurious to property or to the uses herein specified, but no such industrial use shall be permitted by the

Planning Board until after an application has been filed specifying the proposed use in full and a public hearing shall have been held, after reasonable notice shall have been given to all adjoining holders of real estate, and a decision thereon shall have been made in writing.

- (4) Permitted accessory uses, located on the same lot as the principal structure or use:
 - (a) Parking areas.
 - (b) Signs.
 - (c) Accessory uses customarily and necessarily incident to the principal permitted use.
- B. Buildings height limitations: three (3) stories or thirty-five (35) feet.
- C. Minimum lot area: no minimum.
- D. Maximum lot coverage: seventy-five percent (75%) with required parking.
- E. Yards.
 - (1) Front yard depth: same as C-1 Commercial Zone.
 - (2) Side yard width: twenty-five (25) feet for each side.
 - (3) Rear yard depth: twenty-five (25) feet.
- F. Junkyards. There will be no new junkyards allowed in the incorporated Village of Fort Edward. Any preexisting junkyards will conform to the following restrictions:
 - (1) Expansion. Procurement of land to extend the present boundaries of existing junkyards is expressly prohibited.
 - (2) Fence; boundary confinement of existing junkyard.
 - (a) Height: a minimum of eight (8) feet and maximum of ten (10) feet, the fence to be of consistent height.
 - (b) Maintenance: Fence shall be maintained to original specifications as to restrict entrance and view.

(Cont'd on page 10015)

- (c) Fence setback line: twenty (20) feet from adjacent property lines, roadway or highway.
- (d) Purpose: to enhance safety, restrict entrance and restrict visibility.

G. [Added 4-3-89 by L.L. No. 1-1989] Kennels. Any preexisting kennels or kennels coming into existence after the adoption of this subsection of the Village Code will conform to the following restrictions:

- (1) Expansion. Procurement of land to extend the present boundaries of any existing kennels is expressly prohibited.
- (2) Fence. Each kennel, either preexisting or coming into existence after the adoption of this subsection of the Village Code, shall have a fence surrounding said kennel with the following requirements:
 - (a) Each fence will be a minimum of six (6) feet in height and a maximum of eight (8) feet in height, and it is to be of consistent height.
 - (b) Each fence shall be set back at least five (5) feet from adjoining property lines, roads, sidewalks or highways.
- (3) Purpose. The purpose of this subsection is to enhance safety, restrict entrance and restrict visibility of kennels.

§ 100-10.1. N-1 Marina Zone. [Added 1-7-1991 by L.L. No. 1-1991]

A. Principal permitted uses in the N-1 Marina Zone shall be as follows:

- (1) Marinas and all uses defined therein.
- (2) Yacht club and uses defined therein.
- (3) Historical and archaeological activities, including museums, displays, artifact repositories and educational classrooms and activities.

- (4) Vessels used only for pleasure and/or educational purposes.
- B. Principal accessory uses in the N-1 Marina Zone shall be as follows:
 - (1) Public and private parking.
 - (2) Signs.
 - (3) Marina services.
 - (4) Accessories customarily and necessarily incident to the foregoing uses and to the principal permitted uses.
- C. Building height limitation: two (2) stories or thirty (30) feet.
- D. No marina shall be used for the importation, transportation or storage of garbage, waste products, junk or hazardous waste into the Village of Fort Edward, excepting that refuse produced at the marina in the normal course of business.
- E. Prior to construction in the Marina Zone, the owners shall prepare an environmental impact statement, which shall review and address the potential impacts upon the historical and archaeological value of the land. The New York State Department of Parks, Recreation and Historical Preservation shall be named as an interested agency in the process of reviewing the environmental impact statement.

§ 100-11. Exceptions.

- A. Height exemptions. The height limitations of this chapter shall not apply to church spires, belfries, cupolas, penthouses, domes, chimneys, ventilators, skylights, water tanks, bulkheads, solar- and energy-producing equipment and all other similar features and necessary appurtenances usually carried above roof levels.
- B. Side and rear yards. Where commercial and industrial zones abut residential zones, the yards abutting such residential zones shall be no less than twenty-five (25) feet.

ARTICLE IV
Supplementary Use Regulations; Yards; Plats

§ 100-12. Sale of new and used cars.

- A. The sale of new and used cars shall be limited to the Commercial Zone designated as C-1.
- B. The authorization for the sale of new and used cars within the Village of Fort Edward is not intended to allow the proprietor of such new and used car business to have upon his premises what is known as a "graveyard" for old cars or to turn the premises into a junkyard.

§ 100-13. Accessory buildings in residential and commercial zones.

A. Accessory buildings in residential zones.

- (1) Number. There shall be not more than two (2) accessory buildings on each zone lot intended or used for residential purposes, except that dwelling groups and large scale developments shall not be subject to the provisions of this section.
- (2) Bulk. Maximum height of accessory buildings shall be one (1) story or fifteen (15) feet, and maximum bulk shall not exceed six hundred (600) square feet.
- (3) Location of unattached accessory buildings. When an accessory building is not attached to a principal building, it may be erected within the rear yard in accordance with the following requirements:
 - (a) Rear yard: seven and one-half (7½) feet from side line and five (5) feet from the rear line, except when abutting an alley, for which the distance shall be ten (10) feet.
 - (b) Side yard, street side or corner lot: same as for principal building.
 - (c) Not closer to a principal building than ten (10) feet.

- (4) Attached accessory building in residence districts. When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this chapter applicable to the principal building, excluding the bulk regulations set forth in Subsection B of this section.
- (5) Swimming pools. Private swimming pools, as a permanent and portable noncommercial use, shall be regulated as follows, except that these regulations shall not apply to portable swimming pools, which shall be not more than four (4) feet in height or more than fifteen (15) feet in length, width or diameter:

(Cont'd on page 10017)

- (a) May be erected only on same lot as principal structure.
- (b) May be erected only in the rear yard of such structure and shall be distant not less than ten (10) feet from the rear and side lot lines.
- (c) Such use shall not adversely affect the character of any residential neighborhood.
- (d) All in-ground private swimming pools shall be enclosed by a permanent fence of durable material at least four (4) feet in height.
- (e) Swimming pools and equipment shall not be considered as an accessory structure where restriction for one (1) accessory is maintained.

B. Accessory buildings in commercial districts. Nondwelling accessory buildings shall comply with front/side requirements for the principal building to which they are accessory and shall be not closer than ten (10) feet to any rear property line.

C. All accessory buildings shall be constructed of masonry, concrete, wood, mortar, brick, steel or aluminum. Any accessory building measuring in bulk over one hundred forty (140) square feet shall have either a concrete, asphalt, metal or treated wooden floor which shall be incorporated into the building at the time of construction. [Added 12-5-1994 by L.L. No. 2-1994]

§ 100-14. Front yards.

- A. No building shall be erected, altered, constructed or reconstructed so as to project in any way beyond the average setback line observed by the building on the same side of the street within the block at the time of passage of this chapter, subject to the provision that any building may be erected as near the street as whichever adjoining building is nearer thereto. Where there are

existing buildings at the time of the passage of this chapter on only one (1) side of the street within the block, then the setback line on the vacant side shall be thirty (30) feet back from the property line. Where there are no existing buildings on either side of the street within the block, no new building shall be erected nearer to the front street line on either side of the street than thirty (30) feet.

- B. A block, as used in this section, shall include so much of the frontage on a street as is situated on one (1) side between the two (2) nearest intersecting and/or intercepting streets on the same side of the street and within the same zone. Notwithstanding any requirement in this section to the contrary, the depth of front yards required in a block wholly or partially improved at the time of the passage of this chapter shall in no case exceed that demanded on a lot in a vacant block.
- C. A building erected on a corner lot shall be required to comply with the full setback line on its narrow front only; on the side street the setback line shall be twenty (20) feet from the street line, subject to the provision that in no case shall it be required to be greater than the average setback line observed by the buildings on the same side of the street in the same block. Where the two (2) street frontages of a corner lot are the same length, the owner may elect which street is to be deemed the front and which is the side.
- D. A roofed-over but unenclosed projection in the nature of an entry, porch or portico, not more than six (6) feet out from the front wall of the building, shall be exempt from the requirements of this section. Such entries, porches and porticoes shall be ignored in computing the average setback line.
- E. Notwithstanding the foregoing provisions, no buildings shall hereafter be erected, constructed or reconstructed or enlarged (except at the rear) on Broadway between McCrea Street and Notre Dame Street nearer to the

center line of Broadway than forty-eight (48) feet, and also, no building shall hereafter be similarly erected, constructed reconstructed or enlarged on East Street between Broadway and the Delaware and Hudson Railroad main line tracks nearer to the center line of East Street than forty-two (42) feet.

§ 100-15. Side yards.

In Zones R-1 and R-2, no building shall be erected, constructed, reconstructed or altered so as to project or encroach nearer than seven and one-half (7½) feet from the side line of the lot, and on a corner lot none shall encroach or project nearer the side street than twenty (20) feet, but in no case shall it be required to be greater than the average setback line observed by the buildings on the same side of

(Cont'd on page 10019)

the street in the same block. Where the two (2) street frontages of a corner lot are the same length, the owner may elect which street is to be deemed the front and which is the side.

§ 100-16. Plats.

- A. In Residential Zones R-1 and R-2, applications for a building permit shall be accompanied by a plat drawn freehand or to scale, showing the location of the proposed building on the lot, all other buildings existing thereon, the setback line, the size of the lot and proposed building. Commercial C-1 and C-2 and Industrial I applications must be accompanied by a plat drawn to scale.
- B. Every such application shall also be accompanied by a copy of plans and working drawings or photostats or blueprints thereof for the building for which a permit is desired and also by a simple set of specifications showing the material of which the proposed building is to be constructed, the number and dimensions of rooms, the height of the ceiling above the floor and the water taps or other water uses and, the same must be left on file with the Village Clerk until the certificate of occupancy is issued.
- C. The property owner is responsible for establishing the property lines on plans or sketches submitted with a request for a building permit.

**ARTICLE V
Nonconforming Uses**

§ 100-17. Continuation.

Any nonconforming use which existed lawfully at the time of the enactment of this chapter may be continued into perpetuity subject to the regulations which follow in this Article.

§ 100-18. Registration.

All nonconforming business uses shall be registered with the Building Inspector/Zoning Enforcement Officer by the owner or agent within six (6) months of the date of adoption of this chapter.

§ 100-19. Nonconforming uses of land.

The nonconforming use of land shall not be enlarged or extended beyond the area of land occupied by such use at the time of the adoption of this chapter. A nonconforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of adoption of this chapter. A nonconforming use of land shall not be changed to another nonconforming use. If a nonconforming use of land is discontinued for a period of twelve (12) consecutive months, it shall not be renewed, and any subsequent use of land shall conform to the regulations of the zone in which the land is located.

§ 100-20. Nonconforming buildings.

- A. Additions. A nonconforming building shall not be added to or changed in any manner, unless such nonconforming building and the use thereof is made to conform to all the regulations of the district in which it is located, and the expansion is held to a maximum of twenty-five percent (25%) of the bulk of the structure.
- B. Alterations and repairs. No structural alterations shall be made to any nonconforming building unless such alterations are required by law; provided, however, that such maintenance and repairs as are required to keep a nonconforming building or structure in sound condition shall be permitted.
- C. Changes. A nonconforming use of building may not be changed except to a conforming use. When so changed, the nonconforming use may not be resumed thereafter.
- D. Discontinuance. A nonconforming use of a building or structure, or a portion thereof, which is discontinued for a period of twelve (12) consecutive months shall not be reestablished, and any subsequent use shall conform to the use and regulations of the district in which the premises are located. A use shall be deemed to have been discontinued under any of the following conditions:
 - (1) Vacancy of nonconforming use or building or discontinuance of a nonconforming use, for a period of twelve (12) consecutive months.

(2) Manifestation of a clear intent on the part of the owner to abandon the nonconforming use.

- E. Restoration. A building devoted to a nonconforming use, damaged by fire, structural failure, wind, explosion or other natural cause may be repaired or rebuilt as it previously existed and used as previously occupied, provided that the design of construction and materials used shall conform to the Uniform Fire Prevention and Building Code.¹ (NOTE: Generally, if the damage is less than 50% of assessed value at the time of damage, as adjusted to full value, based on State Board of Equalization and Assessment rates, the above is true. If the damage exceeds 50%, it cannot be repaired, except by special permit of the Village Board.)
- F. Removal. If any building in which any nonconforming use is conducted is hereafter removed, subsequent use of the land on which such building was located, and the subsequent use of any building erected thereon, shall be in conformity with the regulations for that zone.
- G. Extension. A nonconforming use may not be extended to any other part of a building not occupied by the use at the time of the adoption of this chapter.

ARTICLE VI

Administration and Enforcement; Fees

§ 100-21. Administration and enforcement. [Amended 6-27-1997 by L.L. No. 2-1997]

The provisions of this chapter pertaining to enforcement of the New York State Uniform Fire Prevention and Building Code shall be administered by the Washington County Code Enforcement Department, who shall have the power to make inspections of buildings and premises necessary to carry out the duties in the enforcement of this chapter. No building permit

¹ Editor's Note: See Ch. 49, Fire Prevention and Building Code, Uniform.

shall be approved unless it is in compliance with the provisions of this chapter or as directed by the Board of Appeals.

§ 100-22. Board of Appeals.

A Board of Appeals is hereby established, to consist of five members to be appointed by the Board of Trustees for a five-year term, the chairman of which shall be designated by the Mayor. Such Board of Appeals shall serve without compensation and shall exercise such authority as is conferred upon it by this chapter, the Village Law and acts amendatory thereof and supplemental thereto. Such Board shall have the power to adopt and change rules and regulations to carry into effect the provisions of this chapter.

A. Variance. An appeal, from a determination of the Enforcement Officer, to grant a variance where the property owner can show his property was acquired in good faith and where the strict application of this chapter would result in practical difficulty or unnecessary hardship. The Board of Appeals shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall make a finding of fact based upon the evidence as presented to it in each specific case that:

- (1) Because of exceptional narrowness, shallowness or shape of a specific parcel, or because of extraordinary topographical conditions or other extraordinary physical condition or location of the specific parcel, the strict application of the provisions of this chapter actually prohibit or unreasonably restrict the use of the land or building for which such variance is sought, that the granting of the variance is necessary for the reasonable use of such property and that the variance granted by the Board is the minimum variance that will provide for the reasonable use of the property; or

- (2) The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation of the property sought by the owner, which conditions are peculiar to such land or building and do not apply generally to land or buildings in the vicinity or neighborhood and have not resulted from any act of the applicant subsequent to the adoption of this chapter; and

(Cont'd on page 10023)

- (3) In any case, the granting of the variance will be in harmony with the intent and purpose of this chapter, will not constitute, in effect, an amendment of any district regulations or boundaries, and will not be injurious to the neighborhood.

- B. Action or appeal. The Board of Appeals shall convene and consider all appeals no later than thirty (30) days after such appeals are filed and shall render its decision upon such appeals no later than sixty-two (62) days after the final hearing.

§ 100-23. Review and recommendations by Planning Board.

From time to time, at intervals of not more than three (3) years, the Planning Board shall reexamine the provisions of this chapter and the location of district boundary lines and shall submit a report to the Village Board recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or the general welfare.

§ 100-24. Certificates of occupancy.

- A. After the enactment of this chapter, no vacant land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Enforcement Officer, stating that the building or proposed use thereof complies with the provisions of this chapter.
- B. No nonconforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the Enforcement Officer.
- C. All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this chapter.

- D. The Enforcement Officer shall maintain a record of all certificates, and copies shall be shown upon request to any person having a proprietary or tenancy interest in the building affected.

§ 100-25. Effect on previously issued permits.

Any building for which a permit has already been lawfully granted, and on which the construction has been started and diligently prosecuted before the effective date of this chapter may be completed.

§ 100-26. Amendments.

The Board of Trustees of the Village from time to time, on its own motion or by petition in the manner provided by statute, may amend, supplement, modify, repeal or change the regulations, restrictions, uses and district boundaries herein established.

§ 100-27. Enforcement.

It shall be the duty of the police to report any and all violations to the Mayor and Board of Trustees. The Mayor and Board of Trustees is authorized to cause any building, structure, place, premises or use to be inspected and to order in writing the remedying of any violation found to exist and to enforce this chapter by injunction.

§ 100-28. Building permits.

- A. Before the alteration or construction of any building or structure, or part of either, the owner or lessee or the agent of either shall make application to the Village Clerk for a building permit upon blanks furnished by the Clerk. If, after examination by the Enforcement Officer, such application shall be found to comply with this chapter, the Clerk shall issue a building permit within seven (7) days of the filing of such application.

- B. It shall be unlawful for any person to construct or alter any building or structure until application and plans shall have been approved by the Enforcement Officer and such permit issued by the Village Clerk. Any such permit issued hereunder by which no work is commenced within one (1) year from date of issuance, shall expire and become void.
- C. Any building or structure being altered to accommodate more than two (2) dwelling units on any floor will require certified engineer blueprints prior to issuance of a building permit.

§ 100-29. Penalties for offenses.

- A. For any and every violation of any of the provisions of this chapter, the owner, agent or contractor of a building or premises where such violation or violations have been committed or which occur and the owner, agent or contractor, lessee or tenant of any part of the building or premises in which such violations have been committed or shall exist and any person who commits, takes part in, assists, aids or abets such violation or maintains any building, structure or lands in which or upon which any such violation has occurred, been committed or shall exist, shall be guilty of a misdemeanor and liable to a fine not exceeding two hundred fifty dollars (\$250.) or to imprisonment for not exceeding fifteen (15) days, or to both such fine and imprisonment.
- B. Each thirty (30) days that such violation is permitted to exist shall constitute a separate offense.
- C. The Board of Trustees may enforce disobedience to this chapter by injunction.

§ 100-30. Powers and duties of Enforcement Officer.

The Board of Trustees shall annually appoint, and may remove at pleasure, an Enforcement Officer whose compensation shall be fixed by such Board and whose duties shall be to examine all applications for building permits and plats accompanying same, to approve such applications if found to comply with the provisions of this chapter

pertaining thereto, or if directed so to do by the Board of Appeals, and to disapprove the same if found not to comply therewith; to examine and inspect upon completion all structures and buildings erected and altered for which building permits shall have been issued and for which applications for certificates of occupancy shall have been filed; to approve and countersign all certificates of occupancy applied for, prior to their issue, where his examination and inspection reveals that erections and alterations comply with all provisions of this chapter pertaining thereto and were made in accordance with the permit issued therefor.

§ 100-31. Fees. [Amended 4-3-89 by L.L. No. 1-1989]

The following fees shall be paid at the Village Clerk's office upon approval of the building permit:

Construction Value	Fee
\$0 to \$250	None
\$251 to \$500	\$10.00
\$501 to \$1,000	\$25.00
\$1,000 and above	\$25.00 for first \$1,000 and \$1.00 for each additional thousand or fraction there- of
Appeal for variance	\$25.00
Amendment of permit	\$10.00
Rehearing of appeal	\$15.00
Certificate of occupancy	\$3.00
Solid fuel inspection	\$25.00

**ARTICLE VII
Miscellaneous Provisions**

§ 100-32. Trailers.

Trailers, as set forth in the definitions in Article I, shall not be allowed within the village limits of the Village of Fort Edward, either resting upon their own wheels and supports or resting upon concrete blocks or any other material with the intent to make the trailer a permanent dwelling place or place of business or a temporary dwelling place or place of business.

§ 100-33. Stripping of topsoil.

No person, firm or corporation shall strip, excavate or otherwise remove topsoil for sale, or for use other than on the premises from which the same shall be taken except in connection with the construction or alteration of building on such premises and excavation or grading incidental thereto. A permit will be required for any other disposal of topsoil.

§ 100-34. Excavating, grading and filling.

- A. The Building Inspector shall require the issuance of a permit for any excavating, grading, fill or construction in the community.
- B. The Building Inspector shall require review of each permit application to determine whether the proposed site and improvements are in a location that may have mudslide hazards. A further review must be made by persons qualified in geology and soils engineering, and the proposed new construction, substantial improvement or grading must be adequately against mudslide damage and not aggravate the existing hazard.

§ 100-35. Fences.

- A. No person, company or corporation shall use barbed wire, buckhorn wire, electric wire fence or any other type of wire that may be a part of a fence that may be a conductor of electricity in the construction or the erection of any fence, either on their property or as a division line fence or for any other purpose in the Village of Fort Edward, but does not include chain link or cyclone type of fences with barbed wire string at the top and used as a security fence for commercial or industrial properties.
- B. No fence at any point nearer the street than the rear line of the main building applicable thereto shall exceed a height of four (4) feet above the sidewalk level existing on such street at the premises on which the fence is built.

- C. A fence shall not be installed in excess of six (6) feet six (6) inches in height in the rear yard.
- D. A fence shall not extend beyond the building side of the sidewalk in the front yard. Where no sidewalk exists, the sidewalk line will be established by the Department of Public Works Supervisor or his representative.
- E. On a corner lot, any fence in excess of four (4) feet but not in excess of six (6) feet shall not be installed in width greater than the distance from the building side line to the opposite side line of the lot. The building side line shall be established by the side yard selected by the owner as required by § 100-14. In no case shall the width from the building side line and the opposite side line of the lot be required to be less than thirty-five (35) feet.
- F. All fences of man-made structures shall have supporting posts or projections on the property owner's side of the fence.
- G. Chain link or cyclone type fence used for security purposes by commercial and industrial establishments shall not exceed eight (8) feet in height.

§ 100-36. Visibility at intersections.

On corner lots, no fence, wall, hedge, structure or planting more than three (3) feet in ultimate height shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points twenty (20) feet from the point of intersection, measuring along said lines.

§ 100-37. Construal of provisions; incorporation of statutory provisions.

- A. Nothing herein contained shall be construed to limit the applicability of the New York State Uniform Fire Prevention and Building Code.

- B. With the passage of this chapter, the Village of Fort Edward does incorporate the provisions of § 7-704 of the Village Law of the State of New York pursuant to provisions for the accommodation of solar energy systems and equipment and access to sunlight necessary therefor in their municipal zoning regulations, so far as local conditions may permit. Conditions are to be interpreted with the use of the Solar Access Publication provided by the New York State Energy Office.

§ 100-38. Parking. [NOTE: Include in all zones.]

- A. Multiple dwellings. Multiple dwellings shall have parking area for one (1) vehicle per dwelling unit and shall provide parking space for each additional motor vehicle per dwelling unit, not to exceed two (2) motor vehicles per dwelling unit.
- B. Location. If parking areas (spaces) are located in front yards or side yards, the driveway leading to the parking area (space) will consist of a minimum of two-inch-thick concrete or asphalt.

Village of Fort Edward

Schedule of Lot and Bulk Regulations

Zone	Permitted Principal Uses	Minimum Lot Size		Maximum Coverage (percent)
		Area (square feet)	Width (feet)	
R-1	One family	15,000	100	25
R-2	One family	15,000	100	25
	Two family	15,000	100	30
	Multiple dwelling	15,000	100	35
C-1	Multiple dwelling	15,000	100	35
	Service	15,000	100	35
	Retail	15,000	100	35
	Offices	15,000	100	35
	Clubs	15,000	100	35
	Laundries	15,000	100	35
	Undertakers	15,000	100	35
	Restaurants	15,000	100	35
	Etc.	15,000	100	35
	Parks and recreation	None	None	None
C-2	Industrial users	None	None	See § 100-10D

APPENDIX



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INDEX INSTRUCTIONS

The main INDEX, beginning on page 1, will guide you to the legislation contained within the Code at the time the main INDEX was originally prepared. As new legislation is adopted, or existing legislation is amended, the Code pages are replaced by supplementary pages which include the new material, thereby causing some INDEX entries to become obsolete. INDEX entries to the new material will be provided for in the SUPPLEMENTAL INDEX, beginning on page SI-1.

The SUPPLEMENTAL INDEX should, therefore, be consulted first, since it refers to the more recent legislation. Then reference should be made to the main INDEX.

When received, SUPPLEMENTAL INDEX pages should be placed directly following this page and in front of the main INDEX, according to the instructions accompanying the supplement.

Numbers in the indices refer to section numbers in the Code, e.g., 39-3 is a reference to Chapter 39, Section 3.

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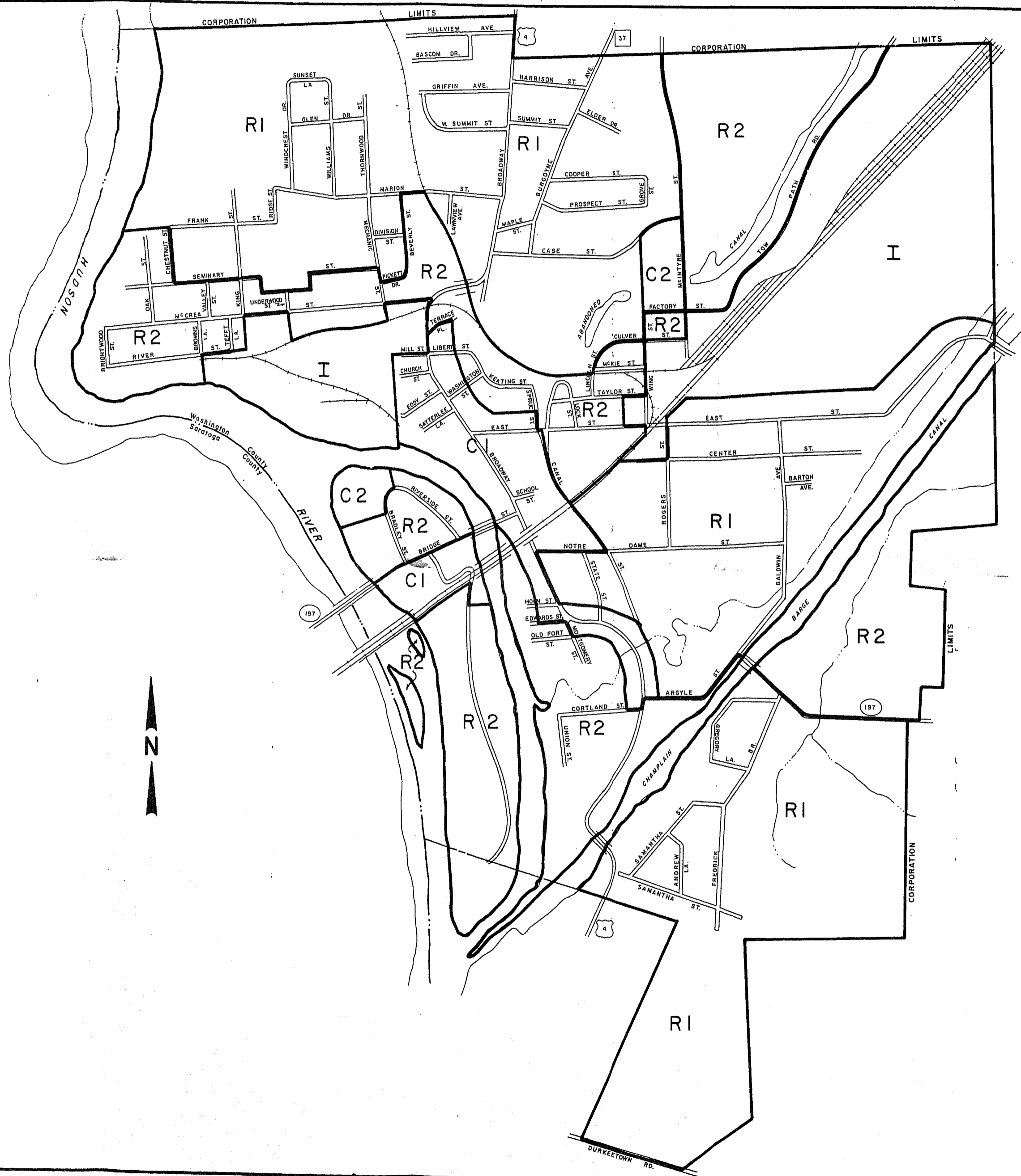
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ZONING BOARD OF APPEALS, see BOARD OF APPEALS	
ZONING ENFORCEMENT OFFICER	
Powers and duties	100-21, 100-30
Zoning	100-21, 100-24, 100-30
ZONING MAP	
Zoning	100-4



- R1 - RESIDENTIAL
- R2 - RESIDENTIAL
- C1 - COMMERCIAL
- C2 - PARKS/RECREATION
- I - INDUSTRIAL

HARDICK ASSOCIATES	REQ.	DESCRIPTION	MATERIAL	DIMENSION	ITEM	DWG. NO.
	VILLAGE OF FORT EDWARD ZONING MAP.					
	DRAWN: DW CHECKED: FCH DATE: OCTOBER 1984 SCALE: 1" = 400' Frank C. Hardick, P.E. SO. GLENS FALLS, NEW YORK					
						A.365

CONTAINS:
1 MAP