

**Code
of the
Village of Arkport**

COUNTY OF STEUBEN
STATE OF NEW YORK

SERIAL NO. **105**

GENERAL CODE PUBLISHERS CORP.
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PREFACE

The Village of Arkport has passed through the struggles characteristic of American communities in their early history. While only a few simple laws were necessary at the time of the incorporation of the village, subsequent growth of the community, together with the complexity of modern life, has created the need for more and detailed ordinances 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. Ordinances must be more than mere chronological enactments reposing in the pages of old records. They must be available and logically arranged for convenient use, and must be kept up-to-date. It was with thoughts such as these in mind that the Board of Trustees ordered the following codification of ordinances.

Contents of Code

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

Reserve Chapters

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

Grouping of Legislation and Arrangement of Chapters

The resolutions, ordinances and local laws are organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more resolutions, ordinances or local laws dealing with the same subject, they are combined into a single chapter.

Table of Contents

The Table of Contents details the arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more resolutions, ordinances or local laws 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 enactments.

Pagination

A unique page-numbering system has been used, in which each chapter forms an autonomous unit. One hundred pages have been allotted to each chapter, and the first page of each is the number of that chapter followed by the numerals "01." Thus, Chapter 8 begins on page 801, Chapter 37 on page 3701, 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 resolution, ordinance or local law is assigned a number which indicates both the number of the chapter in which the resolution, ordinance or local law is located and the location of the section within that chapter. Thus, the first section of Chapter 8 is § 8-1, while the sixth section of Chapter 37 is § 37-6.

Scheme

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

General References

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

Index

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

Appendix

Certain forms of local legislation of a special nature may not be 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.

Supplementation

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

Acknowledgment

The assistance of the Mayor, the Honorable Herbert H. Shafer, the Village Board and the Village Attorney, Henry R. Burke, Esq., is gratefully acknowledged.

The codification of the ordinances of the Village of Arkport 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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GENERAL PROVISIONS

Chapter 1

GENERAL PROVISIONS

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- § 1-13. When effective.**

ARTICLE II Legislation Enacted During Codification

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport: Art. I, 1-14-88 as L.L. No. 5-1988. Amendments noted where applicable.]

ARTICLE I
Adoption of Code
[Adopted 1-14-88 as L.L. No. 5-1988]

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

§ 1-1. Legislative intent.

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

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

Derivation Table

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
Chapter 4, Animals	Ordinances of the Village of Arkport	3-3-15
§ 4-1	Section 80	Amended 1-14-88 by L.L. No. 9-1987
§ 4-2	Section 80	Amended 1-14-88 by L.L. No. 4-1987
Chapter 8, Brush, Grass and Weeds	L.L. No. 6-1988	1-14-88
§§ 8-1 through 8-6	Sections 1 through 4	
Chapter 11, Buildings and Structures, Dangerous	Ordinances of the Village of Arkport	3-3-15
§ 11-1	Section 72	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 11-2	Section 71	Amended 1-14-88 by L.L. No. 4-1988
Chapter 15, Dogs	L.L. No. 5-1985	7-18-85
§ 15-1	Section I	
§ 15-2	Section II	
§ 15-3	Section III	
Chapter 19, Ethics, Code of	L.L. No. 1-1970	11-18-70
Article I	Article I	
§§ 19-1 and 19-2	Sections 1 and 2	
Article II	Article II	
§§ 19-3 through 19-6	Sections 1 through 4	
Chapter 22, Fire Department	Ordinances of the Village of Arkport	3-3-15
§§ 22-1 through 22-13	Sections 89 through 101	
Chapter 24, Fire Prevention	L.L. No. 5-1984	7-19-84
§ 24-1	Unnumbered paragraph	
Chapter 30, Licensing	Ordinances of the Village of Arkport	3-3-15
§ 30-1	Section 81	
Chapter 33, Noise		7-21-76
§§ 33-1 through 33-17	§§ 38-1 through 38-17	

§ 1-2

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§ 1-2

**New Number
(chapter, title,
Article, section)**

**Old Number
(source)**

**Adoption or
Amendment
Date**

Chapter 34,
Notification of
Defects

L.L. No. 4-1985

5-16-85

§ 34-1

Section A

§ 34-2

Section B

Amended 1-14-88 by
L.L. No. 8-1988

Chapter 35, Parks

Ordinances of the
Village of Arkport

3-3-15

§ 35-1

Section 88

Amended 1-14-88 by
L.L. No. 7-1988

§ 35-2

Added 1-14-88 by
L.L. No. 4-1988

Chapter 37, Peace
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3-3-15

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Section 63

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Section 83

§ 37-11

Section 85

§ 37-12

Section 86

§ 37-13

Added 1-14-88 by
L.L. No. 4-1988

Chapter 37A, Property
Maintenance

L.L. No. 6-1986

10-16-86

§ 37A-1

Section 36-1

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 37A-2	Section 36-2	
§ 37A-3	Section 36-3	Amended 1-14-88 by L.L. No. 2-1988
§ 37A-4	Section 36-4	
§ 37A-5	Section 36-5	Amended 1-14-88 by L.L. No. 2-1988
§ 37A-6	Section 36-6	
§ 37A-7	Section 36-7	
§ 37A-8	Section 36-8	
§ 37A-9	Section 36-9	Amended 1-14-88 by L.L. No. 2-1988
§ 37A-10	Section 36-10	
§ 37A-11	Section 36-11	
§ 37A-12	Section 36-12	
	Section 36-13	Repealed 1-14-88 by L.L. No. 2-1988
Chapter 47, Streets and Sidewalks	Ordinances of the Village of Arkport	3-3-15
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§ 47-32	Section 33	
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§ 47-35		Added 1-14-88 by L.L. No. 4-1988
Chapter 49, Taxation		
Article I, Veterans Exemption	L.L. No. 3-1984	9-24-84

§ 1-2

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§ 1-2

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 49-1	Section 1	
§ 49-2	Section 2	
Article II, Utilities Gross Income Tax	L.L. No. 8-1985	12-19-85
§§ 49-3 through 49-16	Sections 1 through 14	
Omitted	Section 15	
Chapter 54, Vehicles, Off-Road	L.L. No. 7-1985	12-19-85
§§ 54-1 through 54-6	Sections 1 through 6	
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Chapter 56, Zoning	Unnumbered Ordinance	10-18-72
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§ 56-2	Sections 102.00 and 103.0	
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§ 56-8	Section 109.2	
§ 56-9	Section 109.3	
§ 56-10	Section 109.4	
§ 56-11	Section 109.5	
§ 56-12	Section 110	
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§ 56-16	Section 301.3	
§ 56-17	Section 301.4	
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§ 56-20	Section 303.0	
§ 56-21	Section 303.2	
§ 56-22	Section 303.3	
Article IV	Article IV	
§ 56-23	Section 401.0	
§ 56-24	Section 402.0	
§ 56-25	Section 403.0	
§ 56-26	Section 404.0	
§ 56-27	Section 405.0	
Article V	Article V	
§ 56-28	Section 501.0	
§ 56-29	Section 502.0	
§ 56-30	Section 503.0	
§ 56-31	Section 504.0	
§ 56-32	Section 505.0	
Article VI	Article VI	
§ 56-33	Section 601.0	
§ 56-34	Section 602.0	
§ 56-35	Section 603.0	
§ 56-36	Section 604.0	
Article VII	Article VII	
§ 56-37	Section 701.0	
§ 56-38	Section 702.0	
§ 56-39	Section 703.0	
§ 56-40	Section 704.0	

**New Number
(chapter, title,
Article, section)**

**Old Number
(source)**

**Adoption or
Amendment
Date**

§ 56-41
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Section 56-55
Unnumbered
paragraph

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Added 10-16-86 by
L.L. No. 5-1986

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Section 56-54A-2
Section 56-54A-3
Section 56-54A-4

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

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

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

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

- A. Any right or liability established, accrued or incurred under any legislative provision of the Village of Arkport prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Village of Arkport 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 Arkport.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Arkport.
- E. Any local law, ordinance or resolution of the Village of Arkport 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 Arkport or any portion thereof.

- F. Any local law, ordinance or resolution of the Village of Arkport 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 Arkport, or other instruments or evidence of the village's indebtedness.
- G. Local laws, ordinances or resolutions authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The dedication of property.
- J. Any local laws, ordinances or resolutions relating to salaries.
- K. Any local law, ordinance or resolution establishing a water, sewer, lighting, garbage or other special purpose district.
- L. Any local law, ordinance or resolution amending the Zoning Map adopted by the Zoning Ordinance of 10-18-72.
- M. Any local law, ordinance or resolution adopted subsequent to 1975.
- N. Any local law, ordinance or resolution pertaining to the regulation of vehicles and traffic.

§ 1-5. Severability.

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

§ 1-6. Copy of Code on file.

A copy of the Code of the Village of Arkport, in loose-leaf form, has been filed in the office of the Village Clerk and shall remain there for

use and examination by the public until final action is taken on this local law; and if this local law shall be adopted, such copy shall be certified to by the Village Clerk of the Village of Arkport by impressing thereon the Seal of the Village of Arkport, and such certified copy shall remain on file in the office of said Village Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-7. Amendments to Code.

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

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

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

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

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

§ 1-10. Publication; filing.

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

§ 1-11. Penalties for offenses.

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

§ 1-12. Incorporation of provisions into Code.

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

§ 1-13. When effective.

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

ARTICLE II
Legislation Enacted During Codification

[During the process of codification, certain substantive revisions, changes and/or additions to various existing legislation were approved by the Board of Trustees for inclusion in the Code of the Village of Arkport. Such amendments are noted in the histories of individual chapters as "... amended during codification; see Ch. 1, General Provisions, Art. II." During the course of routine supplementation, specific amendment dates will be inserted where pertinent in the text of the various chapters.

The listing below sets forth each chapter and, where applicable, each section affected by any such legislation adopted during codification. The complete text of such amendments is on file in the office of the Village Clerk, where it may be inspected during regular office hours.]

Chapter/Section	Adoption Date	Legislation
Chapter 4, Animals		
§ 4-1	1-14-88	L.L. No. 9-1988
§ 4-2	1-14-88	L.L. No. 4-1988
Chapter 8, Brush, Grass and Weeds	1-14-88	L.L. No. 6-1988
Chapter 11, Buildings and Structures, Dangerous		
§ 11-2	1-14-88	L.L. No. 4-1988

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Chapter/Section	Adoption Date	Legislation
Chapter 34, Notification of Defects § 34-2	1-14-88	L.L. No. 8- 1988
Chapter 35, Parks § 35-1	1-14-88	L.L. No. 7- 1988
§ 35-2	1-14-88	L.L. No. 4- 1988
Chapter 37, Peace and Good Order § 37-13	1-14-88	L.L. No. 4- 1988
Chapter 37A, Property Maintenance § 37A-3	1-14-88	L.L. No. 2- 1988
§ 37A-5C	1-14-88	L.L. No. 2- 1988
§ 37A-9	1-14-88	L.L. No. 2- 1988
Ch. 47, Streets and Sidewalks § 47-35	1-14-88	L.L. No. 4- 1988

Chapter 4

ANIMALS

§ 4-1. Animals at large.

§ 4-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 3-3-15. Sections 4-1 and 4-2 amended during codification; see Ch. 1, General Provisions, Article II. Other amendments noted where applicable.]

§ 4-1. Animals at large.¹

No cattle, beast of burden, goat, sheep or swine shall be permitted to run at large in any public street, public place or unenclosed private grounds. No person or persons shall be permitted to keep bees within the Village of Arkport.

§ 4-2. Penalties for offenses.²

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuance of an offense for each day [twenty-four (24) hours] shall be deemed a distinct and separate violation.

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

² Editor's Note: Amended during codification; see Ch. 1, General Provisions, Article II.

Chapter 6

BOARD OF TRUSTEES

§ 6-1. Increase of membership.

§ 6-2. Terms of office.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 1-14-88 as L.L. No. 11-1988, approved at referendum 3-15-88. Amendments noted where applicable.]

§ 6-1. Increase of membership.

- A. The number of members to serve on the Village Board of the Village of Arkport be and hereby is increased from three (3) members to five (5) members, as authorized by § 3-304(a) of the Village Law.
- B. The two (2) additional Trustees are to be elected at the next regular annual election to be held in the Village of Arkport.

§ 6-2. Terms of office.

- A. One of these trustees shall be elected for a term equal to one-half ($\frac{1}{2}$) of the full term for which the office is regularly scheduled to be filled.
- B. The other Trustee shall be elected for a full term.

Chapter 8

BRUSH, GRASS AND WEEDS

§ 8-1. Removal of weeds and other vegetation required.

§ 8-2. Determination of existence of hazard or nuisance.

§ 8-3. Notice to owner.

§ 8-4. Noncompliance.

§ 8-5. Removal by village; cost a lien.

§ 8-6. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport during codification; see Ch. 1, General Provisions, Article II. Amendments noted where applicable.]

§ 8-1. Removal of weeds and other vegetation required.

Every owner of any lot, land or place in the Village of Arkport is hereby required to cut, trim or otherwise remove, or to cause to be cut, trimmed or otherwise removed, all weeds, grass, brush or other uncultivated vegetation or accumulation of dead weeds, grass or brush as shall constitute a fire hazard, health hazard or public nuisance.

§ 8-2. Determination of existence of hazard or nuisance.

The Board of Trustees, or its duly designated representative, shall determine if any such growth of weeds, grass, brush or other such uncultivated vegetation or accumulation of dead weeds, grass or brush constitutes a health hazard, fire hazard or public nuisance.

§ 8-3. Notice to owner.

After it has been determined that a health hazard, fire hazard or public nuisance exists as a result of the existence of weeds, grass, brush or other uncultivated vegetation or accumulation of dead weeds, grass or brush, the Village Clerk shall give notice to the owner of such lot, land or place that such condition exists, by mailing to such owner a written notice at his last known address.

§ 8-4. Noncompliance.

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

§ 8-5. Removal by village; cost a lien.

If, after the expiration of ten (10) days from the date of mailing the notice provided in § 8-3, the owner shall fail to comply with the requirement of § 8-1, the Superintendent of Public Works shall have the power to cut, trim or remove such weeds, grass, brush or other uncultivated vegetation or accumulation of dead weeds, grass or brush on any such lot, land or place in the Village of Arkport, and the expense thereof shall be charged to the property so affected by including such expense in the next annual tax levy against the property, pursuant to the Village Law of New York.

§ 8-6. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuance of an offense for each day [twenty-four (24) hours] shall be deemed a distinct and separate violation.

Chapter 11

BUILDINGS AND STRUCTURES, DANGEROUS

§ 11-1. Razing of buildings.

§ 11-2. Abatement; failure to comply.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 3-3-15. Section 11-2 amended during codification; see Ch. 1, General Provisions, Article II. Other amendments noted where applicable.]

§ 11-1. Razing of buildings.

In case an extensive fire or conflagration shall take place or exist within the village and the same shall be deemed necessary to prevent the spread of such conflagration, the Board of Trustees or Fire Wardens of said village, acting together, are hereby authorized and empowered to raze any building or buildings within the said village.

§ 11-2. Abatement; failure to comply.¹

The owner or persons having charge of any wall or building which may be in a ruinous or unsafe condition shall, upon being directed so to do by the Board of Trustees, immediately remove or repair the same. For neglect or refusal so to remove or repair when so directed, such person shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment and the Board of Trustees shall thereupon cause the removal of such wall or building which is in a ruinous or unsafe condition. The charges of such removal shall be added to the penalty or forfeiture herein provided and collected in the same manner.

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

Chapter 15

DOGS

ARTICLE I
General Provisions

- § 15-1. Running at large; nuisances.
- § 15-2. Summonses to be issued to owners.
- § 15-3. Penalties for offenses.

ARTICLE II
Dog Control Officer

- § 15-4. Establishment.
- § 15-5. Appointment; term; vacancies; compensation.
- § 15-6. Powers and duties.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport: Art. I, 7-18-85 as L.L. No. 5-1985; Art. II, 3-10-88 as L.L. No. 10-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 4.
Noise — See Ch. 33.

ARTICLE I
General Provisions
[Adopted 7-18-85 as L.L. No. 5-1985]

- § 15-1. Running at large; nuisances.

Dogs, whether licensed or not, shall be subject to the following restrictions:

- A. No person owning or having the custody and control of a dog shall permit such dog to be at large in the Village of Arkport elsewhere than on the premises of the owner, except that it be on the premises of another person with the knowledge and assent of such other person.
- B. The owner or person having the custody and control of a dog in said Village of Arkport, which is not on the premises of another person with the knowledge and assent of such person, shall control and restrain such dog by a leash.
- C. The fact that a dog is at large in the Village of Arkport elsewhere than on the premises of the owners shall be presumptive evidence that the dog has been permitted to be at large with the knowledge of the owner or person having custody and control of the dog.
- D. It shall be unlawful for any owner of or any person harboring any dog in the Village of Arkport to permit or allow such dog to cause damage to or destruction of property or commit a nuisance upon the premises of a person other than the owner or person harboring such dog.
- E. No person shall have or keep or permit to be kept on any premises owned or occupied, in whole or in part, by such person within the corporate limits of the Village of Arkport any dog which, by its howling, barking and whining, shall disturb or annoy other persons or constitute a public nuisance.

§ 15-2. Summonses to be issued to owners.

Upon receipt by the Village Justice of any complaint against the conduct of any particular dog, the Village Justice may summon the alleged owner or other person harboring said dog to appear in person before him; if the summons is disregarded, the Justice may permit the filing of any information and issue a warrant for the arrest of such person.

§ 15-3. Penalties for offenses.

The violation of this chapter shall be punishable by a fine of up to twenty-five dollars (\$25.) for the first violation thereof, by a fine of up to fifty dollars (\$50.) for the second violation thereof and by a fine of up to one hundred dollars (\$100.) for the third violation thereof.

ARTICLE II
Dog Control Officer
[Adopted 3-10-88 as L.L. No. 10-1988]

§ 15-4. Establishment.

The Village Board of the Village of Arkport, County of Steuben, State of New York, pursuant to the provisions of the Municipal Home Rule Law of the State of New York, hereby enacts the following Article to establish and create the position of Village Dog Control Officer for the Village of Arkport. Said Dog Officer shall be designated as a public servant who is neither a peace officer nor a police officer.

§ 15-5. Appointment; term; vacancies; compensation.**A. Appointment.**

- (1) The office of Village Dog Control Officer is deemed to be an appointive office, and shall be filled as follows:
 - (a) If a newly established office, at the time of establishment; or
 - (b) At the annual meeting immediately following the expiration of the term thereof.
- (2) Said appointment shall be made by the Mayor with the approval of the Board of Trustees.

- B.** The term of office of the Village Dog Control Officer shall commence at the start of the official year in which he is appointed, and shall continue for a period of one (1) official year.

- C. Vacancies in the office which is caused other than by expiration of the term thereof shall be filled by the Mayor for the balance of the unexpired term.
- D. The Village Dog Control Officer shall be compensated at a salary to be set by the Mayor and the Board of Trustees, and shall be approved thereby.

§ 15-6. Powers and duties.

The Village Dog Control Officer has the following powers and duties with respect to dogs which are classified as follows:

A. Identified dogs:

- (1) A dog is deemed to be "identified" when it is wearing a collar and tag bearing an identification number, or any other tag containing other information relative to ownership or proper identification of the dog.
- (2) If an identified dog is found to be unleashed and not accompanied by its owner, the Village Dog Control Officer shall:
 - (a) Ascertain and note the identification number inscribed on the tag, but shall not seize the dog.
 - (b) Ascertain the ownership of the dog through proper use of the public records.
 - (c) Once the ownership of the dog is determined, the Village dog Control Officer is hereby authorized to issue an appearance ticket to said owner.

B. Unidentified dogs:

- (1) A dog is deemed to be "unidentified" when it is not wearing a collar and tag bearing an identification number, or any other tag containing information relative to ownership or proper identification of the dog.
- (2) If an unidentified dog is found, the Village Dog Control Officer shall:

- (a) Seize and hold the dog pending its proper placement with an appropriate animal shelter.
- (b) Make all reasonable and diligent efforts to ascertain the ownership of the dog.
- (c) If the owner of the dog is located, the Village Dog Control Officer shall contact the owner regarding the whereabouts of said dog, and is hereby authorized to issue an appearance ticket to said owner.

Chapter 19

ETHICS, CODE OF

**ARTICLE I
Intent of Village Board**

§ 19-1. Statement of legislative intent.

§ 19-2. Additions to state provisions.

**ARTICLE II
Code of Ethics**

§ 19-3. Definitions.

§ 19-4. Conflict of interest.

§ 19-5. Standards.

§ 19-6. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 11-18-70 as Local Law No. 1, 1970. Amendments noted where applicable.]

**ARTICLE I
Intent of Village Board**

§ 19-1. Statement of legislative intent.

The Village Board of the Village of Arkport recognizes that there are state statutory provisions mandating villages to establish rules and standards of ethical conduct for public officers and employees which, if observed, can enhance public confidence in local government. In the light of a tendency today on the part of some people to downgrade our local governments and to

discredit our public servants and our free institutions generally, it appears necessary that every effort be made to assure the highest caliber of public administration of this village as part of our state's important system of local government. It is the purpose of this local law to implement this objective through the establishment of standards of conduct, to provide for the punishment of violation of such standards and to create a Board of Ethics to render advisory opinions to the village's officers and employees as provided for herein.

§ 19-2. Additions to state provisions.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts of interest provisions or procedures prescribed by statute of the State of New York and also are in addition to common law rules and judicial decisions relating to the conduct of village officers to the extent that the same are more severe in their application than this chapter.

**ARTICLE II
Code of Ethics**

§ 19-3. Definitions.

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

VILLAGE — Any board, commission, district, council or other agency, department or unit of the government of the Village of Arkport.

VILLAGE EMPLOYEE — Any officer or employee of the Village of Arkport, whether paid or unpaid and whether serving in a full-time, part-time or advisory capacity.

§ 19-4. Conflict of interest.

No village employee shall have any interest, financial or otherwise, direct or indirect, nor shall he engage in any business or transaction or professional activity or incur any obligation of any

nature which is in substantial conflict with the proper discharge of his duties in the public interest.

§ 19-5. Standards.

- A. No village employee shall accept other employment which will impair his independence of judgment in the exercise of his official duties.
- B. No village employee shall accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.
- C. No village employee shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.
- D. No village employee shall engage in any transaction as a representative or agent of the village with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
- E. A village employee shall not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.
- F. Each village employee shall abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.
- G. Each village employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.
- H. No village employee employed on a full-time basis, nor any firm or association of which such employee is a member,

nor a corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the village in which such employee serves or is employed.

- I. Each village employee shall, to the extent that he is cognizant thereof, disclose any interest he may have in legislation before the Village Board of the Village of Arkport.
- J. No village employee shall accept employment within two (2) years after the termination of his service or employment with the village which will involve contacts with the village which can work to his special advantage by virtue of his prior contact and relationship with the village.

§ 19-6. Penalties for offenses.

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

Chapter 22

FIRE DEPARTMENT

§ 22-1. Composition.

§ 22-2. Chief Engineers, election of.

§ 22-3. Foremen, election of.

§ 22-4. Fire Council.

§ 22-5. Annual meetings.

§ 22-6. Duties of Chief Engineer; chain of command.

§ 22-7. Annual report.

§ 22-8. Supervision of fire companies.

§ 22-9. Duties of Foreman.

§ 22-10. Duties of firemen.

§ 22-11. Bylaws.

§ 22-12. Insubordination.

§ 22-13. Fire Warden.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 3-3-15. Amendments noted where applicable.]

§ 22-1. Composition.

The Fire Department shall consist of a Chief Engineer, two (2) Assistant Engineers and such fire engine men, hosemen, hook-and-ladder men, axe men and picket men as may from time to time be appointed by the Trustees of said village, not exceeding sixty (60) men to each fire company and not exceeding thirty (30) men to each hose or protective company.

§ 22-2. Chief Engineers, election of.

The Chief Engineer and the First and Second Assistant Engineers of the Fire Department shall be members thereof, and Electors of the village. On the Thursday following the first Tuesday in April, the duly qualified members of the Fire Department shall meet in the council room, and shall vote for Chief Engineer and First and Second Assistant Engineers. The person acting as secretary for such convention shall forthwith file in the office of the Village Clerk a certificate of nomination to such offices. The Board of Fire Commissioners at its next meeting shall consider the nomination and shall appoint such persons as it may approve to those offices by which they are respectively nominated. If the nomination is not then approved, the Board shall appoint such qualified persons to such office.

§ 22-3. Foremen, election of.

Each of the several fire companies shall hold an annual meeting on the first Tuesday in April of each year. At such meeting the members of each company shall elect by ballot a Foreman and Assistant Foreman, who must be approved by the Board of Fire Commissioners, two (2) wardens and three (3) delegates to the general convention of the Fire Department. The terms of office of the Foreman, Assistant Foreman and Warden shall be for one (1) year each respectively, and any vacancy occurring in any office shall be filled by election in like manner.

§ 22-4. Fire Council.

The Chief Engineer and First and Second Engineers and the Wardens of the several fire companies shall constitute a Council of the Fire Department. The Council shall meet on the third Tuesday in April of each year and shall choose from its own number a secretary, a treasurer and a collector of the Fire Department who shall hold their respective offices for one (1) year, unless sooner removed by the Council. A vacancy in office of Secretary, Treasurer or Collector shall be filled by the Council at its next meeting for the unexpired term. Said Council may name, make or

prescribe bylaws for the proper management of the affairs and the disposing of the funds of the Fire Department, may call meetings of the members and designate one (1) or more days in each year for public exercises.

§ 22-5. Annual meetings.

The members of the several fire companies shall hold a general meeting at such place as the Council may direct on the first Friday following the first Tuesday in April of each year at 7:00 p.m. to hear the annual report of the Secretary and Treasurer and to transact any other business of the Fire Department.

§ 22-6. Duties of Chief Engineer; chain of command.

The Chief Engineer shall be President of the Council and the meeting of the Fire Department. He shall have exclusive control of the members at all fire inspections and reviews and supervision of the engines, hose and other apparatus for the prevention and extinguishment of fires and all property belonging to the Fire Department and all officers and employees thereof elected and employed by the Council, if any. He shall, whenever required by the Council, report the condition of the property of the Department and such other information respecting the Department as may be required. He shall hold the members, officers and employees of the Department strictly to account for neglect of duty and may suspend or discharge them at any time, subject to the approval of two-thirds ($\frac{2}{3}$) of the members of the Council at the next meeting. He shall, upon application, and, if authorized by the Council, issue through the Secretary of the Fire Department a certificate of the time of service of a member of the Fire Department and shall give to each officer of the Department immediately after his election a certificate thereof countersigned by the Secretary. In case of the inability or absence of the Chief Engineer and First Assistant Engineer, and in case of the absence or inability of both the Chief Engineer and First Assistant Engineer the Second Assistant Engineer shall perform the duty and have all the powers of the Chief Engineer.

§ 22-7. Annual report.

Between the first and fourth day of March in each year the Fire Council shall file with the Village Clerk a statement showing the following, together with such recommendations concerning the Department as may be deemed proper:

- A. The amount of money on hand at the beginning of the preceding year and the receipts from all sources during said year.
- B. An itemized statement of the amount paid out during such year and the balance on hand.
- C. The outstanding indebtedness of the Department, whether bonded or otherwise, separately stated.
- D. A statement of the principal or interest which will become due during the current fiscal year on bonds or certificates of indebtedness.
- E. The improvements made during such preceding year and the general condition of the property of the Fire Department.
- F. Such other facts as the Council deems important for the interest of the village.

§ 22-8. Supervision of fire companies.

The different fire companies shall be under the control of their respective Foremen and Superintendents, and upon every alarm of fire they shall forthwith repair to the place thereof with the engines and other fire apparatus under their care and shall manage the same under the direction of Chief Engineer or the Acting Assistant Engineer.

§ 22-9. Duties of Foreman.

The Foreman or person having charge of engines or other apparatus shall have the same kept in the best order for immediate use, under a penalty of ten dollars (\$10.) for neglecting such duty. It shall be the duty of every company, on the first Monday of

every month, at such time and place as the Foreman shall direct, to draw out the fire engines and other apparatus committed in their care, if the weather will permit, to work and cleanse such fire engines and apparatus and to exercise the members of the fire companies.

§ 22-10. Duties of firemen.

If any fireman shall neglect, without sufficient excuse, to attend any meeting of his company for exercising the men or cleaning the engines or other fire apparatus to which he is attached, or any other regular meeting, he shall forfeit or pay for any neglect the sum of one dollar (\$1.), and if any fireman shall neglect to attend fires without sufficient excuse, or shall neglect to do his duty in working his engine or other fire apparatus, or shall disobey the orders of the Chief Engineer or any Assistant Engineer, Foreman or Assistant Foreman of the company, or shall leave his engine or other apparatus while at a fire without permission, he shall forfeit for every default a penalty of not less than two dollars (\$2.) or more than ten dollars (\$10.) and shall be subject to removal from his station.

§ 22-11. Bylaws.

The several fire companies are hereby authorized to adopt bylaws for the better organization of the fire companies and to assist in the effective observance of all the ordinances herein relating to them.

§ 22-12. Insubordination.

Any person who shall at the time of any fire be guilty of any disorderly conduct or who shall attempt to incite insubordination in others or obstruct the operations of the Fire Department or the execution of the orders of the proper officers or who shall at any time or place maliciously injure in any manner any fire apparatus belonging to the village, shall be subject to a penalty of not less than twenty-five dollars (\$25.) or more than fifty dollars (\$50.),

besides being liable to an action in law for the recovery of any damage for the violation of any part of this chapter, and if the person so offending be a fireman, he shall, upon conviction, be removed.

§ 22-13. Fire Warden.

It shall be the duty of the Fire Warden to repair to and attend every fire, to protect and preserve property and to prevent the same from being carried away, unless by the authority of the owner.

Chapter 24

FIRE PREVENTION

§ 24-1. Enforcement of state code.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 7-19-84 as L.L. No. 5-1984. Amendments noted where applicable.]

GENERAL REFERENCES

**Dangerous buildings and structures — See Ch. 11.
Fire Department — See Ch. 22.**

§ 24-1. Enforcement of state code.

The Village of Arkport does hereby adopt this chapter to assume responsibility for the enforcement of the Uniform Fire Prevention and Building Code.

FLOOD DAMAGE PREVENTION

Chapter 26

FLOOD DAMAGE PREVENTION

[On 9-15-88, the Board of Trustees enacted Local Law No. 2-1989, providing for flood damage prevention in the Village of Arkport. The complete text of said local law is on file in the Village Clerk's office.]

GENERAL REFERENCES

Zoning — See Ch. 56.

Chapter 27

GAMES OF CHANCE

§ 27-1. Authority; title.

§ 27-2. Definitions.

§ 27-3. Authorization to conduct games.

§ 27-4. Designation of enforcement officer.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 12-21-88 as L.L. No. 1-1989, approved at referendum 1-18-89. Amendments noted where applicable.]

§ 27-1. Authority; title.

This chapter is enacted pursuant to the authority of Article 9-A of the General Municipal Law of the State of New York, and shall be known as the "Games of Chance Law of the Village of Arkport."

§ 27-2. Definitions.

The words and terms used in this chapter shall have the same meaning as such words and terms used in Article 9-A of the General Municipal Law of the State of New York.

§ 27-3. Authorization to conduct games.

- A. Games of chance may be conducted in the village by an authorized organization, after obtaining a license therefor, in accordance with the provisions, requirements and limitations of Article 9-A of the General Municipal Law, the rules and regulations of the New York State Racing and Wagering Board and this chapter.

- B. The conduct of games of chance on Sundays is authorized, except as otherwise restricted in Article 9-A of the General Municipal Law.

§ 27-4. Designation of enforcement officer.

The powers and duties set forth in Subdivision 1 of § 194 of the General Municipal Law shall be exercised by the Chief Law Enforcement Officer of the County of Steuben.

Chapter 30

LICENSING

§ 30-1. Issuance; regulations.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 3-3-15. Amendments noted where applicable.]

§ 30-1. Issuance; regulations.

The President of the Board of Trustees shall grant all licenses, which shall be signed by him and countersigned by the Village Clerk, but the Village Clerk shall not countersign the same until the license fee payable thereon shall have been paid to him, and he shall immediately pay the same over to the Treasurer and take his receipt therefor. Each license shall specify the object and length of time for which it was granted and shall expire, except those for public exhibitions, performances and concerts and also except as hereinafter provided, on the first day of January each year. Any license may be revoked by the Board of Trustees, which revocation shall be in writing and shall be filed with the Village Clerk, and a copy thereof shall be served by the Clerk upon the licensee, either personally or by mail, whereupon such license shall be of no force and effect. The Village Clerk shall keep a register of all licenses granted in which shall be stated the name of the licensee, the number and date of the license and the time and purpose for which it was granted.

Chapter 31**LOCAL LAWS, ADOPTION OF**

§ 31-1. Public hearing required; time and contents of notice.

§ 31-2. Posting of proposed law; availability of copies.

§ 31-3. Posting and publication after adoption.

§ 31-4. Filing of proof of publication and posting.

§ 31-5. Numbering of local laws.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 5-18-77 as L.L. No. 1-1977. Amendments noted where applicable.]

§ 31-1. Public hearing required; time and contents of notice.

No local law shall be adopted by the Board of Trustees of the Village of Arkport until a public hearing has been held thereon in its final form before such Board of Trustees not less than three (3) nor more than thirty (30) days after public notice has been given of the time and place of the holding of such public hearing. Such notice shall be given by the Village Clerk by causing the same to be published once in the official newspaper of the village. Such notice shall contain the title of the proposed local law and a brief explanatory statement thereof.

§ 31-2. Posting of proposed law; availability of copies.

The Village Clerk shall cause copies of such proposed local law to be printed or otherwise reproduced and shall, not later than the day such notice is published, post one (1) such copy, together with the notice of hearing, in a conspicuous place in the Clerk's office and shall also make copies of such proposed local law available at the Clerk's office for inspection by and distribution to any interested person during business hours.

§ 31-3. Posting and publication after adoption.

The Village Clerk shall, forthwith upon the adoption of a local law by the Board of Trustees, post a copy thereof in a conspicuous place in the Clerk's office and shall, within ten (10) days after such adoption, cause the local law, or an abstract thereof describing the same in general terms, to be published in the official newspaper of the village.

§ 31-4. Filing of proof of publication and posting.

Proof of publication of the notice of public hearing required, and proof of posting and publication required by this chapter and set forth herein, shall be filed in the office of the Village Clerk.

§ 31-5. Numbering of local laws.

Each local law shall be numbered consecutively, beginning with No. 1, for each calendar year. When a local law is finally adopted, certified copies thereof, as required by § 27 of the Municipal Home Rule Law, shall be filed in the offices of the Village Clerk, the State Comptroller and the Secretary of State. The Village Clerk shall accordingly assign to such local law its appropriate number.

Chapter 33

NOISE

- § 33-1. Unnecessary noise prohibited.
- § 33-2. Penalties for offenses.
- § 33-3. Disturbances.
- § 33-4. Animals and birds.
- § 33-5. Radios, phonographs and musical instruments.
- § 33-6. Steam whistles.
- § 33-7. Vehicles.
- § 33-8. Signaling devices.
- § 33-9. Discharge of exhausts.
- § 33-10. Loading and unloading of vehicles; opening of boxes.
- § 33-11. Mechanical devices.
- § 33-12. Creation of excessive noise near institutions.
- § 33-13. Construction and excavation.
- § 33-14. Hawkers, peddlers and vendors.
- § 33-15. Bells and gongs.
- § 33-16. Advertising.
- § 33-17. Sound-producing devices.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 7-21-76. Amendments noted where applicable.]

- § 33-1. Unnecessary noise prohibited.

The creation of any unreasonably loud, disturbing or unnecessary noise in the village is prohibited. Noise of such

character, intensity or duration as to endanger public comfort, peace or repose or to be detrimental to the life or health of any individual is declared to be a nuisance and is prohibited. A violation of §§ 33-2 through 33-17 is hereby declared to be a nuisance within the meaning of this section, but such enumeration shall not be deemed to be exclusive.

§ 33-2. Penalties for offenses.

A violation of this chapter is punishable by a fine of not exceeding one hundred fifty dollars (\$150.) or by imprisonment for a term not exceeding one hundred fifty (150) days, or by both such fine and imprisonment, or by a penalty of not less than five dollars (\$5.) nor more than five hundred dollars (\$500.) to be recovered by the village in a civil action.

§ 33-3. Disturbances.

No person shall create a disturbance or engage in improper conduct or abusive acts or language in any church, theater, public hall or other public place.

§ 33-4. Animals and birds.

No person shall keep any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person in the vicinity.

§ 33-5. Radios, phonographs and musical instruments.

No person shall operate or play any radio, phonograph or musical instrument in such manner or with such volume at any time, particularly during the hours between 11:00 p.m. and 7:00 a.m., so as to annoy the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence.

§ 33-6. Steam whistles.

No person shall blow or cause to be blown any steam whistle, except to give notice of the time to begin or stop work or as a warning of danger. The blowing or operating of a whistle operated by steam or other artificial means for more than fifteen (15) seconds at one time during a period of thirty (30) minutes in any one day is prohibited.

§ 33-7. Vehicles.

No person shall use an automobile, motorcycle, bus or vehicle so out of repair or so loaded or in any manner as to make loud or unnecessary grating, grinding, rattling or other noise, such as unnecessary blowing of horns, squealing of tires, racing of motors or racing of motorcycles.

§ 33-8. Signaling devices.

No person shall sound any horn or signal device on any automobile, motorcycle, bus, streetcar or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal; nor create by means of any such signal device any unnecessary or unreasonably loud, harsh or prolonged sound; nor sound such device for an unnecessary and unreasonable period of time; except that this section shall not apply to vehicles of the Fire and Police Departments and such emergency vehicles of municipal departments or public service corporations and ambulances as are authorized.

§ 33-9. Discharge of exhausts.

No person shall discharge or cause to be discharged into the open air the exhaust of any steam engine, stationary internal-combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

§ 33-10. Loading and unloading of vehicles; opening of boxes.

- A. No person shall create or cause to be created a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.**
- B. The creation of loud and excessive noise in connection with the handling of ash, trash and garbage cans, either in loading or unloading, whether full or empty, is prohibited.**

§ 33-11. Mechanical devices.

No person shall use or cause to be used any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced.

§ 33-12. Creation of excessive noise near institutions.

- A. No person shall create or cause to be created any excessive noise on any street adjacent to any school, institution of learning or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.**
- B. The making by oneself, or by the operation of any instrument, agency or vehicle, of any unnecessary or unseemly noise is prohibited within one hundred fifty (150) feet of any portion of the grounds and premises on which is located a hospital or other institution reserved for the sick. The Commissioners of Public Safety shall place as many signs as they may deem proper within or near the zones hereby created, calling attention to the prohibition against unnecessary noises within such zones.**

§ 33-13. Construction and excavation.

No person shall create or cause to be created loud or excessive noise in connection with the erection, including the excavation, demolition, alteration or repair, of any building.

§ 33-14. Hawkers, peddlers and vendors.

The unreasonable and unnecessary sounding and crying of peddlers, hawkers and vendors which disturbs the quiet and peace of the neighborhood is prohibited.

§ 33-15. Bells and gongs.

No person shall sound or cause to be sounded any bell, except church bells, or gong attached to any buildings or premises which disturb the quiet or repose in the vicinity thereof.

§ 33-16. Advertising.

- A. No person shall use any drum, loudspeaker or other instrument or device for the purpose of attracting attention, by the creation of loud and raucous noise, to any performance, show or sale or display of merchandise.
- B. The making, causing, permitting or allowing to be made of any loud and raucous noise by means of any rattle, clapper, hammer, drum, horn or any musical instrument or mechanism for creating or reproducing sound, in a street or near enough to a street so that any such noise will be heard in a street, for the purpose of advertising any goods, wares or merchandise or for the purpose of attracting the attention or inviting the patronage of any person to any occupation or business whatsoever is prohibited.
- C. It shall be unlawful for any person, either as principal, agent or employee, to play, use or operate for advertising purposes or for any other purpose whatsoever, in and upon the public streets, alleys, thoroughfares or public places in the village any device known as a "sound truck," "loudspeaker" or "sound amplifier," or any other instrument known as a "calliope" or any instrument of any kind or character which emits therefrom loud and raucous noise and is attached to and upon any vehicle, except police trucks or vehicles, operated or standing upon said public streets, alleys, thoroughfares or public streets.

§ 33-17. Sound-producing devices.

- A. No person shall erect, install or use any sound-producing instrument, broadcaster, radio, amplifier or conductor of sound on or over the streets or public places within the village for the purpose of advertising through loud and raucous noise any goods, wares or merchandise or any meeting, entertainment or event or for the purpose of attracting the attention or inviting the patronage of any person to any business whatsoever or to any meeting, entertainment or event or for any other purpose.**
- B. The provisions of this section shall not be construed to prevent any funeral procession or religious ceremony; nor shall the terms of this section be construed to prevent the production of music in connection with any parade authorized under any provision of law; nor shall this section prevent any musical performance upon any public street or place where a permit has been obtained from the Commissioners of Public Safety for such purpose; nor shall this section prevent the use of amplifiers or other sound-producing instruments in connection with any athletic competition or recreational event held on athletic fields, stadiums or public parks; nor shall such provisions apply to police or fire apparatus while used in the performance of public duty.**

Chapter 34

NOTIFICATION OF DEFECTS

§ 34-1. Notice required.

§ 34-2. Records.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 5-16-85 as L.L. No. 4-1985. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 47.

§ 34-1. Notice required.

No civil action shall be maintained against the Village for damages or injuries to persons or property sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk being out of repair, unsafe, dangerous or obstructed, or in consequence of the existence of snow or ice thereon, unless it appears that written notice of the defective, unsafe, dangerous or obstructed condition or of the existence of the snow or ice was actually given to the Mayor or the Village Clerk and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of or to cause the snow or ice to be removed or the place otherwise made reasonably safe.

§ 34-2. Records.

The Village Clerk shall keep an index record and a separate book of all written notices which the village shall receive of the existence of such defective, unsafe, dangerous or obstructed condition or of such

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snow or ice, which records shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received.

Chapter 35

PARKS

§ 35-1. Regulations.

§ 35-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 3-3-15. Section 35-1 amended and § 35-2 added during codification; see Ch. 1, General Provisions, Article II. Other amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 4.

§ 35-1. Regulations.¹

No person shall attach or fasten any horse or other animal to any tree or shrub growing or standing upon the grounds of any park, or to any building or other structure thereof; neither shall any person cut, break, injure, pull up or sever from the soil any tree, shrub, flower or plant upon the grounds of said parks, nor shall he in any manner, cut, mutilate, deface or injure any said fence, building, structure or any other property belonging to or in said parks, except by the permission or under the direction of the Street Commissioner; neither shall any person shoot or otherwise injure or kill any bird, squirrel or other game in said parks. No person shall discharge any gun, pistol or firearm therein; neither shall any person, without the consent or under the direction of the Street Commissioner, ride or drive upon any lot or walk in said parks, any horse or team attached to a wagon or any other vehicle, or otherwise.

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

§ 35-2. Penalties for offenses.²

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuance of an offense for each day [twenty-four (24) hours] shall be deemed a distinct and separate violation.

² Editor's Note: Added during codification; see Ch. 1, General Provisions, Article II.

Chapter 37

PEACE AND GOOD ORDER

- § 37-1. Mutilation of signs.
- § 37-2. False fire alarms.
- § 37-3. Indecent writing.
- § 37-4. Damaging buildings and property.
- § 37-5. Ball playing.
- § 37-6. Interference with policemen.
- § 37-7. Intoxication.
- § 37-8. Lewdness.
- § 37-9. Improper conduct.
- § 37-10. Conduct in cemeteries.
- § 37-11. Interference with fires.
- § 37-12. Interference with fire hoses.
- § 37-13. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 3-3-15. Section 37-13 amended during codification; see Ch. 1, General Provisions, Art. II. Other amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 4.
Parks — See Ch. 35.

§ 37-1. Mutilation of signs.

No person shall remove, mutilate, deface or destroy or in any manner unlawfully interfere with business or other signs or advertisements of any description.

§ 37-2. False fire alarms.

No person shall raise a false alarm of fire, knowing the same to be false.

§ 37-3. Indecent writing.

No person shall write, paint, print, cut or place in or upon any building, post, fence, walk, bridge, sign or other object exposed to the public view any indecent or obscene figure, character, image, work, sentence or design or aid, assist or advise in so doing.

**37.4
§ 34-4. Damaging buildings and property.**

No person shall willfully or unlawfully cut, injure, deface or tarnish any public building, bridge, sign, fence, awning or other useful or ornamental improvement or any public work in said village, and no person shall willfully and unlawfully break any window glass in any private or public building or place of public worship in said village, and no person shall willfully and unlawfully break the glass of any public lamp or aid, abet or assist therein.

§ 37-5. Ball playing.

No person shall play any game of ball, tennis or other game or enter into any amusement or practice or do any other act in any street, highway, lane or alley in said village in such a manner as shall tend to frighten horses or injure or annoy persons or so as to injure or endanger property.¹

§ 37-6. Interference with policemen.

No person shall hinder or obstruct any fire warden, policeman, watchman or fireman in the discharge of his duty or in the examination of any premises or building.

¹ Editor's Note: Former Section 69 concerning the discharge of firearms, rockets, fireworks, etc., which immediately followed this section, was deleted during codification as it is covered by state statute; see Ch. 1, General Provisions, Art. II.

§ 37-7. Intoxication.

No person shall be drunk or in a state of intoxication in any highway, street or public place in this village or in any private house in this village to the annoyance of any person or persons.

§ 37-8. Lewdness.

No person shall appear in public in any costume usually worn by the opposite sex, or in an indecent or lewd dress, or commit any other indecent or lewd act in public, or publicly use lewd, profane, obscene or indecent language, or exhibit or sell or offer for sale any indecent or lewd book, picture or thing, or exhibit or perform any indecent or immoral play or representation.

§ 37-9. Improper conduct.

No male person, while upon any street, alley, park or public place in said village, shall persist in offensive attention to any female or designedly follow any female against her wishes or make any unlawful or derogatory remark to any female, or make any insulting, obscene or derogatory remark concerning any female while she is passing upon any street, alley, park or public place in said village.

§ 37-10. Conduct in cemeteries.

No person shall unlawfully ride or drive any horse, team, carriage, wagon or other vehicle on any burial lot or any of the margins, foot walks or walks in any cemetery of this village, nor shall any person unlawfully tread down the grass, cut, break or remove any tree, shrub, plant, flower or turf in or from any cemetery in this village.

§ 37-11. Interference with fires.

No person or persons not duly authorized for that purpose shall in any way or manner interfere with any apparatus or appliance

used for the extinguishment of fires, or with the members or officials of the Fire Department while in the performance of duty.

§ 37-12. Interference with fire hoses.

No person or persons shall willfully ride or drive on or in any manner interfere with any hose or pipe for conducting water when the hose or pipe is laid in a street, lane, alley or business place in this village at the time of the fire for the purpose of arresting or putting out such fire.

§ 37-13. Penalties for offenses.¹

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuance of an offense for each day [twenty-four (24) hours] shall be deemed a distinct and separate violation.

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

PROPERTY MAINTENANCE

Chapter 37A

PROPERTY MAINTENANCE

- § 37A-1. Maintenance required.**
- § 37A-2. Definitions.**
- § 37A-3. Prevalence of higher standards.**
- § 37A-4. Open areas and parking spaces.**
- § 37A-5. Business units.**
- § 37A-6. Buildings and structures.**
- § 37A-7. Rodent and vermin infestation.**
- § 37A-8. Littering.**
- § 37A-9. Responsibilities of occupants.**
- § 37A-10. Responsibility of owner.**
- § 37A-11. Penalties for offenses.**
- § 37A-12. Junkyards prohibited; fences.**

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 10-16-86 as L.L. No. 6-1986. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 4.
Brush, grass and weeds — See Ch. 8.
Dangerous buildings and structures — See Ch. 11.
Dogs — See Ch. 15.

§ 37A-1. Maintenance required.

All residential, commercial and industrial premises within the Village of Arkport, whether improved or vacant, shall be maintained in conformity with the provisions of this chapter so as to assure the desirable character of the property.

§ 37A-2. Definitions.

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

BUSINESS UNIT — A building or combination of buildings and the lot on which the same is located, used wholly or in part for commercial purposes, including but not limited to offices, places of public assembly, shopping centers, supermarkets, retail stores, warehouses, manufacturing or fabrication plants, gasoline stations and other business uses.

COURT — An open and unoccupied space on a lot and enclosed on at least three (3) sides by the walls of a building.

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

INFESTATION — The presence of insects, rodents, vermin or other pests.

JUNKED VEHICLE — Any vehicle, including a trailer, which is without a currently valid license plate or plates and inspection sticker and is in either a rusted, wrecked, discarded, dismantled, partly dismantled, inoperative or abandoned condition.

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

LOT — A plot, tract, premises or parcel of land with or without buildings or structures located thereon, as surveyed and apportioned for sale or other purpose.

REFUSE — All putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, street cleanings, dead animals, junked vehicles and solid market and industrial wastes.

RUBBISH — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

UNOCCUPIED HAZARD — Any building or part thereof which remains unoccupied for a period of more than two (2) years, with either doors, windows or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than two (2) years.

YARD — An open space on the same lot which contains a building and is located between the building line and the lot line which the particular building line faces.

§ 37A-3. Prevalence of higher standards.

The provisions of this chapter shall supplement local laws, codes or regulations existing in the Village of Arkport and other statutes and regulations of municipal authorities having jurisdiction applicable thereto. Where a provision of this chapter, ordinance, code or regulation shall conflict with the provisions of any other local law, ordinance, code or regulation, the provision or requirement which is more restrictive or which establishes the higher standard shall prevail.

§ 37A-4. Open areas and parking spaces.

- A. Surface and subsurface water shall be appropriately drained to protect the buildings and structures and to prevent the development of stagnant ponds. Gutters, culverts, catch basins, drain inlets, stormwater sewers or other satisfactory drainage systems shall be utilized where necessary. No roof, surface or sanitary drainage shall create a structural, safety or health

hazard by reason of construction, maintenance or manner of discharge.

- B. Fences and other minor construction shall be maintained in a safe and substantial condition.
- C. Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled and necessary repairs or replacement carried out.
- D. Yards, courts and vacant lots shall be kept clean and free of physical hazards, rodent harborage and infestation. They shall be maintained in a manner that will prevent dust or other particles from being blown about the neighborhood. Open wells, cesspools or cisterns shall be securely closed or barricaded from access to the public.
- E. Heavy undergrowth and accumulation of plant growth which are detrimental to health shall be eliminated. Any trees or portions thereof located on private property and constituting a hazard to persons or property shall be removed.
- F. A junked vehicle may not be parked, stored or left in the open.

§ 37A-5. Business units.

- A. Business units, as defined herein, shall at all times be maintained in compliance with the provisions of this chapter regulating open spaces, buildings or structures and littering.
- B. No outside storage or accumulation of garbage, crates, rubbish, refuse or debris shall be permitted at any time, and all such garbage, crates, rubbish, refuse or debris shall be kept inside the building or buildings on the premises or in an acceptable enclosure and shall be regularly collected and removed from the premises.
- C. No shopping baskets, carts or wagons shall be left unattended or standing in open areas, and these shall be collected at the close of business each day by the occupant of such unit and removed to the interior of the building or buildings.

- D. No mobile refrigeration unit shall be operated on the premises after the closing of the business conducted thereon unless such mobile refrigeration unit is electrically operated.
- E. All fences and planting areas installed on the premises shall be maintained by the owner of the property. Such maintenance shall include but not be limited to the maintenance and cutting of lawns and the replacement and/or repair of fences which may become in disrepair.

§ 37A-6. Buildings and structures.

- A. All exterior exposed surfaces not inherently resistant to deterioration shall be repaired, coated, treated or sealed to protect them from deterioration or weathering.
- B. Floors, walls, ceilings, stairs, furnishings and fixtures of buildings shall be maintained in a clean, safe and sanitary condition. Every floor, exterior wall, roof and 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.
- C. The foundation walls of every building shall be maintained in good repair and shall be structurally sound.
- D. Exterior walls, roofs and all openings around doors, windows, chimneys and other parts of a building shall be so maintained as to prevent water from entering the building and to prevent undue heat loss from occupied areas. Materials which have been damaged or shall show evidence of dry rot or other deterioration shall be repaired or replaced and refinished in a workmanlike manner. Exterior walls, roofs and other parts of the building shall be free from loose and unsecured objects and material and improperly secured objects and material. Such objects or materials shall be removed, repaired or replaced.
- E. The owner of a vacated building shall take such steps and perform such acts as may be required of him from time to time 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.

- F. Buildings and structures shall be maintained in such a condition so that they shall not become unoccupied hazards as defined in this local law. All graffiti or defacing shall be removed and the surface finish restored within a five-day period.
- G. All signs and lighting systems shall be maintained in a completely operable, clean and safe condition.

§ 37A-7. Rodent and vermin infestation.

- A. Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation. Methods used shall conform to generally accepted practices.
- B. Where the potential for rodent or vermin infestation exists, windows and other openings in basements and cellars shall be appropriately screened with wire mesh or other suitable materials.

§ 37A-8. Littering.

- A. Residential, commercial and industrial premises, whether improved or vacant, shall be maintained free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.
- B. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse in accordance with the provisions of applicable codes.

§ 37A-9. Responsibilities of occupants.

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

- A. Limiting the occupancy of that part of the premises which he occupies or controls to the maximum permitted by the Village Code.

- B. Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.
- C. Maintenance of all plumbing, cooking and refrigeration fixtures and appliances, as well as other building equipment and storage facilities in that part of the premises which he occupies or controls, in a clean and sanitary condition and providing reasonable care in the operation and use thereof.
- D. Keeping exits from his building clean and unencumbered.
- E. The disposal of garbage and refuse into provided facilities in a clean and sanitary manner, in accordance with provisions promulgated by the village.
- F. The extermination of insects, rodents or other pests within his premises.
- G. Maintenance of yards, lawns and courts in a clean, sanitary and safe condition and free from infestation, insofar as said occupant occupies or controls said yards, lawns and courts and any parts thereof.
- H. The installation and removal of required screens.
- I. Keeping his domestic animals and pets in an appropriate manner and under control.
- J. The elimination of all prohibited uses for that part of the premises which he occupies, controls or has accessibility thereto.

§ 37A-10. Responsibility of owner.

- A. Owners of premises shall be responsible for 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.

- B. Owners and operators of buildings shall be responsible for the proper installation, maintenance, condition and operation of service facilities and for furnishing adequate heat and hot-water supply where they have contracted to do so.
- C. Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the village as executor, administrator, trustee, guardian, operator or agent, such person shall be deemed and taken to be the owner or owners of said property within the true intent and meaning of this chapter and shall be bound to comply with the provisions of this chapter to the same extent as the record owner, and notice to any such person, or any order or decision of the Mayor, shall be deemed and taken to be a good and sufficient notice as if such person or persons were actually the record owner or owners of such property. In instances where an occupant is responsible or shares responsibility with the owner for the existence of one (1) or more violations of this chapter, said occupant shall be deemed and taken to be an owner within the true intent and meaning of this chapter.

§ 37A-11. Penalties for offenses.

Any person violating any of the provisions of this chapter shall be liable to a penalty of not more than two hundred fifty dollars (\$250.) nor less than twenty dollars (\$20.). Each day that a condition in violation of this chapter exists shall constitute a separate violation of this chapter.

§ 37A-12. Junkyards prohibited; fences.

- A. No junkyard shall be operated or maintained within the corporate limits of said village.
- B. No storage yard shall be erected, maintained or operated within the corporate limits of said village which shall be accessible to children and shall contain dangerous or combustible materials, things or articles unless said property is properly enclosed with adequate and sufficient fencing of sufficient height and strength to prevent entrance thereto as shall be prescribed by the Village Board.

RECORDS, PUBLIC ACCESS TO

Chapter 41

RECORDS, PUBLIC ACCESS TO

ARTICLE I Specific Regulations

- § 41-1. Regulations for inspection or copying of village records.**
- § 41-2. Records required to be available.**
- § 41-3. Denial of requests.**

ARTICLE II General Regulations

- § 41-4. Purpose and scope.**
- § 41-5. Designation of records access officer.**
- § 41-6. Location.**
- § 41-7. Hours for public inspection.**
- § 41-8. Requests for public access to records.**
- § 41-9. Subject matter list.**
- § 41-10. Denial of access to records.**
- § 41-11. Fees.**
- § 41-12. Public notice.**

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport: Art. I, 9-18-74 by resolution; Art. II, 2-15-78. Amendments noted where applicable.]

ARTICLE I
Specific Regulations
[Adopted 9-18-74 by resolution]

§ 41-1. Regulations for inspection or copying of village records.

In conformity with the Freedom of Information Law, the following information will guide the public in attempts to inspect or copy village records:

- A. Records of the village are available for inspection and/or copying between the hours of 9:00 a.m. and 12:00 noon on any day when the office is open and operating.
- B. People requesting to inspect or copy records should fill out request forms available at the office. Such requests should be directed to the Village Clerk.
- C. Copies of appropriate records will be (where possible) provided for a fee of twenty-five cents (\$0.25) per eight-by-eleven-inch page.

§ 41-2. Records required to be available.

All village records, such as minutes, manuals, audit reports, formal opinions, statistical and factual tabulations, payrolls, police blotters and records and any other records, papers, documents or files required by any other law shall be made available for public inspection.

§ 41-3. Denial of requests.

Any denial of requests to inspect and/or copy village records may be appealed to the Mayor of the village, and the next level of appeal is to the courts.

ARTICLE II
General Regulations
[Adopted 2-15-78]

§ 41-4. 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. This Article provides information concerning the procedures by which records may be obtained from an agency as defined by § 86(3) of the Public Officers Law. No agency regulations shall be more restrictive than this Article.
- C. Agency 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.
- E. Agencies shall amend existing regulations or adopt new regulations to implement the Freedom of Information Law in conformity with this Article.

§ 41-5. Designation of records access officer.

- A. The governing body of a public corporation and the head of an executive agency or governing body of other agencies shall be responsible for ensuring compliance with the regulations herein and shall designate one (1) or more persons as records access officer by name or by specific job title and business address, which person or persons shall have the duty of coordinating agency response to public requests for access to records. The designation of one (1) or more records access officers 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.
- B. The records access officer is responsible for assuring that agency 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:
 - (a) Make a copy available upon payment or offer to pay established fees, if any; or
 - (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 agency is not the custodian for such records; or
 - (b) The records of which the agency is a custodian cannot be found after diligent search.

§ 41-6. Location.

Each agency shall designate the locations where records shall be available for public inspection and copying.

§ 41-7. Hours for public inspection.

- A. Each agency shall accept requests for public access to records and produce records during all hours they are regularly open for business.
- B. In agencies which do not have daily regular business hours, a written procedure shall be established by which a person may arrange an appointment to inspect and copy records. Such procedure shall include the name, position, address and phone number of the party to be contacted for the purpose of making an appointment.

§ 41-8. Requests for public access to records.

- A. An agency may require that a request be made in writing or may make records available upon oral request.
- B. An agency shall respond to any request reasonably describing the record or records sought within five (5) business days of receipt of the request.
- 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 agency does not provide or deny access to the record sought within five (5) business days of receipt of a request, the agency 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 nor 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.

§ 41-9. Subject matter list.

- A. Each agency shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to § 87(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.

§ 41-10. Denial of access to records.

- A. The governing body of a public corporation or the head, chief executive or governing body of other agencies shall

hear appeals or shall designate a person or body to hear appeals regarding denial of access to records under the Freedom of Information Law.

- B. Denial of access shall be in writing stating the reason therefor and advising the person denied access of his or her right to appeal to the person or body established to hear appeals, and that person or body shall be identified by name, title, business address and business telephone number. The records access officer shall not be the appeals officer.
- C. If an agency fails to respond to a request within five (5) business days of receipt of a request as required in § 41-8D of this Article, such failure shall be deemed a denial of access by the agency.
- D. Any person denied access to records may appeal within thirty (30) days of a denial.
- E. The time for deciding an appeal by the individual or body designated to hear appeals shall commence upon receipt of written appeal identifying:
 - (1) The date and location of a request for records.
 - (2) The records that were denied.
 - (3) The name and return address of the appellant.
- F. The agency shall transmit, to the Committee on Public Access to Records, copies of all appeals upon receipt of an appeal. Such copies shall be addressed to:

Committee on Public Access to Records
Department of State
162 Washington Avenue
Albany, New York 12231
- G. The person or body designated to hear appeals shall inform the appellant and the Committee on Public Access to Records of its determination, in writing, within seven (7) business days of receipt of an appeal. The determination shall be transmitted to the Committee on Public Access to Records in the same manner as set forth in Subsection F of this section.

H. A final denial of access to a requested record, as provided for in Subsection G of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law and Rules.

§ 41-11. Fees.

Except when a different fee is otherwise prescribed by law:

A. There shall be no fee charged for the following:

- (1) Inspection of records.
- (2) Search for records.
- (3) Any certification pursuant to this Article.

B. An agency may provide copies of records without charging a fee.

C. An agency may charge a fee for copies of records provided that:

- (1) The fee for copying records shall not exceed twenty-five cents (\$0.25) per page for photocopies not exceeding nine by fourteen (9 x 14) inches. This section shall not be construed to mandate the raising of fees where agencies in the past have charged less than twenty-five cents (\$0.25) for such copies.
- (2) In agencies which do not have photo-copying equipment, a transcript of the requested records shall be made upon request. Such transcripts may either be typed or handwritten. In such cases, the person requesting records may be charged for the clerical time involved in making the transcript.
- (3) The fee for copies of records not covered by Subsection C(1) and (2) of this section shall not exceed the actual reproduction cost, which is the average unit cost for copying a record, excluding the fixed costs of the agency such as operator salaries.

§ 41-12. Public notice.

Each agency shall publicize, by posting in a conspicuous location and/or by publication in a local newspaper of general circulation:

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

SALARIES AND COMPENSATION

Chapter 43

SALARIES AND COMPENSATION

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

STREETS AND SIDEWALKS

Chapter 47

STREETS AND SIDEWALKS

- § 47-1. Obstructing streets.**
- § 47-2. Building materials in streets; warning devices.**
- § 47-3. Street protection.**
- § 47-4. Obstructing drains prohibited.**
- § 47-5. Sales on public streets restricted.**
- § 47-6. Sidewalk obstructions prohibited; exception.**
- § 47-7. Injury to street.**
- § 47-8. Notice required before beginning work; restoration.**
- § 47-9. Failure to restore; service of notice.**
- § 47-10. Safety requirements.**
- § 47-11. Surface water.**
- § 47-12. Moving of buildings.**
- § 47-13. Snow removal; removal by village; costs to be a lien.**
- § 47-14. Erection of structures.**
- § 47-15. Awnings.**
- § 47-16. Signs.**
- § 47-17. Street obstruction.**
- § 47-18. Shade trees.**
- § 47-19. Destruction of weeds.**
- § 47-20. Injury to trees.**
- § 47-21. Store maintenance.**
- § 47-22. Construction of sidewalks.**
- § 47-23. Sidewalk repair; failure to comply; collection of costs.**

- § 47-24. Street interference.
- § 47-25. Protection of openings into streets.
- § 47-26. Street encroachments.
- § 47-27. Hitching horses.
- § 47-28. Obstructing crosswalks.
- § 47-29. Gates.
- § 47-30. Garbage.
- § 47-31. Bicycles.
- § 47-32. Littering prohibited.
- § 47-33. Throwing or depositing of unwholesome substances prohibited.
- § 47-34. Powers and duties of Street Commissioner.
- § 47-35. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 3-3-15. Section 47-35 amended during codification; see Ch. 1, General Provisions, Article II. Other amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 4.
Peace and good order — See Ch. 37.
Vehicles and traffic generally — See Ch. 52.

§ 47-1. Obstructing streets.

No dirt, plank, sluice pipe or other material shall be placed in or over any gutter of any street for the purpose of a driveway or approach to or from any yard or lot, without first obtaining permission from the Street Commissioner and such work shall be done under the direction of the Street Commissioner. The Street Commissioner may, at any time, cause the owner to remove or repair any said approach, or he may remove the same.

§ 47-2. Building materials in streets; warning devices.

- A. No person shall place or cause to be placed or suffer to remain when so placed, any stones, brick, lumber or other materials for building in or upon any street or public place without permission of the Board of Trustees.
- B. In case such permission is given, the materials must be so placed as not to prevent travel on more than one-third ($\frac{1}{3}$) of the width of the street or roadway, and must be placed on the side of the street nearest to the building where the same are to be used, and the materials shall be so placed as not to obstruct the gutter. During every night such materials shall so remain, the persons placing them or causing them to be so placed shall keep a lamp or lamps continually lighted near such material so as to clearly and distinctly cast light upon both ends of the pile nearest the center of the street.
- C. The Board of Trustees, by a majority vote, may revoke such permission.

§ 47-3. Street protection.

Any person who shall have charge of or the construction of any culvert, sewer, vault or cistern, well or cellar entrance in any street, lane or alley in said village, and those employed by him, shall, during the whole of every night while such culvert, sewer, vault or cistern, well or cellar entrance shall remain open and exposed, cause the same to be securely fenced in and shall cause a lighted lamp or a lantern so to be placed and kept that the light therefrom shall be cast upon such culvert, sewer, vault or cistern, well or cellar entrance.

§ 47-4. Obstructing drains prohibited.

No person shall place, cast or throw or cause to be placed, cast or thrown into any drain, sewer, catch basin or gutter, any substance which may cause any obstruction or injury thereto or nuisance therein, nor shall any person divert or stop the course of any drain, sewer or gutter.

§ 47-5. Sales on public streets restricted.

No person shall, without the permission of the Board of Trustees, erect or establish in or within any street or public ground, any booth or stand for the purpose of selling or exposing for sale any goods, wares or merchandise.

§ 47-6. Sidewalk obstructions prohibited; exception.

No person shall place or cause to be placed upon any street, curb or sidewalk within said village, any box, showcase, goods, wares, merchandise or other article, except as may be necessary in transporting such article across the sidewalk. Nothing contained herein shall prohibit the placing of goods, merchandise or household furniture or other commodities upon the sidewalk for the purpose of loading and unloading such articles, provided that the same be removed without any unreasonable delay and within one (1) hour thereafter.

§ 47-7. Injury to street.

No person shall intentionally injure any pavement, sidewalk, sewer, catch basin, crosswalk, drain, gutter or any part thereof, and no person shall, without permission of the proper authorities, dig or make or cause to be dug or made any hole or excavation in any sidewalk or street, and no person shall unlawfully hinder or obstruct any person employed by said village in constructing any public work. The permission hereinbefore referred to, when the same shall not have been refused by the said proper authorities, may be granted by the Street Commissioner.

§ 47-8. Notice required before beginning work; restoration.

Whenever in pursuance of the consent provided for in § 47-7 any person shall take up any sidewalk or pavement, or dig up any street, or make any excavation therein, such person shall, before doing such work, serve or cause to be served upon the Street Commissioner a written notice of the time when and the place where such work is to be done. A written notice shall be personally

served upon said Street Commissioner at least twenty-four (24) hours before such work is to be done, and such work shall be done only under the supervision of said Street Commissioner, and when finished, such sidewalk, pavement or street shall be left in as good condition as before such work was done.

§ 47-9. Failure to restore; service of notice.

Whenever any excavation shall be made in any street by any person and the street where such excavation shall be made shall be left in a condition deemed by the Street Commissioner not so substantial or permanent as before such excavation, the Street Commissioner may cause a written notice to be served upon the offending party, requiring such party, within a time specified in such notice, to restore that portion of the street made defective by him to its former good circumstances or perfect condition.

§ 47-10. Safety requirements.

All persons making or having charge of any excavation in any street, during the whole of every night such excavation shall remain open and uncovered, shall fence in the same and cause lighted lamps or lanterns to be placed and kept so as to cast light thereon, so as to properly warn all persons of such excavation.

§ 47-11. Surface water.

No person shall conduct or allow to be conducted from any building owned by him, through any pipe, gutter, trough, spout or otherwise, any water upon any sidewalk, nor shall such water be conducted across any sidewalk unless the same be made to run in a pipe or covered groove below the walk, nor shall any roof or eaves project over any sidewalk unless there shall be an eaves trough so placed under the same as to prevent the water from falling on the walk.

§ 47-12. Moving of buildings.

No person shall move or cause to be moved, a building into, across or along any street without the permission of the Board of Trustees. No person having such permission shall suffer such building to remain in any street or streets for more than two (2) days without further permission for each day it shall so remain.

§ 47-13. Snow removal; removal by village; costs to be a lien.

Every owner or the person in charge of any house, building, church or public ground shall keep the sidewalk in front of the same clean and free from obstruction and shall clear such sidewalks from snow and ice in the morning, each day after snow and ice shall be accumulated thereon. In case the snow and ice shall not be removed as herein provided, it shall be the duty of the Street Commissioner to cause such accumulation to be removed, and he shall make out and deliver to the Board of Trustees at its next meeting an account or statement of the expense thereon, which account or statement shall contain a recital of the place or location and a description of the lot, land or building, the name of the owner, if the same be known to him, and also the names of the occupants or persons having charge thereof, which account or statement shall be verified by the Commissioner to the effect that he believes it to be true. The Village Clerk shall enter such statement or the substance thereof in the minutes of the Board of Trustees, and the amount of such expense shall be therein stated to be a lien or charge upon the lot, land or building so described, and the same shall be assessed upon the owner of the property and added to the amount of the next annual village tax.

§ 47-14. Erection of structures.

No person shall erect or cause to be erected, any building, plaza, steps, fence or other structure so as to encroach upon any street, lane, alley or public place.

§ 47-15. Awnings.

No awning, other than cloth, shall hereafter be placed, constructed or maintained over any street, sidewalk or portion of a street. Said awning shall be at least seven (7) feet above the sidewalk or street.

§ 47-16. Signs.

No person or occupant of any building shall put up or place or suffer to remain when so placed, any sign so that the same shall project into, over or across any street or sidewalk.

§ 47-17. Street obstruction.

No person shall place or cause to be placed, any pole, post, lamppost, step block, watering trough, water fountain, wagon scales or other similar material, in or upon any street, without first obtaining a permit so to do, and obtaining direction as to the location of same from the Board of Trustees, under the direction of the Street Commissioner. Nothing in this section shall be construed to prevent the Trustees to cause the change of location or the removal of the same.

§ 47-18. Shade trees.

All ornamental or shade trees standing within a street shall be trimmed so that the lowest branches shall not be less than eight (8) feet from the ground. Any person owning such tree which shall not have been trimmed in accordance with this section shall be subject to a penalty as provided in § 47-35 for every week such tree shall remain untrimmed, after five (5) days notice, in writing, to trim the same shall be given such owner by any village official.

§ 47-19. Destruction of weeds.¹

Every owner or the person in charge of any house, building or ground shall cut and keep cut in front thereof, all weeds and grass.

¹ Editor's Note: See also Ch. 8, Brush, Grass and Weeds.

§ 47-20. Injury to trees.

No person shall willfully mar, injure or deface or destroy any shade or ornamental tree in any street, lane, alley or public ground.

§ 47-21. Store maintenance.

It shall be the duty of the occupant or occupants of every store, grocery, hotel, saloon or restaurant, or other place of business on the ground floor, to clean up and collect in one (1) pile on or before 9:00 a.m. on Monday of each week all dirt, filth and rubbish in front of the premises occupied by them and the center of the street.

§ 47-22. Construction of sidewalks.

No sidewalk shall hereafter be constructed in any public street, except under the direction and approval of the Street Commissioner or the Board of Trustees, nor shall any sidewalk hereafter be constructed in any public street other than of concrete, brick or stone, without permission of the Board of Trustees. Any person intending to construct any sidewalk shall first, and at least twenty-four (24) hours before so doing, give notice to the Street Commissioner, stating the location and kind of material to be used.

§ 47-23. Sidewalk repair; failure to comply; collection of costs.

The Board of Trustees may require the construction and repair of sidewalks upon any public street wholly at the expense of the owner or occupants of the adjoining land and may prescribe the manner of doing such work and the kind of materials to be used therein and, in such case, a notice shall be served upon such owner or occupants, specifying the place, manner, and the time in which the sidewalk is required to be constructed or repaired. The time requirements shall be not less than ten (10) days in the case of new walks and not less than twenty-four (24) hours in the case of repairs. If any owner or occupant shall not construct or repair the

sidewalk as required by the notice, the Board of Trustees may cause the same to be so constructed or repaired and assess the expense thereof upon the adjoining land, and the same shall be collected in the same manner and at the same time as other village taxes.

§ 47-24. Street interference.

No person shall alter, change or in any manner interfere with the gutters, curbs, sidewalks or streets without the consent of the Board of Trustees or the Street Commissioner.

§ 47-25. Protection of openings into streets.

No person or persons, firm or corporation shall build, construct or maintain any cellarway or waterway opening into the sidewalk or street without the consent of the Board of Trustees, and all persons having a stairway or cellarway projecting or opening into the sidewalk or street shall guard the same within a suitable and sufficient fence to be approved by the Board of Trustees, Any persons neglecting or refusing to comply with any of the requirements of this section after being notified by the Street Commissioner or any trustees, in writing, shall be liable to a penalty as provided for in § 47-35 for each such neglect and a further penalty for each twenty-four (24) hours said neglect or refusal shall continue.

§ 47-26. Street encroachments.

Any fence, building or other structure which shall encroach, in whole or in part, upon any of the streets, alleys, lanes or public grounds in said village is hereby declared a nuisance, and upon a previous notice, in writing, in ten (10) days, to the owner thereof by the Street Commissioner or Board of Trustees, the owner shall remove or abate the same, and all the expenses thereof shall be charged against the person or property of anyone so offending.

§ 47-27. Hitching horses.

No person shall leave any horse, mule or team in any street or public place without being securely tied, or no person shall tie or fasten a horse, mule or team to a tree or lamppost in any street or upon any public ground.

§ 47-28. Obstructing crosswalks.

No person shall unnecessarily or under any circumstances suffer or permit any cart, wagon or sleigh or other vehicle or team to be or stand upon any crosswalk in said village.

§ 47-29. Gates.

No gate shall hereafter be made or hung so as to open and swing over any sidewalk, nor shall any such gate heretofore made or hung be allowed to stand open over any sidewalk.

§ 47-30. Garbage.

All carts and other vehicles used by any person to carry or transport upon any street or public place in said village any swill or other offensive liquid or substance shall have watertight boxes or vessels so as to prevent the contents from leaking, and no wheelbarrow used or intended to be used for any such purpose shall be placed or run upon any sidewalk.

§ 47-31. Bicycles.

No person shall ride, drive or propel any bicycle, motorcycle, dray wagon or vehicle on or over any sidewalk within said village.

§ 47-32. Littering prohibited.

No person shall place or cause to be placed, throw or cause to be thrown, deposit or cause to be deposited, any ashes, dirt, grass, stone or other rubbish or other refuse in or upon any street, or any

part thereof, or fill up or obstruct any gutter. Any person violating any of the provisions of this section shall, upon conviction, be subject to a penalty as provided for in § 47-35, after notice to remove has been given by the President, Trustee or Fire Warden.

§ 47-33. Throwing or depositing of unwholesome substances prohibited.

No person shall throw or deposit any unwholesome, putrid or decayed carcass, skin, hide, fish, meat or other unwholesome substance or thing within the Village of Arkport. Any person violating any provision of this section shall, upon conviction, be subject to a penalty as provided for in § 47-35 after notice to remove the same by any village official. In case the person so depositing any such unwholesome, putrid or decayed matter or thing of any description within said village shall fail to remove or destroy the same within twenty-four (24) hours after notice to remove or destroy the same has been given by any village official, then any constable is hereby authorized and directed to remove or destroy the same, and the expense of such removal or destruction shall be charged to the person so depositing the same and shall be added to the penalty or penalties herein imposed.

§ 47-34. Powers and duties of Street Commissioner.

It shall be the duty of the Street Commissioner or such other person as may be especially authorized for that purpose by the Board of Health of said village, and such Commissioner and such person or persons so authorized shall have the power to enter into and upon and examine any lot, yard, building, cellar, alley, street, sink, drain, vault, privy or other place within the limits of this village if the same be found damp, sunken or ill-constructed, or be found to contain any filth or any offensive substance and to order the cleansing and removal of any such nuisance within twenty-four (24) hours after direction from the Street Commissioner or person or persons, aforesaid, so expressly authorized. In case there shall be any nuisance maintained upon any real estate in this village, and the owner or occupant of such real estate shall refuse

or neglect to comply with the directions of the Commissioner or person or persons aforesaid, the Board of Trustees may order the same abated by and under the direction of the Street Commissioner, and the said Commissioner shall report the expense thereof to the Board of Trustees, who shall order such expense to be assessed under the lot upon which such nuisance shall exist, with an additional five percent (5%) for collection.

§ 47-35. Penalties for offenses.²

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuance of an offense for each day [twenty-four (24) hours] shall be deemed a distinct and separate violation.

² Editor's Note: Amended during codification; see Ch. 1, General Provisions, Article II.

TAXATION

Chapter 49

TAXATION

ARTICLE I Veterans Exemption

- § 49-1. Exemption.**
- § 49-2. Present system to be retained.**

ARTICLE II Utilities Gross Income Tax

- § 49-3. Imposition of tax.**
- § 49-4. Definitions.**
- § 49-5. Business records.**
- § 49-6. Filing returns.**
- § 49-7. Payment.**
- § 49-8. Sufficiency of returns.**
- § 49-9. Notice.**
- § 49-10. Failure to file; penalties.**
- § 49-11. Refunds.**
- § 49-12. Tax not to be added to customers' bills.**
- § 49-13. Failure to pay tax; lien.**
- § 49-14. Promulgation of rules and regulations.**
- § 49-15. Disclosure of information; penalty.**

§ 49-16. Disposition of taxes and penalties.

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport: Art. I, 9-24-84 as L.L. No. 3-1984; Art. II, 12-19-85 as L.L. No. 8-1985. Amendments noted where applicable.]

ARTICLE I

Veterans Exemption

[Adopted 9-24-84 as L.L. No. 3-1984]

§ 49-1. Exemption.

The purpose of this Article is to provide that no exemption from real property taxes shall be granted under Chapter 525 of the Laws of 1984, § 458 of the Real Property Tax Law of the State of New York, in the Village of Arkport.

§ 49-2. Present system to be retained.

The village will retain its present system of granting veterans exemptions.

ARTICLE II

Utilities Gross Income Tax

[Adopted 12-19-85 as L.L. No. 8-1985]

§ 49-3. Imposition of tax.

Pursuant to § 5-530 of the Village Law, a tax equal to one per centum (1%) of its gross income from and after the first day of March 1986, is hereby imposed upon every utility doing business in the Village of Arkport, New York, which is subject to the supervision of the State Department of Public Service, which has a gross income for twelve (12) months ending May 31 in excess of five hundred dollars (\$500.), except motor carriers subject to such supervision under Article 3-B of the Public Service Law, and a tax equal to one per centum (1%) of its gross operating income from and after the first day of March, 1986, is hereby imposed upon every other utility doing

business in the Village of Arkport, New York, which has a gross operating income for the twelve (12) months ending June 30 in excess of five hundred dollars (\$500.), which taxes shall have application only within the territorial limits of the Village of Arkport 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 Arkport, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

§ 49-4. 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, condition or otherwise (except sales hereinafter referred to with respect to which it is provided that the profits from the sale shall be included in gross income), made or service rendered to ultimate consumption or use by the purchaser in the Village of Arkport, including cash, credits and property of any kind or nature (whether or not such sale is made or such service is rendered for profit), without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or services or other costs, interest or discount paid or any other expense whatsoever; 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 Arkport other than such as are received from a corporation, a majority of whose voting stock is owned by the taxpaying utility, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof; and also profits from any transaction (except sales for resale and rentals) within the Village of Arkport whatsoever; provided, however, that the words "gross income" shall include, in the

case of a utility engaged in selling telephone or telephone service, only receipts from local exchange service wholly consummated within the Village of Arkport and, in the case of a utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated within the Village of Arkport, New York.

GROSS OPERATING INCOME — Includes receipts received in or by reason of any sale, conditional or otherwise, made for the ultimate consumption of or use by the purchaser of gas, electricity, steam, water, refrigeration, telephone or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electricity, steam, water, refrigeration, telephone or telegraph service in the Village of Arkport, New York, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of 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, joint-stock associations, associations, copartnerships, estates, assignees of rent, any person acting in a fiduciary capacity or any other entity and persons, their assignees, lessees, trustees or receivers, appointed by 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 operating railroads other than street surface, transit, subway and elevated railroads, and also including 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 who furnishes gas, electricity, 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 of whether use is made of the public street.

VILLAGE — The Village of Arkport, New York.

§ 49-5. Business records.

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

§ 49-6. Filing returns.

Every utility subject to tax hereunder shall file, on or before the 25th of the month, beginning June 1986, a return for the three (3) calendar months preceding each such return date, including any period for which the tax imposed hereby or by any amendment hereof is effective, each of which returns shall state gross income or gross operating income for the period covered by each return. (Returns are due June 25, September 25, December 25 and March 25.) Returns shall be filed with the Clerk-Treasurer on forms provided by him for such purpose and shall contain such other data, information or matter as he may require. The Clerk-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 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, or of a principal officer of the corporation, if such business is conducted by a corporation, to the effect that the statements contained therein are true.

§ 49-7. Payment.

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

§ 49-8. Sufficiency of returns.

- A. In case any return filed pursuant to this Article shall be insufficient or unsatisfactory to the Village Clerk-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 Clerk-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. 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 Clerk-Treasurer for a hearing or unless the Clerk-Treasurer, of his own notion, shall reduce the same. After such hearing, the Village Clerk-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 Clerk-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 be 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

application, 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 local law, the tax may be assessed at any time.

§ 49-9. Notice.

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 local law 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 local law by the giving of notice shall commence to run from the date of the mailing of such notice.

§ 49-10. Failure to file; penalties.

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 Clerk-Treasurer, for cause shown, may extend the time for filing any return and, if satisfied that the delay was excusable, may forgive all or a portion of the penalty fixed by the foregoing provisions of this section.

§ 49-11. 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 Clerk-Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Clerk-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 Clerk-Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Clerk-Treasurer as hereinbefore provided unless the Village Clerk-Treasurer, after a hearing as hereinbefore provided or of his own motion, shall have reduced the tax or penalty or if 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 revision of any tax or penalty complained of, and the Village Treasurer may receive additional evidence with respect thereto. After making his determination, the Clerk-Treasurer shall give notice thereof to the person interested, and he shall be entitled to an order to review such determination under said Article 78 of the Civil Practice Law and Rules of the State of New York, subject to the provisions hereinbefore contained relating to the granting of such an order.

§ 49-12. Tax not to be added to customers' bills.

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.

§ 49-13. Failure to pay tax; lien.

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 Board, bring an action to enforce payment of same. The proceeds of any judgment obtained in any such action shall be paid to the Clerk-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 of the Tax Law is made a lien.

§ 49-14. Promulgation of rules and regulations.

In the administration of this Article, the Clerk-Treasurer shall have power to make such reasonable rules and regulations, not inconsistent with the law, as may be necessary for the exercise of his powers and the performance of his duties, 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.

§ 49-15. Disclosure of information; penalty.

- A. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Clerk-Treasurer, or any agent, clerk or employee of the Village of Arkport, New York, 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 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 into 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 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 Clerk-Treasurer, may assist in the collection of such delinquent taxes, or the inspection by the Village Attorney or other legal representative of the Village of Arkport, New York, of the return of any person who shall bring an action to set aside or review the tax base thereof 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 punished 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 Arkport, New York, he shall be dismissed from office and shall be incapable of holding any office or employment for the Village of Arkport, New York, for a period of five (5) years thereafter.
- C. Notwithstanding any provisions of this Article, the Clerk-Treasurer may exchange with the chief fiscal officers of any city or any other village in the State of New York information contained in returns filed under this Article, provided that such city or other village grants similar privileges to the Village of Arkport, New York, and provided that such information is to be used for tax purposes only, and the Clerk-Treasurer shall, upon request, furnish the State Tax Commission with information contained in such return.

§ 49-16. Disposition of taxes and penalties.

All taxes and penalties received by the Village of Arkport, New York, shall be credited to and deposited in the general fund of the village.

ARTICLE III
Real Property Assessment
[Adopted 9-21-1989 as L.L. No. 4-1989]

§ 49-17. Legislative intent.

The intent of the Board of Trustees of the Village of Arkport is to implement § 1402, Subdivision 3, of the Real Property Tax Law providing for the voluntary termination of the village's status as an assessing unit, as provided in the Village Law and the Real Property Tax Law. It is also the intent of this Article 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 Arkport.

§ 49-18. Village to cease responsibility.

On or after the effective date of this Article, the Village of Arkport shall cease to be an assessing unit.

§ 49-19. Position of Assessor abolished.

The position of Assessor in the Village of Arkport is hereby abolished.

§ 49-20. Board of Assessment Review abolished.

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

§ 49-21. Town of Hornellsville assessment to be controlling.

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

§ 49-22. Filing of copies.

Within five (5) days of the effective date of this Article, the Board of Trustees of the Village of Arkport shall file a copy of such Article with the Clerk and Assessor of the Town of Hornellsville and with the State Board of Equalization and Assessment.

§ 49-23. When effective.

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

¹ Editor's Note: No referendum was required.

VEHICLES AND TRAFFIC

Chapter 52

VEHICLES AND TRAFFIC

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VEHICLES AND TRAFFIC

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- § 52-48. Schedule XVIII: Time Limit Parking.**
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[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 9-21-1989 as L.L. No. 3-1989. Amendments noted where applicable.]

GENERAL REFERENCES

**Off-road vehicles — See Ch. 54.
Streets and sidewalks — See Ch. 47.**

ARTICLE I
General Provisions

§ 52-1. Definitions.

- A. The words and phrases used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.
- B. The following words and phrases, which are not defined by Article 1 of the Vehicle and Traffic Law of the State of New York, shall have the meanings respectively ascribed to them in this section for the purposes of this chapter:

CURBLINE — The prolongation of the lateral line of a curb or, in the absence of a curb, the lateral boundary line of the roadway.

HOLIDAYS — New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.

OFFICIAL TIME STANDARD — Whenever certain hours are named herein or on traffic control devices, they shall mean the time standard which is in current use in this state.

§ 52-2. Authority to install traffic control devices.

The Arkport Village Board of Trustees shall install and maintain traffic control devices when and as required under the provisions of this chapter, to make effective the provisions of this chapter, and may install and maintain such additional traffic control devices as it may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provisions of §§ 1682 and 1684 of that law.

§ 52-3. Schedules; adoption of regulations.

- A. For the purpose of maintaining an accurate record of all regulations adopted under the provisions of this chapter, there

is hereby established a system of schedules, appearing as Article VI of this chapter, in which shall be entered all regulations after adoption. Such schedules shall be deemed a part of the section to which they refer. All regulations shall be adopted with reference to the appropriate schedule as indicated in the various sections of this chapter.

- B. Regulations shall be adopted by the Board of Trustees in accordance with provisions of the Village Law and the Vehicle and Traffic Law, or by an officer or agency authorized by the Board of Trustees to adopt regulations pursuant to § 1603 of the Vehicle and Traffic Law.

ARTICLE II Traffic Regulations

§ 52-4. Traffic control signals.

Traffic control signals shall be installed and operated at the intersection of those streets described in Schedule I (§ 52-31), attached to and made a part of this chapter.

§ 52-5. Speed limits.

The maximum speed at which vehicles may proceed on or along any streets or highways within the village is hereby established at thirty (30) miles per hour, except that the speed limit for vehicles proceeding on or along those streets or parts of streets described in Schedule II (§ 52-32) shall be as indicated in said schedule.

§ 52-6. School speed limits.

No person shall drive a vehicle at a speed in excess of that indicated in Schedule III (§ 52-33), in the areas described in said Schedule III, during school days between the hours of 7:00 a.m. and 6:00 p.m.

§ 52-7. One-way streets.

The streets or parts of streets described in Schedule IV (§ 52-34), attached to and made a part of this chapter, are hereby designated as one-way streets in the direction indicated.

§ 52-8. U-turns.

No person shall make a U-turn on any of the streets or parts of streets described in Schedule V (§ 52-35), attached to and made a part of this chapter.

§ 52-9. Prohibited turns at intersections.

No person shall make a turn of the kind designated (left, right, all) at any of the locations described in Schedule VI (§ 52-36), attached to and made a part of this chapter.

§ 52-10. Prohibited right turns on red signal.

No person shall make a right turn when facing a steady red signal (stop indication) at any of the locations described in Schedule VII (§ 52-37), attached to and made a part of this chapter.

§ 52-11. Through streets.

The streets or parts of streets described in Schedule VIII (§ 52-38), attached to and made a part of this chapter, are hereby designated as through streets. Traffic control devices shall be installed on each street intersecting the through street.

§ 52-12. Stop intersections.

The intersections described in Schedule IX (§ 52-39), attached to and made a part of this chapter, are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

§ 52-13. Yield intersections.

The intersections described in Schedule X (§ 52-40), attached to and made a part of this chapter, are hereby designated as yield intersections. Yield signs shall be installed as provided therein.

§ 52-14. Trucks over certain weights excluded.

Trucks in excess of the weights indicated are hereby excluded from the streets or parts of streets described in Schedule XI (§ 52-41), attached to and made a part of this chapter, except for the pickup and delivery of materials on such streets.

ARTICLE III
Parking, Standing and Stopping

§ 52-15. Application of Article.

The provisions of this Article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

§ 52-16. Parking prohibited at all times.

No person shall park a vehicle at any time upon any of the streets or parts thereof described in Schedule XII (§ 52-42), attached to and made a part of this chapter.

§ 52-17. No stopping.

No person shall stop a vehicle upon any of the streets or parts of streets described in Schedule XIII (§ 52-43), attached to and made a part of this chapter.

§ 52-18. No standing.

No person shall stand a vehicle upon any of the streets or parts of streets described in Schedule XIV (§ 52-44), attached to and made a part of this chapter.

§ 52-19. Parking prohibited certain hours.

No person shall park a vehicle between the hours specified in Schedule XV (§ 52-45) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule XV, attached to and made a part of this chapter.

§ 52-20. No stopping certain hours.

No person shall stop a vehicle during the times specified in Schedule XVI (§ 52-46) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule XVI, attached to and made a part of this chapter.

§ 52-21. No standing certain hours.

No person shall stand a vehicle during the times specified in Schedule XVII (§ 52-47) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule XVII, attached to and made a part of this chapter.

§ 52-22. Time limit parking.

No person shall park a vehicle for longer than the time limit shown in Schedule XVIII (§ 52-48) at any time between the hours listed in said Schedule XVIII of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule XVIII, attached to and made a part of this chapter.

§ 52-23. Angle parking.

No person shall park a vehicle upon any of the streets or parts thereof described in Schedule XIX (§ 52-49), attached to and made a part of this chapter, except at the angle designated and only within the painted stall lines. On all streets or portions thereof where angle parking is now or shall hereafter be authorized, all vehicles parked thereon shall be parked with the front thereof nearest the curb.

§ 52-23.1. Seasonal parking.

No vehicle shall be parked on any street within the corporation limits of the Village of Arkport between the hours of 2:00 a.m. and 6:00 a.m. during the period beginning December 1 and ending April 1 of each year.

ARTICLE IV
Removal and Storage of Vehicles

§ 52-24. Authority to impound vehicles.

- A. When any vehicle is parked or abandoned on any highway or public parking lot within this village during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway or parking lot upon which said vehicle is parked or abandoned, said vehicle may be removed by or under the direction of the Code Enforcement Officer.
- B. When any vehicle is found unattended on any highway or public parking lot within the village where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by or under the direction of the Code Enforcement Officer.

§ 52-25. Storage and charges.

After removal of any vehicle as provided in this Article, the Code Enforcement Officer may store or cause such vehicle to be stored in a suitable place at the expense of the owner. Such owner or person in

charge of the vehicle may redeem the same upon payment to the person with whom stored of the amount of all expenses actually and necessarily incurred in effecting such removal and storage, such storage charges not to exceed fifty dollars (\$50.) per day or fraction thereof.

§ 52-26. Notice of removal.

It shall be the duty of the Code Enforcement Officer to ascertain to the extent possible the owner of the vehicle or the person having the same in charge and to notify him of the removal and disposition of such vehicle and of the amount which will be required to redeem same. Said Code Enforcement Officer shall also without delay report the removal and disposition of any vehicle removed as provided in this Article to the Village Clerk.

ARTICLE V Miscellaneous Provisions

§ 52-27. Penalties for offenses.

Every person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than fifty dollars (\$50.) or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment; for a second such conviction within eighteen (18) months thereafter, such person shall be punished by a fine of not more than one hundred dollars (\$100.) or by imprisonment for not more than forty-five (45) days, or by both such fine and imprisonment; upon a third or subsequent conviction within eighteen (18) months after the first conviction, such person shall be punished by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

§ 52-28. When effective.

- A. Except those parts, if any, which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York, this chapter and any regulations adopted hereunder shall take effect as provided by law.
- B. Any part or parts of this chapter and any regulations adopted hereunder which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Department of Transportation.

§ 52-29. Severability.

If any Article, section, subsection, paragraph, sentence, clause or provision of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the Article, section, subsection, paragraph, sentence, clause or provision thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 52-30. Repealer.

All prior ordinances, regulations and rules, or parts thereof, of this village regulating traffic and parking are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance, regulation or rule hereby repealed prior to the taking effect of this chapter.

ARTICLE VI Schedules

§ 52-31. Schedule I: Traffic Control Signals.

In accordance with the provisions of § 52-4, traffic control signals shall be installed at the following described intersections:

Intersection

(Reserved)

§ 52-32. Schedule II: Speed Limits.

In accordance with the provisions of § 52-5, speed limits other than thirty (30) miles per hour are established as indicated upon the following streets or parts of streets:

Name of Street	Speed Limit (mph)	Location
South Main Street, Routes 36 and 70	40	Between the southerly village limits and the stone bridge over the Lime Kiln Creek

§ 52-33. Schedule III: School Speed Limits.

In accordance with § 52-6, no person shall drive a vehicle in excess of the speeds indicated below, in the areas designated below, during school days between the hours of 7:00 a.m. and 6:00 p.m.:

Name of Street	Speed Limit (mph)	Location
East Avenue	20	From a point 300 feet east of the east school building line to a point 300 feet west of the west school building line, during school days between 7:00 a.m. and 6:00 p.m. For the purpose of this section, "school days" shall mean any day that any or all primary or second- ary schools within the village have regularly scheduled classes

§ 52-34. Schedule IV: One-Way Streets.

In accordance with the provisions of § 52-7, the following described streets or parts of streets are hereby designated as one-way streets in the direction indicated:

Name of Street	Direction of Travel	Limits
Maiden Lane	South	Entire length

§ 52-35. Schedule V: U-Turn Prohibitions.

In accordance with the provisions of § 52-8, no person shall make a U-turn at any of the following locations:

Name of Street	Location
	(Reserved)

§ 52-36. Schedule VI: Prohibited Turns at Intersections.

In accordance with the provisions of § 52-9, no person shall make a turn of the kind designated below at any of the following locations:

Name of Street	Direc- tion of Travel	Pro- hibited Turn	Hours	At Intersection of
				(Reserved)

§ 52-37. Schedule VII: Prohibited Right Turns on Red Signal.

In accordance with the provisions of § 52-10, no person shall make a right turn when facing a steady red signal (stop indication) at any of the following locations:

Name of Street	Direction of Travel	Prohibited Right Turn on Red Signal Onto
		(Reserved)

§ 52-38. Schedule VIII: Through Streets.

In accordance with the provisions of § 52-11, the following described streets or parts of streets are hereby designated as through streets. Traffic control devices shall be installed on each street intersecting the through street.

Name of Street	Direction of Travel	Limits
East Avenue	East/ West	Entire length
Main Street (Route 36)	North/ South	Entire length
West Avenue	East/ West	Entire length

§ 52-39. Schedule IX: Stop Intersections.

In accordance with the provisions of § 52-12, the following described intersections are hereby designated as stop intersections, and stop signs shall be installed as follows:

Stop Sign on	Direction of Travel	At Intersection of
Brush Street	North	East Avenue
Carter Street	South	West Avenue
Davenport Street	South	Hurlbut Street
East Avenue	Both	Main Street
Grove Street	North	East Avenue
Grove Street	South	Park Avenue
Healy Street	South	Hurlbut Street
Hurlbut Street	East	Main Street
Hurlbut Street	West	Bishopville Road
Lisman Lane	South	East Avenue
Meadowbrook Street	North	East Avenue
Maiden Lane	North	Oak Hill Street
Maiden Lane	South	East Avenue
Main Street	North	East Avenue

Stop Sign on	Direction of Travel	At Intersection of
Main Street	North	Main Street by the bank
Main Street	South	East Avenue
Park Avenue	East	Brush Street
Park Avenue	West	Main Street
Sullivan Street	South	East Avenue

§ 52-40. Schedule X: Yield Intersections.

In accordance with the provisions of § 52-13, the following described intersections are hereby designated as yield intersections, and yield signs shall be installed as follows:

Yield Sign on	Direction of Travel	At Intersection of
Addison Street	South	East Avenue
Henry Street	East	Meadowbrook Road
Holly Court	South	Northridge Drive
Oak Hill Street	West	Main Street
Sullivan Street	North	Oak Hill Street

§ 52-41. Schedule XI: Trucks Over Certain Weights Excluded.

In accordance with the provisions of § 52-14, trucks in excess of the weights indicated are hereby excluded from the following streets or parts of streets, except for the pickup and delivery of materials on such streets:

Name of Street	Weight Limit (tons)	Location
Carter Street	—	Entire length
Davenport Street	—	Entire length
Woolever Street	—	Entire length

§ 52-42. Schedule XII: Parking Prohibited at All Times.

In accordance with the provisions of § 52-16, no person shall park a vehicle at any time upon any of the following described streets or parts of streets:

Name of Street	Side	Location
		(Reserved)

§ 52-43. Schedule XIII: No Stopping.

In accordance with the provisions of § 52-17, no person shall stop a vehicle upon any of the following described streets or parts of streets:

Name of Street	Side	Location
		(Reserved)

§ 52-44. Schedule XIV: No Standing.

In accordance with the provisions of § 52-18, no person shall stand a vehicle upon any of the following described streets or parts of streets:

Name of Street	Side	Location
		(Reserved)

§ 52-45. Schedule XV: Parking Prohibited Certain Hours.

In accordance with the provisions of § 52-19, no person shall park a vehicle between the hours listed upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
All streets	All	2:00 a.m. through 6:00 a.m., December 1 through April 1	Entire length

§ 52-46. Schedule XVI: No Stopping Certain Hours.

In accordance with the provisions of § 52-20, no person shall stop a vehicle between the times specified upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
(Reserved)			

§ 52-47. Schedule XVII: No Standing Certain Hours.

In accordance with the provisions of § 52-21, no person shall stand a vehicle between the times specified upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
(Reserved)			

§ 52-48. Schedule XVIII: Time Limit Parking.

In accordance with the provisions of § 52-22, no person shall park a vehicle for longer than the time limit shown upon any of the following described streets or parts of streets:

Name of Street	Side	Time Limit; Hours/Days	Location
(Reserved)			

§ 52-49. Schedule XIX: Angle Parking:

In accordance with the provisions of § 52-23, no person shall park a vehicle upon any of the streets or parts thereof described below, except at the angle designated:

Name of Street	Side	Angle (degrees)	Location
(Reserved)			

Chapter 54**VEHICLES, OFF-ROAD**

- § 54-1. Legislative findings.**
- § 54-2. Operation on village property prohibited; exception.**
- § 54-3. Parental responsibility.**
- § 54-4. Definitions of terms.**
- § 54-5. Impoundment.**
- § 54-6. Penalties for offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 12-19-85 as L.L. No. 7-1985. Amendments noted where applicable.]

GENERAL REFERENCES

Parks — See Ch. 35.
Vehicles and traffic — See Ch. 52.

§ 54-1. Legislative findings.

The operation of certain motor driven or mechanical vehicles on village-owned property, for no legitimate purpose, poses a threat to the general health and safety of the inhabitants of the Village of Arkport, New York.

§ 54-2. Operation on village property prohibited; exception.

Within the Village of Arkport, New York, it shall be unlawful for any person, regardless of age, to operate or cause to operate any motor vehicle on lands other than on public highways, streets, roadways or shoulders of said public highways, streets or roadways, owned or

under the control of the Village of Arkport, New York, except that the provisions of this chapter shall not apply to any police, fire, ambulance or other emergency vehicle or where prior permission has been given for the operation of said motor vehicle on lands of the Village of Arkport, New York, by the Board of Trustees of said village.

§ 54-3. Parental responsibility.

It shall also be a violation of this chapter for the parent of any child and/or guardian of any ward to authorize, allow or permit any such child or ward to violate any of the provisions of this chapter.

§ 54-4. Definitions of terms.

For the purpose of this chapter:

- A. Motor vehicles shall be defined as provided in § 125 of the New York State Vehicle and Traffic Law and shall also include motorcycles, off-highway motorcycles, mopeds, go-carts and, for the purposes of this chapter, all-terrain vehicles and snowmobiles.
- B. "Public highways," "streets," "roadways" and "shoulders" shall be defined as provided in the New York State Vehicle and Traffic Law.

§ 54-5. Impoundment.

Upon an arrest for a violation of this chapter, the motor vehicle being operated in violation shall be impounded and placed under the control of the Village of Arkport, New York, and all costs of said impoundment, including towing, hauling, securing and storage charges, shall be paid before said vehicle shall be returned to its owner.

§ 54-6. Penalties for offenses.

Violators of this chapter shall be guilty of an offense punishable by a fine not exceeding fifty dollars (\$50.) for the first offense and by a fine not exceeding one hundred dollars (\$100.) for each subsequent violation.

ZONING

Chapter 56

ZONING

ARTICLE I

Purpose, Legal and Administration

- § 56-1. Short title.**
- § 56-2. Purpose and intent.**
- § 56-3. Interpretation.**
- § 56-4. Conflict with other laws.**
- § 56-5. Penalties for offenses.**
- § 56-6. Amendments.**
- § 56-7. Administration.**
- § 56-8. Duties of the Zoning Inspector.**
- § 56-9. Certificates and permits.**
- § 56-10. Applications procedures.**
- § 56-11. Application details.**
- § 56-12. Application fees.**

ARTICLE II

Definitions

- § 56-13. Words and terms defined.**

ARTICLE III

Provisions and Modifications

- § 56-14. Applicability of regulations.**
- § 56-15. Preservation of natural features.**

ARKPORT CODE

- § 56-16. Regulations applicable to all zones.**
- § 56-17. Residential provisions.**
- § 56-18. Business and industrial provisions.**
- § 56-19. Special provisions for yards.**
- § 56-20. Height modifications.**
- § 56-21. Yard modifications.**
- § 56-22. Modification of lot requirements.**

ARTICLE IV Nonconformance

- § 56-23. Continuance.**
- § 56-24. Discontinuance.**
- § 56-25. Amortizement.**
- § 56-26. Nonconforming buildings.**
- ← § 56-27. Nonconforming uses.**

ARTICLE V Board of Appeals

- § 56-28. Creation, appointment and organization.**
- § 56-29. Powers and duties.**
- § 56-30. Procedure.**
- § 56-31. Notice of Board hearings.**
- ← § 56-32. Board of Appeals office.**

ARTICLE VI Districts

- § 56-33. Establishment.**

ZONING

§ 56-34. Zoning Map.

§ 56-35. Interpretation of district boundaries.

§ 56-36. Regulations.

ARTICLE VII District Regulations

§ 56-37. R-1A, Family Residence District.

§ 56-38. R-1B, Family Residence District.

§ 56-39. R-3, Multifamily Residence District.

§ 56-40. Local Shopping District.

§ 56-41. B-2, Shopping Center District.

§ 56-42. B-3, Central Business District.

§ 56-43. I-1, Limited Industrial District.

§ 56-44. I-2, General Industrial District.

§ 56-45. Ag., Agricultural District.

ARTICLE VIII Special Classifications

§ 56-46. Prohibited uses.

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Schedule of Village of Arkport Zoning Ordinance

[HISTORY: Adopted by the Board of Trustees of the Village of Arkport 10-18-72. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 47.

ARTICLE I

Purpose, Legal and Administration

§ 56-1. Short title.

This chapter shall be known and may be cited by a short title of the "Village of Arkport Zoning Ordinance."

§ 56-2. Purpose and intent.

The purpose of this chapter is to encourage the most appropriate use of land throughout the village and to conserve the value of property, with due consideration for the character of the zones and their peculiar suitability for particular uses, all in accordance with a Comprehensive Plan designed to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to that end to regulate the height and size of buildings and other structures, the percentage of the area of the lot that may be occupied, the size of yards and other open spaces, the density of population, yards and the location and use of buildings, structures and land for trade, industry, residence or other purposes and the location of these uses within the limits of the village.

§ 56-3. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of the law or ordinance or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties. However, where this chapter imposes a greater restriction upon the use of buildings or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations or permits, or by such easements, covenants or agreements, the provisions of this chapter shall control.

§ 56-4. Conflict with other laws.

- A. 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 those imposing the higher standards shall govern.
- B. It shall be the duty of the Zoning Inspector to cause any building, plans or premises to be inspected or examined and to order, in writing, the remedying of any condition found to exist in violation of this chapter, and he shall have the right to enter any building or premises during the daytime in the cause of his duties.

§ 56-5. Penalties for offenses.

- A. In addition to the remedy or remedies provided, any person violating this chapter, or any provision or section thereof, may be proceeded against by the Village of Arkport or by the Zoning Inspector by appropriate action, or otherwise,

to prevent and enjoin any threatened or real violation of this chapter.

- B. Each day that a violation is permitted to exist shall constitute a separate offense.
- C. Any violation of this chapter is an offense punishable by a fine not exceeding fifty dollars (\$50.) or by imprisonment for a period not exceeding five (5) days, or by both such fine and imprisonment.

§ 56-6. Amendments.

The Village Board of Trustees may, from time to time, on its own motion, or on petition or on recommendations from the Planning Board, amend, supplement or repeal any of the regulations, provisions or sections of this chapter after proper and legal requirements have been met. Every such proposed amendment shall be referred to the Planning Board for report thereof before the public hearing hereinafter provided for. The Village Board, by a resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and shall cause notice to be given as follows:

- A. A notice shall be published at least fifteen (15) days prior to such meeting stating the time, place and date thereof in the official village newspaper.
- B. A written notice of any proposed change or amendment affecting property within the protectively zoned area of a housing project authorized under the public housing law, as such area is shown on an approved Zoning Map filed with the Zoning Inspector, shall be given to the housing authority erecting or owning the project and to the government providing financial aid for assistance thereto at least ten (10) days prior to the date of such public hearing.
- C. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any state park or parkway shall be given to the regional State Park Commission having jurisdiction over such state park or parkway at least ten (10) days prior to the date of such public hearing.

(Cont'd on page 5607)

- D. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any city, village, town or county shall be given to the clerk of such municipality and to the Steuben County Planning Board at least ten (10) days prior to the date of such hearing.

§ 56-7. Administration.

The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the Zoning Inspector, who shall have such powers as are conferred upon him by this chapter, and as reasonably may be implied. He shall be appointed by the Village Board of Trustees and shall receive such compensation as the Village Board shall determine.

§ 56-8. Duties of the Zoning Inspector.

- A. It shall be the duty of the Zoning Inspector or his duly authorized assistants to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this chapter.
- B. Where the Zoning Inspector, in the course of his duties, determines that any plans, buildings or premises are in violation of the provisions of this chapter, he shall order the responsible party, in writing, to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for such action, the penalties and remedies which may be invoked by the village and the violator's rights of appeal, all as provided for by this chapter.
- C. On the serving of notice by the Zoning Inspector to the owner of any violation of any of the provisions of this chapter, the certificate of occupancy for such building or use shall be held null and void. A new certificate of occupancy shall be required for any further use of such building or premises.

D. The Zoning Inspector shall maintain a permanent record of all matters considered and all action taken by him. Such records shall form a part of the records of this office and shall be available for the use of the Village Board of Trustees and other officials of the village. The records to be maintained shall include at least the following:

- (1) Application file. An individual permanent file for each application for a permit provided for by this chapter shall be established at the time the application is made. Said file shall contain one (1) copy of the application and all supporting documents, maps and plans, notations regarding pertinent dates and fees, and the like; as appropriate, one (1) copy of the resolution of the Board of Appeals in acting on the application; and the date the permit applied for was issued or denied by the Zoning Inspector.
- (2) Monthly report. The Zoning Inspector shall prepare a monthly report for the Village Board of Trustees. Said report shall cite all actions taken by the Zoning Inspector, including all referrals made by him, all permits and certificates issued and denied, all complaints of violations received and all violations found by him and the action taken by him consequent thereon. A copy of this monthly report shall also be transmitted to the Building Inspector, Tax Assessor, Planning Board and Board of Appeals at the same time it is transmitted to the Village Board.

§ 56-9. Certificates and permits.

The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this chapter. A zoning permit or special use permit shall be a prerequisite to the issuance of a building permit as prescribed by the Building Code.¹

A. Zoning permit. The Zoning Inspector is hereby empowered to issue a zoning permit for any plans regarding the

¹ Editor's Note: See Ch. 10, Building Construction.

construction or alteration of any building, or part thereof, where he shall determine that such plans are not in violation of the provisions of this chapter.

- B. Special use permit. Upon written direction of the Board of Appeals, the Zoning Inspector is hereby empowered to issue any special use permit provided for by this chapter.
- C. Certificate of occupancy. The Zoning Inspector is hereby empowered to issue a certificate of occupancy which shall certify that all provisions of this chapter have been complied with in respect to the location and use of the building, structure or premises in question.

§ 56-10. Applications procedures.

- A. Procedures for a zoning permit. All applications for zoning permits shall be made to the Zoning Inspector in the detail specified in § 56-11 of this chapter. The Zoning Inspector shall carefully consider the application and supporting documents for compliance with this chapter and shall either issue or deny the zoning permit applied for.
- B. Procedures for special use permits.
 - (1) All applications for special use permits shall be made to the Zoning Inspector. The Zoning Inspector, after determining that an application is in the proper form, shall transmit one (1) copy of the application and all supporting documents to the Secretary of the Board of Appeals for referral to the Board for action thereon, evaluating the proposed use and its relationship and conformity to the goals and objectives and policies established by the village comprehensive plan.
 - (2) The Board of Appeals shall conduct a public hearing on applications referred to it by the Zoning Inspector in accordance with the procedures and requirements established elsewhere in this chapter. Within sixty-two (62) days from the date of such public hearing, the Board of Appeals shall, by resolution, either approve or disapprove the application so heard. In approving

an application, the Board may impose only those modifications or conditions specified in this chapter to protect the health, safety or general welfare of the public.

- (3) If an application is approved by the Board of Appeals, the Zoning Inspector shall be furnished with a copy of the approving resolution of the Board, and he shall issue the permit applied for in accordance with the conditions imposed by the Board of Appeals.
- (4) If an application is disapproved by the Board of Appeals, the reasons for such denial shall be set forth in the Board's resolution, and a copy of such resolution shall be transmitted to the Zoning Inspector. The Zoning Inspector shall deny the application accordingly by providing the applicant with a copy of the Board's reasons for disapproval.
- (5) In the absence of the Zoning Inspector, application permits may be approved or denied by a member of the Village Board. [Added 2-16-84 by L.L. No. 2-1984; amended 5-16-85 by L.L. No. 3-1985]

C. Procedures for a certificate of occupancy. Following the completion of the construction, reconstruction or alteration of any building, or where a change in the use of a structure is proposed, the applicant shall transmit, by certified mail, to the Zoning Inspector a letter stating that such construction has been completed or that a new use has been proposed. Within seven (7) days of the receipt of this letter, the Inspector shall make all necessary inspections of the completed structure and proposed use to determine conformance with this chapter. A certificate of occupancy shall be issued only if the Zoning Inspector finds that the construction and proposed use comply with all the requirements and provisions of this chapter.

§ 56-11. Application details. [Amended 2-16-84 by L.L. No. 2-1984; 5-16-85 by L.L. No. 3-1985]

Each application for a zoning permit or special use permit shall be made in triplicate by the owner and with an accompanying site plan.

The materials to be submitted with each application shall clearly show the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building and the appearance and function of the proposed use or building. As a minimum, the application shall include the following information and plans for both before and after conditions:

- A. The location, use, design, dimensions and height of each use and building.
- B. The location and arrangement of vehicular accessways and the location, size and capacity of all areas used for off-street parking, loading and unloading.
- C. The location and dimensions of sidewalks, walkways and other areas established for pedestrian use.
- D. The design and treatment of open areas, buffer areas and screening devices maintained, including dimensions of all areas devoted to lawns, trees and other landscaping devices.
- E. Provisions for water supply, sewage disposal and storm drainage.
- F. Such other data and plans as the Zoning Inspector or Board of Appeals may require to properly take action on the applications.

§ 56-12. Application fees.

Each application for a permit provided for by this Article shall be accompanied by a fee in accordance with the following schedule:

- A. Fee for each zoning permit: five dollars (\$5.). [Amended 2-16-84 by L.L. No. 2-1984; 5-16-85 by L.L. No. 3-1985]
- B. Fee for each certificate of occupancy without a building permit: two dollars (\$2.).
- C. Fee for each Board of Appeals action: ten dollars (\$10.).

ARTICLE II

Definitions

§ 56-13. Words and terms defined.

- A. Word usage. For the purpose of this chapter, all words used in the present tense include the future tense, all words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the word indicates otherwise. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. The word "shall" is mandatory and directory. The word "may" is permissive. The word "used" includes "designed, intended or arranged to be used."
- B. Terms defined. The following terms are expressed within this chapter with special meaning as therein applied and no other. Any word or term not expressly defined in this Article shall have the meaning as defined in a standard dictionary.

ACCESSORY BUILDING — A subordinate building located on the same lot with the main building, occupied by or devoted to an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

ACCESSORY USE — A use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall such accessory use dominate, in area, extent or purpose, the principal use or building.

ALTERATIONS (as applied to a building or structure) — A change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

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

BUILDING AREA — The aggregate of the areas of all enclosed and roofed spaces of the principal building and all accessory buildings. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.

(Cont'd on page 5613)

BUILDING HEIGHT — The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the roof for flat roofs, to the deckline of a mansard roof and to the average height between the plate and ridge of a gable, hip or gambrel roof.

BUILDING LINE — A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or projected roof or porch, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

BUILDING, PRINCIPAL — A building or buildings in which is conducted the main or principal use of the lot on which said building is situated.

CERTIFICATE OF OCCUPANCY — A certificate issued by the Zoning Inspector upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this chapter and such adjustments thereto granted by the Board of Appeals.

CLUB, PRIVATE — A nonprofit social organization whose premises are restricted to its members and their guests.

CLUSTER DEVELOPMENT — A development of residential lots, each lot containing less area than the minimum lot area required for the district within which such development occurs, but maintaining the density limitation imposed by said minimum lot area through the provision of open space as a part of the subdivision plan.

DWELLING — A building or portion thereof used exclusively as the residence or sleeping place of one (1) or more persons.

DWELLING UNIT — One (1) or more rooms providing living facilities for one (1) family, including equipment for

cooking, living and sleeping purposes and provisions for the same.

DWELLING, ONE-FAMILY — A building or dwelling unit designed for or occupied exclusively by one (1) or more persons living as a single, nonprofit housekeeping unit.

DWELLING, TWO-FAMILY — A building containing two (2) dwelling units and used exclusively for occupancy by two (2) families living independently of each other or two (2) one-family dwellings having a party wall in common.

DWELLING, MULTIFAMILY — A building or portion thereof containing three (3) or more dwelling units and used for occupancy by three (3) or more families living independently of each other.

DWELLING, ROW — A row of attached or semi-detached one-family dwellings or two-family dwellings containing a total of three (3) or more dwelling units, or a building in such a row.

DWELLING, DETACHED — A dwelling having no party wall in common with another building.

FAMILY — One (1) or more persons related by birth, marriage or other domestic bond occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

FENCE — An artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials erected for the enclosure of yard areas.

FLOOR AREA TOTAL — The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or for the conduct of business. Said areas shall be measured between the inside faces of exterior walls, or from the center line of walls separating two (2) uses. Said areas shall not include areas below the average level of the adjoining ground, garage space or accessory building space.

FRONTAGE — The distance by which any lot abuts the public right-of-way. Corner or through lots shall have only one (1) such line so designated.

GARAGE, PRIVATE — A secondary building used in conjunction with a primary building which provides for the storage of motor vehicles and in which no occupation, business or services for profit are carried on.

GARAGE, PUBLIC — Any garage, other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, servicing or equipping of automobiles or other motor vehicles.

HOME OCCUPATION — Any occupation carried on as a subordinate use by a member of the family residing on the premises of a residential lot.

HOME PROFESSIONAL OCCUPATION — The office of a member of recognized profession when conducted on residential property. Such occupations shall include but not be limited to those of doctors, lawyers, architects, engineers, artists, ministers and other recognized professional persons. The professional occupant need not own the premises or reside on the premises. [Amended 2-20-86 by L.L. No. 3-1986]

JUNKYARD — An area, lot or unenclosed shed where junk, waste or discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned, including auto wrecking or dismantling yards, house wrecking yards, used lumber-yards and places or yards for use of salvaged house wrecking and structural steel materials and equipment, but not including pawn shops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing, for the processing of used, discarded or salvaged materials as part of manufacturing operations, or for the sale, purchase or storage of used motor vehicles or salvaged machinery to be reused for the purposes for which originally manufactured.

KENNEL — Any premises on which four (4) or more dogs over six (6) months of age are kept.

LOT — A parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use and the customary accessories and open spaces belong to the same. A lot, within the meaning of this chapter, may or may not be a lot as shown on a subdivision plat or assessment record.

LOT AREA — An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public street right-of-way shall not be included in calculating lot areas.

LOT, CORNER — A parcel of land at the junction of and fronting on two (2) or more intersecting streets.

LOT DEPTH — The horizontal distance between the front and rear lot lines, measured at right angles to the front lot line.

LOT, INTERIOR — A lot other than a corner lot.

LOT LINES — The property lines bounding the lot. In the case of a lot abutting on more than one (1) street, the owner may elect any street lot line the front lot line. The rear line shall be the lot line most distant from the front lot line.

LOT, THROUGH — An interior lot having frontage on two (2) parallel or approximately parallel streets.

LOT WIDTH — The horizontal distance between the side lot lines measured at right angles to its depth at the building line.

NONCONFORMING BUILDING — A building which in its design or location upon a lot does not conform to the regulation of this chapter for the district in which it is located.

NONCONFORMING LOT — A lot of record existing at the date of the passage of this chapter which does not have the minimum width or does not contain the minimum area for the district in which it is located.

NONCONFORMING USE — Any use of any building, structure or land existing at the time of enactment of this chapter which does not conform to the use regulations of the district in which it is situated.

PLANNING BOARD — The Village of Arkport Planning Board.

PLAT — A map, plan or layout of a city, town, section or subdivision indicating the location and boundaries of individual properties.

PRINCIPAL USE — The main use to which a building or lot is to be used.

RESTAURANT — Any establishment, however designated, at which food is sold for consumption on the premises to patrons seated within an enclosed building or elsewhere on the premises.

RIGHT-OF-WAY — The line determining the street or highway public limit or ownership.

SERVICE STATION — Any building, structure or land used primarily for the dispersing, sale or offering for sale of automotive fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories, but not including major repair work such as motor replacement or rebuilding, body and fender repair or painting.

SIGN, ON-PREMISE ADVERTISING — Any advertising display on which is shown the products sold, the name of the enterprise located on that lot or parcel of land or any other wording which reflects directly upon any on-site business or other usage thereof.

SIGNBOARD, BILLBOARD, OFF-PREMISE ADVERTISING — Any advertising display on which is shown any advertisement for products or business other than which are sold or have occupancy on that lot or parcel of land.

SIGN AREA — The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign,

the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines the said sign.

SITE PLAN — A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

STREET — A public or private thoroughfare which affords the principal means of access to abutting property.

STREET LINE — That line determining the limit of the highway rights of the public, either existing or contemplated. See "right-of-way."

STRUCTURE — Anything constructed or erected which requires permanent location on the ground or attachment to something having such location.

STRUCTURAL ALTERATIONS — Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders and including exit facilities.

SWIMMING POOL, PRIVATE — A swimming pool operated as an accessory use to a residential dwelling unit or units and located on an individual residential lot.

SWIMMING POOL, PUBLIC — A publicly or privately owned pool open to the general public or on a membership basis and having appropriate dressing room facilities, recreation facilities and off-street parking area.

TEMPORARY USE — An activity conducted for a specific limited period of time which may not otherwise be permitted by the provisions of this chapter. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work.

TRUE VALUE — That dollar amount derived from the assessed value, shown on the tax card and divided by the state equalization rate as shown in the sample below:

**Assessed Value and Equaliza-
tion Rate equals True Value.
\$12,200 or 60% equals \$20,000.**

USE — The specific purposes for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

YARD, FRONT — An open space extending the full width of the lot between a main building and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward, the depth of which shall be the least distance between the front lot line and the front of such main building.

YARD, OPEN AREA — The open unobstructed portion of a residential corner lot area located between the rearmost portion of the structure and the rear and/or side lot lines.

YARD, REAR — An open space extending the full width of a lot between the rearmost main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward, except as hereinafter specified, the depth of which shall be the least distance between the rear lot line and the rear of such main building.

YARD, SIDE — An open space extending from the front yard to the rear yard between any building and the side lot line, unoccupied and unobstructed by buildings or structures from the ground upward. The required width of a side yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of any building.

YARD, SIDE FRONT — That area of a corner lot, other than the front yard, facing the intersecting street.

ZONING BOARD — The officially established Board of Appeals of the Village of Arkport.

ZONING PERMIT — A permit issued by the Zoning Inspector stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this chapter for the zone in which it is located or is to be located.

ARTICLE III
Provisions and Modifications

§ 56-14. Applicability of regulations.

No building shall hereafter be erected and no existing building shall be moved, structurally altered, rebuilt, added to or enlarged nor shall any land be used for any purpose other than those included among the uses listed as permitted uses in each district by this chapter and meeting the requirements set forth in the schedule, nor shall any open space contiguous to any building be encroached upon or reduced in any manner, except in conformity to the area and bulk requirements, off-street parking requirements and all other regulations designated in the Schedule² and this chapter for the district in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building or use shall be deemed to be in violation of this chapter, and the certificate of occupancy shall become void.

§ 56-15. Preservation of natural features.

- A. No structure shall be built within fifty (50) feet of the bed of a stream carrying water on an average of six (6) months of the year or on land subject to periodic overflow.
- B. No persons, firm or corporation shall strip, excavate or otherwise remove topsoil for sale or other use other than on the premises from which taken, except in connection with the construction or alteration of a building on such premises and excavating or grading incidental thereto, except as hereinafter specified.
- C. Existing natural features such as trees, brooks, drainage channels and views shall be retained. Whenever such features interfere with the proposed use of such property, a retention of the maximum amount of such features consistent with the use of all property shall be required.

² Editor's Note: The Schedule of Village of Arkport Zoning Ordinance is included at the end of this chapter.

§ 56-16. Regulations applicable to all zones.

- A. No lot shall be occupied by more than one (1) principal use.
- B. No yard or other open space provided about any building for the purposes of complying with the provisions of this chapter shall be considered to provide a yard or open space for any other building.
- C. An accessory building attached to a principal building shall comply in all respects with the yard requirements of this chapter for the principal building. Detached accessory buildings shall be located to the rear of the front building line of the principal building, and if located in a side yard area, shall conform to side yard requirements of this chapter.
- D. Every principal building shall be built upon a lot frontage upon a public street improved to meet the village's requirements.
- E. No structure may be erected and no plant foliage may be permitted or maintained between heights of one and one-half (1½) feet and ten (10) feet above ground level in the triangle formed by intersecting streets and a line joining points on such street lines twenty-five (25) feet distant from their point of intersection.
- F. Where a building lot has frontage on a street which is proposed for right-of-way widening, the required front yard area shall be measured from such proposed right-of-way lines.
- G. All yards, open space, off-street parking and required landscaping must be contained within the district in which the use is permitted.
- H. When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision must be carried out in such a manner as will not infringe upon any of the provisions of this chapter either with respect to any existing structures or use and any proposed structures or use.

- I. The limitations on signs as set forth for the various districts by this chapter shall not apply to any sign or directional device erected by the federal, state, county or local government or agency thereof.
- J. The permitted accessory uses in any district shall not include any use first specified in a less restricted district. In the interpretation of this provision an I District shall be considered the least restricted and an R District, the most restricted.

§ 56-17. Residential provisions.

- A. In any R District the permitted uses shall not include any use which is noxious or offensive by reason of refuse, matter, dust, odor, smoke, gas, fumes, noise, vibration, unreasonable use of lights or nighttime operation.
- changed* B. No accessory structure shall be located within ten (10) feet of a principal building or other accessory building.
- C. No front yard shall be used for the open storage of boats, camping trailers, utility trailers, motorized camping vans or similar vehicles.
- D. Not more than one (1) commercial vehicle shall be parked out-of-doors overnight or on Sunday in conjunction with a residential property in a residential district. No vehicles for commercial display purposes shall be stored in any R District at any time.
- E. No accessory building shall be erected in any yard, except that accessory buildings may occupy in the aggregate not more than twenty-five percent (25%) of a rear yard or open yard area.

§ 56-18. Business and industrial provisions.

- A. The limitations on sign area as set forth by this chapter for the business and industrial districts shall not apply to parking lot markers, directional signs, entrance and exit signs and other such signs which are erected on the

premises, provided that such signs do not exceed two (2) square feet in area on any one (1) side and do not contain any advertising of the use on the premises.

- B. Enclosure required. Certain uses specified in the list of permitted uses as being subject to one (1) or more provisions of this section are hereby restricted as follows:
- (1) The principal use shall be conducted only within a completely enclosed building unless specifically permitted otherwise.
 - (2) Such building shall have no openings other than stationary windows or self-closing fire exit doors required by law within fifty (50) feet of the nearest property line of a lot in any R-1A or R-1B District.
- C. Business structures or uses shall not display goods for sale purposes or coin-operated vending machines of any type in any location which would infringe upon the required yard areas specified in this chapter.
- D. No business use shall occupy any part of the lot within fifty (50) feet of any R District.
- E. No industrial manufacturing use shall occupy any part of any lot within one hundred (100) feet of the property lines.
- F. Each lot served by both a well and a septic system shall contain at least one (1) acre of area per family or use.
- G. Each lot served by either a well or a septic system and the other service by public facility shall have at least twenty thousand (20,000) feet of area per family or use.
- H. Each lot served by public sewer and water shall have at least the minimum lot size specified for its district, as shown on the Schedule.³

§ 56-19. Special provisions for yards.

- A. Front yard transition. Where the frontage on one (1) side of a street is zoned partly R-1A or R-1B and partly B or I, the

³ Editor's Note: The Schedule of Village of Arkport Zoning Ordinance is included at the end of this chapter.

front yard depth in the B or I District in such block shall be equal to the required front yard depth of the R-1A or R-1B District for a distance of fifty (50) feet into the B or I District.

- B. Side and rear yard transition. Where a lot in a B or I District abuts a lot in an R-1A or R-1B District, there shall be provided along such abutting lines a yard equal in width or depth to that required in said R-1A or R-1B Districts.
- C. Corner lot transition. On every corner lot in any R District there shall be provided a side front yard equal in depth to the required front yard depth in that district. On such corner lots where depth setbacks are required, the rear yard distance may be waived so long as at least two (2) side yard distances and an open yard area in other than a front yard are provided as stipulated in the Schedule.⁴
- D. Row dwelling. A row dwelling shall be located on a lot or on a number of adjoining lots running through from street to street or abutting for the full length of the rear lot line on an alley or other permanent public way at least twenty (20) feet wide. Such secondary public access shall not be required in case the combined structure does not exceed two hundred (200) feet in length or the distance between permanent openings at least eight (8) feet wide and eight (8) feet high connecting front and rear yards at ground level does not exceed two hundred (200) feet and the land is located in any district permitting this use.

§ 56-20. Height modifications.

- A. The height limitations of this chapter shall not apply to belfries, bulkheads, chimneys, church spires, cupolas, domes, skylights, ventilators, water tanks and other necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are required to serve and shall not occupy in the

⁴ Editor's Note: The Schedule of Village of Arkport Zoning Ordinance is included at the end of this chapter.

aggregate more than twenty-five percent (25%) of the roof area of the main building.

- B. Height and open space. In any district any principal building may be erected to a height in excess of that specified for the district, provided that such front, side and rear yard is increased one (1) foot for each foot of such additional height.

§ 56-21. Yard modifications.

- A. Projections into required yards shall comply with § 56-21A(4) below.

- (1) Balconies and bay windows limited in total length to one-half ($\frac{1}{2}$) the length of the building wall and one-story unenclosed porches may project into any yard.
- (2) Chimneys, ornamental features, pilasters and roofs may extend not more than thirty (30) inches into any required yard.
- (3) Fire escapes may extend not more than four (4) feet into any required side yard and not more than six (6) feet into any required rear yard.
- (4) Limitation on projections. Notwithstanding any other provisions of this section, no projection shall extend into any required yard more than one fourth ($\frac{1}{4}$) of the required width or depth of such yard or within ten (10) feet of any accessory building.

- B. Front yards. In such cases in residential zones where the frontage on the same side of the street within five hundred (500) feet is fifty percent (50%) or more developed, then the required front yard for a new structure may be modified to the average for such existing development. Otherwise, the requirements of the Schedule³ shall apply.

- C. Side yards.

- (1) In the case of lots which comply with the provisions for modification of § 56-20, combined total side yard

³ Editor's Note: The Schedule of Village of Arkport Zoning Ordinance is included at the end of this chapter.

requirements, as specified in the Schedule⁴ shall be reduced by six (6) inches for each foot by which a lot is less than the minimum lot width requirement specified in the Schedule for the district in which located. In any case, the side yard width shall be reduced to no less than fifty percent (50%) of the requirement of the Schedule.

- (2) When side yards may be varied. Where the side wall of a building is not parallel with the side lot line, the average width of the side yard may be interpreted as the side yard width, provided that at no point is the actual side yard width less than five (5) feet.

§ 56-22. Modification of lot requirements.

Any parcel of land with an area or width less than that prescribed for a lot in the district in which such lot is located, which parcel was under one (1) ownership at the date of the adoption of this chapter and the owner thereof owns no adjoining land, may be used as a lot for any purpose permitted in that district, provided that no structure be constructed closer than ten (10) feet to the closest lot line, and further provided that all other regulations prescribed for the district by this chapter are complied with.

**ARTICLE IV
Nonconformance**

§ 56-23. Continuance.

- A. Except as otherwise provided in this chapter, the lawful use of land or buildings existing at the date of the adoption of this chapter may be continued although such use or building does not conform to the regulations specified by this chapter for the district in which such land or building is located; provided, however, that:

⁴ Editor's Note: The Schedule of Village of Arkport Zoning Ordinance is included at the end of this chapter.

- (1) No nonconforming lot shall be further reduced in size.
- (2) No nonconforming building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of nonconformance.
- (3) No nonconforming lot shall be further reduced in size.

B. Whenever the boundaries of a district shall be changed so as to transfer an area from one (1) district to another district of a different classification, or whenever the text of this chapter shall be changed with respect to the uses permitted in a district, the foregoing provisions shall also apply to any nonconforming uses existing therein.

§ 56-24. Discontinuance.

In any district, whenever a nonconforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of one (1) year, such nonconforming use shall not thereafter be reestablished, and all future uses shall be in conformity with the provisions of this chapter. Such discontinuance of the active and continuous operation of such nonconforming use, or a part or portion thereof, for such period of one (1) year, is hereby construed and considered to be an abandonment of such nonconforming use, regardless of any reservation of an intent not to abandon the same or of an intent to resume active operations. If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment and other evidences of such nonconforming uses of the land and premises, the abandonment shall be construed and considered to be completed and all rights to reestablish or continue such nonconforming use shall thereupon terminate. If failure to resume operations is involuntary, such as death or act of God such as storm damage (tornado, hurricane, flood, etc.), reestablishment shall be within a reasonable time as determined by the Village Board. [Amended 1-19-84 by L.L. No. 1-1984; 5-16-85 by L.L. No. 3-1985]

§ 56-25. Amortizement.

Notwithstanding any other provisions of this chapter, any automobile wrecking yard or other junkyard and any billboard, advertising structure or nonconforming sign in existence in any R District at the date of enactment of this chapter shall, at the expiration of three (3) years from such date, become prohibited and unlawful uses and shall be discontinued; provided, however, that lawfully existing signs accessory to a nonconforming business or industrial building shall not be subject to the provisions of this section.

§ 56-26. Nonconforming buildings.

- A. No building damaged by fire or other causes to the extent of more than seventy-five percent (75%) of its true value shall be repaired or rebuilt except in conformity with the regulations of this chapter.
- B. A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost fifty percent (50%) of the true value of the building unless said building is changed to conform to the requirements of this chapter.
- C. Unsafe structures. Any structure or portion thereof declared unsafe by a proper authority, but not ordered to be demolished, may be restored to a safe condition.
- D. Any building which is nonconforming due to insufficient yard distances or lot area shall not be considered a nonconforming use. Any alterations or structural changes may be accomplished within the existing frame of said building, but any additions shall conform to the specific setback and yard distance requirements of this chapter.

§ 56-27. Nonconforming uses.

- A. A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming

building which existed prior to the enactment of this chapter shall not be deemed the extension of such conforming use.

- B. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of the same

(Cont'd on page 5629)

classification upon approval of the Board of Appeals, or to a use of more restricted classification, and when so changed to a more restricted classification, such use thereafter shall not be changed to a less restricted classification.

ARTICLE V

Board of Appeals

§ 56-28. Creation, appointment and organization.

The Village Board of Trustees shall appoint a Zoning Board of Appeals consisting of five (5) members. The terms of office of all members of the Board of Appeals shall be three (3) years. Vacancies occurring in such Board by expiration of term, or otherwise, shall be filled by appointment by the Board of Trustees. The Board of Appeals shall elect a chairman from its members, shall appoint a secretary and shall prescribe rules for the conduct of its affairs.

§ 56-29. Powers and duties.

The Board of Appeals shall have all the powers and duties prescribed by the Village Law of the State of New York and by this chapter, which are more particularly specified as follows:

- A. Interpretation. Upon appeal from a decision by an administrative official, the Board has the power to decide any question involving the interpretation of any provision of this chapter, including determination of exact location of any district boundary if there is uncertainty with respect thereto.
- B. Special and temporary use permits. The Board shall hear and decide upon applications for such permits as specified in this chapter.
- C. Variances.
 - (1) The Board shall have the power to vary or adopt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow,

shallow or steep lots or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. No variance in the strict application of this chapter shall be granted by the Board of Appeals unless it finds that each of the following facts and conditions exist:

- (a) That there are special circumstances or conditions fully described in the findings of the Board applying to such land or buildings and not applying generally to land or buildings in the neighborhood and that said circumstances or conditions are such that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or buildings.
 - (b) That, for reasons fully set forth in the findings of the Board, the granting of the variance is necessary for the reasonable use of the land or building and that the variance, as granted by the Board, is the minimum variance that will accomplish this purpose.
 - (c) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (2) In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

§ 56-30. Procedure.

The Board of Appeals shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board and available from the Zoning Inspector. Every appeal or application shall refer to the specific provision of

the chapter involved and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. At least thirty (30) days before the date of the hearing on an application to appeal to the Board of Appeals, the Secretary of said Board shall transmit to the Planning Board a copy of the notice of the foresaid hearing and shall request that the Planning Board submit to the Board of Appeals its opinion on said application or appeal, and the Planning Board shall submit a report of such advisory opinion prior to the date of said hearing. Failure to submit such report shall constitute approval of said application or appeal by the Planning Board. Final action shall be completed by the Board of Appeals within sixty-two (62) days after the public hearing.

§ 56-31. Notice of Board hearings.

The Board shall fix a reasonable time for the hearing of appeals and shall give due notice of the time set for the hearing to the applicant. Such notice shall be served upon the applicant. Public notice shall be by the publication of a notice in the official newspaper of the village and shall briefly describe the nature of the appeal and the time and place of the hearing. The applicant shall, at least seven (7) days prior to the date of the hearing, give notice, in writing, by certified mail or by service in person, with adequate proof of contact thereof, to all property owners within two hundred (200) feet of the property to be affected by said appeal or to all property owners of contiguous land or properties adjoining said property to be affected, and to other interested property owners as may be designated by the Board of Appeals. The applicant must furnish proof of services in writing and properly notarized.

§ 56-32. Board of Appeals office.

The office of the Village Clerk shall be the office of the Board of Appeals, and every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the

Board shall immediately be filed in said office as required by the Village Law of the State of New York.

ARTICLE VI Districts

§ 56-33. Establishment.

For the purpose of promoting the public health, safety, morals and general welfare of the Village of Arkport, the village is hereby divided into the following types of districts:

- R-1A, Single-Family Residence District
- R-1B, Single-Family Residence District
- R-3, Multifamily Residence District
- B-1, Local Shopping District
- B-2, Shopping Center District
- B-3, Central Business District
- I-1, Limited Industrial District
- I-2, General Industrial District
- Ag., Agricultural District

§ 56-34. Zoning Map.

Said districts are bounded as shown on a map entitled "Zoning Map of the Village of Arkport," adopted 10/18/72 and certified by the Village Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter.⁷

§ 56-35. Interpretation of district boundaries.

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.

⁷ Editor's Note: The Zoning Map is on file in the village offices.

- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. 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.⁸ If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.
- E. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the village unless otherwise indicated.

§ 56-36. Regulations.

- A. Except as herein provided, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. No building shall hereafter be erected or altered in any of the following ways:
 - (1) To exceed the height.
 - (2) To accommodate or house a greater number of families.
 - (3) To occupy a greater percentage of lot area.
 - (4) To have narrower or smaller rear yards, front yards or side yards than specified herein for the district in which such building is located.

⁸ Editor's Note: The Zoning Map is on file in the village offices.

- C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

ARTICLE VII
District Regulations

§ 56-37. R-1A, Family Residence District. [Amended 2-26-79 by L.L. No. 1-1979]

A. Permitted principal uses.

- (1) Single-family and two-family residences.
- (2) Churches or similar places of worship, parish houses and convents.
- (3) Public parks, playgrounds and recreational areas operated by the village.
- (4) Public and private schools.
- (5) Residential care for the elderly. [Added 1-16-86 by L.L. No. 1-1986]
- (6) Day-care home. [Added 4-17-86 by L.L. No. 4-1986]

B. Permitted accessory uses.

- (1) Private garages.
- (2) Home occupations.
- (3) Customary residential storage structures.
- (4) Domestic pet shelters.
- (5) Private swimming pools.

C. Uses permitted with a special use permit.

- (1) Public utilities.
- (2) Semipublic swimming pools and recreation areas used in conjunction with residential developments.
- (3) Home professional occupations. [Added 2-20-86 by L.L. No. 3-1986]

D. Prohibited uses. [Added 4-4-83 by L.L. No. 2-1983; amended 5-16-85 by L.L. No. 3-1985]

(1) Mobile homes.

E. Provisions and requirements are any applicable provisions or requirements of Article III, Article VIII and the Schedule, or as otherwise set forth and provided for in this chapter. [Amended 4-4-83 by L.L. No. 2-1983; 5-16-85 by L.L. No. 3-1985]

§ 56-38. R-1B, Family Residence District. [Amended 2-26-79 by L.L. No. 1-1979]

A. Permitted principal uses.

- (1) Any principal use first permitted in § 56-37A, R-1A District.
- (2) Mobile homes.

B. Permitted accessory uses are any accessory uses first permitted in § 56-37B, R-1A District.

C. Uses permitted with a special use permit are any special uses permitted in § 56-37C, R-1A District.

D. Provisions and requirements are any applicable provisions or requirements of Article III, Article VIII and the Schedule, or as otherwise set forth and provided for in this chapter.

§ 56-39. R-3, Multifamily Residence District.

A. Permitted principal uses are any principal uses permitted in § 56-38A, R-1B District.

B. Permitted accessory uses are any accessory uses permitted and regulated in § 56-38B, R-1B District.

C. Uses permitted with a special use permit.

- (1) Public utilities.
- (2) Private clubs, lodges and meeting places.
- (3) Funeral homes or mortuaries.
- (4) Multifamily residence structures, per § 56-51.
- (5) Professional office buildings located on state or federal highways.
- (6) Mobile home parks, according to the requirements of § 56-52.

D. Provisions and requirements are any applicable provisions or requirements of Article III, Article VIII and the Schedule, or as otherwise set forth and provided for in this chapter.

§ 56-40. Local Shopping District.

A. Permitted principal uses.

- (1) Any nonresidential use of the R Districts.
- (2) Retail business only in stores not over one thousand two hundred (1,200) square feet in area and excluding any and all productions.
- (3) Uses such as but not limited to:
 - (a) Bookstore.
 - (b) Drugstore.
 - (c) Flower shop.
 - (d) Food store.
 - (e) Newsstand.
 - (f) Notion store.
 - (g) Restaurant, excluding drive-ins.
 - (h) Tobacco store.
 - (i) Variety store.
 - (j) Local service establishments dealing directly with consumer only.
 - (k) Barbershop.
 - (l) Beauty shop.
- (4) No outdoor sales or outdoor display of any product shall be permitted in the B-1 District.

B. Permitted accessory uses are dwelling units accessory to the principal business use, provided that said units:

- (1) Are located in the principal building.
- (2) Comply with the area and yard requirements of the R-3 District, except side yard requirements, which shall be waived when the dwelling unit is above the first floor and the first floor is used commercially.

- C. Uses permitted with a special use permit are public utilities.
- D. Provisions and requirements are any applicable provisions or requirements of Article III, Article VIII and the Schedule, or as otherwise set forth and provided for in this chapter.

§ 56-41. B-2, Shopping Center District.

A building or lot in this district shall be used only for the following uses and under the following requirements.

A. Permitted principal uses.

- (1) Any use permitted in the B-1 District and as hereinafter regulated.
- (2) The following retail uses:
 - (a) Appliance store.
 - (b) Auto supplies and accessories.
 - (c) Bank.
 - (d) Camera shop.
 - (e) Dry goods store.
 - (f) Furniture store.
 - (g) Fruit market.
 - (h) Hardware store.
 - (i) Ice cream shop.
 - (j) Jewelry store.
 - (k) Music store, bank.
 - (l) Optical store.
 - (m) Paint store.
 - (n) Savings and loan.
 - (o) Sporting goods store.

- (p) Wearing apparel store.
- (q) Shoe repair shop.
- (r) Indoor theater or assembly hall.
- (s) Self service laundry and dry cleaning.
- (t) Frozen food locker.
- (3) The following uses with conditions:
 - (a) Bar, provided there is no live entertainment and dancing conducted on the premises, and further provided, that the principal building shall be located not less than fifty (50) feet from any lot in any R District.
 - (b) Drive-in restaurants, provided that no such use is located within one hundred fifty (150) feet to any R District.

B. Uses permitted with a special use permit.

- (1) Service stations, according to the requirements of § 56-49.
- (2) Public utilities.

C. Provisions and requirements are any applicable provisions or requirements of Article III, Article VIII and the Schedule, or as otherwise set forth and provided for in this chapter.

§ 56-42. B-3, Central Business District.

A. Permitted principal uses.

- (1) Any use permitted in the B-2 District, as hereinafter regulated.
- (2) The following uses, in addition:
 - (a) Residential uses above the ground floor.
 - (b) Wholesale distributors.
 - (c) Warehousing.

- (d) **Manufacture of items for on-site retail sale only.**
 - (e) **New and used automotive sales with a normal service department as an accessory use.**
 - (f) **Service stations. [Added 2-16-84 by L.L. No. 2-1984; amended 5-16-85 by L.L. No. 3-1985]**
 - (g) **Automotive repair. [Added 2-16-84 by L.L. No. 2-1984; amended 5-16-85 by L.L. No. 3-1985]**
- B. Uses permitted with a special use permit.**
- (1) **Utilities.¹**
- C. Provisions and requirements are any applicable provisions or requirements of Article III, Article VIII and the Schedule, or as otherwise set forth and provided for in this chapter.**

§ 56-43. I-1, Limited Industrial District.

The purpose of this I-1 District is to provide use of industrially zoned land of a very limited nature whereby manufacturing and assembly production is permitted which has no vibration, smoke, dust, off-premises safety hazard or similar characteristics which are discernible to the human senses. Very low noise levels and traffic generation shall be permitted so long as they are not obnoxious on neighboring lands. These uses are such as but not limited to the uses set down below.

- A. Uses permitted with a special use permit.**
- (1) **Manufacturing, compounding, processing, packaging, treatment or assembly of the following materials or products when conducted within an enclosed building.**
 - (2) **Products from previously prepared materials such as cellophane, canvas, cloth, feathers, felt, fiber, fiberglass, leather, paper, plastics, textiles or wood (excluding lumber mills).**

¹ Editor's Note: Former Subsections B(2) and (3), which listed service stations and automotive repair as special permit uses and which immediately followed this subsection, were repealed 2-16-84 by L.L. No. 2-1984 and 5-16-85 by L.L. No. 3-1985.

- (3) Research, experimental and testing laboratories.
- (4) Offices of business, manufacturing or professional enterprises.
- B. Provisions and requirements are any applicable provisions or requirements of Article III, Article VIII and the Schedule, or as otherwise set forth and provided for in this chapter.

§ 56-44. I-2, General Industrial District.

The purpose of this I-2 District is to provide use of industrially zoned land wherein manufacturing and assembly processing can be accomplished to the benefit of both the industry and the village. The uses set forth below form a guide in the types of usage permitted in this I-2 District.

- A. Permitted principal uses are any uses set forth as special permit uses in § 52-41, I-1 District and the following as special permits:
 - (1) Machine shops.
 - (2) Sheet metal fabrication.
 - (3) Contractor's equipment storage and yards.
 - (4) Agricultural feed mill.
 - (5) Coal and fuel yards.
 - (6) Lumber and mill work.
 - (7) Food processing.
 - (8) Heating and air-conditioning manufacture.
 - (9) Trucking and transfer terminals.
 - (10) General assembly.
 - (11) Chemical compound blending and packaging.
 - (12) Electronic appliances, instruments and devices.

(13) Stone and monument products.

(14) Nut, screw and bolt manufacture.

- C. Provisions and requirements are any applicable provisions or requirements of Article III, Article VIII and the Schedule, or as otherwise set forth and provided for in this chapter.

(Cont'd on page 5641)

§ 56-45. Ag., Agricultural District.**A. Permitted principal uses.**

- (1) Single-family residences:
 - (a) As farm dwellings, as a part of such farms.
 - (b) As nonfarm dwellings, so long as not more than four (4) new lots are created under the regulations of a minor subdivision and the regulations of the R-1 District are met.
- (2) Agriculture and general farming, including any customary agricultural structures or buildings, nurseries and greenhouses, provided that the land area of such use is at least ten (10) acres and the use thereof is intended for an agriculturally profitable use.
- (3) Single-family mobile homes.
- (4) Places of worship, convents, cemeteries and other such facilities of recognized religious groups.
- (5) Municipal parks, playgrounds and related buildings.
- (6) Home occupations.
- (7) Home professional occupations.
- (8) Schools.

B. Permitted accessory uses.

- (1) Private automobile garages.
- (2) Customary residential storage structures.
- (3) Domestic pet shelters.
- (4) Private swimming pools.
- (5) Any customary farm building.

C. Uses permitted with a special use permit.

- (1) Public utilities.
- (2) Recreation areas.

- D. Provisions and requirements are any applicable provisions or requirements of Article III, Article VIII and the Schedule, or as otherwise set forth and provided for in this chapter.

ARTICLE VIII Special Classifications

§ 56-46. Prohibited uses.

- A. Manufacture of explosives.
- B. Manufacture of poisonous gases.
- C. All types of illumination which are not shaded or concealed so that the light will not interfere with the vision of motor vehicle operators or shine directly on residential property in any R District, or illumination which flashes, moves or simulates movement.
- D. Any temporary building or structure in any R District except those structures incidental to permitted construction projects. Any temporary building so used must be removed within thirty (30) days after the construction project is completed.
- E. No fence, trees or foliage shall be maintained on a corner lot that will materially obstruct the view of a driver of a vehicle approaching the street intersection.
- F. Access to or from any B or I District through any private land of any R District.
- G. Access to or from any R-3 District through any private land of any R-1A or R-1B District.
- H. No barbed wire fencing shall be permitted within six (6) feet of grade level except for agricultural purposes.
- I. Any use of any buildings or premises in such a manner that the health, morals, safety or welfare of the community may be endangered.
- J. Any use which emits excessive and objectionable amounts of dust, fumes, noise, odor, smoke, vibrations, glare or waste products.

- K. Junkyards, automobile wrecking or disassembly yards, the sorting or bailing of scrap metal, paper, rags or other scrap or waste material.
- L. Residential structures without permanent foundations or without permanent connection to utilities.
- M. All billboards, signboards, advertising signs or devices not expressly related to the business conducted on the premises or otherwise specifically permitted by this chapter.
- N. Kennels.

§ 56-47. Fencing requirements.

A. Adherence to requirements. Any fence erected in the village shall adhere to the following requirements:

- (1) Before a fence shall be erected, a building permit must be obtained from the Building Inspector. A request for a permit shall be accompanied by a site plan which shall show the height and location of the fence in relation to all other structures and buildings and in relation to all streets, lot property lines and yards.
- (2) A wall or fence not over one and one-half (1½) feet high may be erected within the limits of any front yard or side front yard. In any other yard a wall or fence not over seven (7) feet high may be erected; provided, however, that a fence, wall or similar structure unduly shutting out light or air or which may cause a nuisance, a fire hazard or a dangerous condition, is prohibited.

B. Exceptions.

- (1) These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.
- (2) These restrictions shall not be applied so as to restrict the erection, alteration or reconstruction of fences used in connection with farms, except insofar as such fences might affect the public safety.

§ 56-48. Swimming pool requirements.

No private swimming pool shall be allowed in any R District except as an accessory use and unless it complies with the following conditions and requirements:

- A. The pool shall be intended and used primarily for the enjoyment of the occupants of the principal use of the property on which it is located.
- B. It may not be located closer than ten (10) feet to any lot line of the property on which it is located or in any front or side front yard.
- C. The swimming pool, when enclosed within a structure and such structure is attached to the principal building, shall be a part of such principal structure and must, therefore, comply with the requirements of a principal structure.
- D. The swimming pool, either open or enclosed and not attached to the principal structure, shall be considered an accessory structure and as such shall comply with the requirements of an accessory structure. All facilities and fencing serving the swimming pool shall be a part thereof.
- E. All in-ground swimming pools or aboveground pools less than four (4) feet high shall be enclosed either within a building or within a nonclimbing, fenced enclosure at least four (4) feet high but not over ten (10) feet high. Such fence shall be equipped and maintained with self-closing, latching gates of a height equal to that of the fence. [Amended 3-15-78 by L.L. No. 1-1978]
- F. There shall be a sufficient source of water supply to accommodate such pool without detriment to normal water consumption requirements, and all proposed water supply connections shall be proper and adequate.
- G. The proposed drainage of such pool shall be adequate and shall not interfere with the existing sewage and drainage facilities and with the property of others or with public highways.

§ 56-49. Service station requirements.

Motor vehicle service stations may be permitted in the B-3 District of the village, provided that the following standards are observed:

- A. In addition to the information required in the special permit application and enumerated in § 56-10B of this chapter, the site plan submitted shall also show the number and location of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth the tanks will be placed below the ground, the number and location of pumps to be installed and the type of structure and accessory buildings to be constructed.
- B. The lot and yard specifications shall be as stipulated in the Schedule.⁹ All garage and filling station pumps and lubricating or other automobile service devices shall be located at least twenty (20) feet from any street line or highway right-of-way. All fuel, oil or other flammable substances shall be stored at least twenty (20) feet distant from any street or lot line.
- C. The entire area of the site traveled by motor vehicles shall be hard-surfaced.
- D. Any repair of motor vehicles shall be performed in a fully enclosed building, and no motor vehicle shall be offered for sale on the site. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed building.
- E. No vehicles shall be permitted to be standing or parked on the premises of a motor vehicle service station other than those used by the employees in the indirect or direct operation of the establishment or customer's automobiles being serviced.
- F. Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products may be

⁹ Editor's Note: The Schedule of Village of Arkport Zoning Ordinance is included at the end of this chapter.

displayed on the respective island if provided for in a suitable stand or rack.

- G. No motor vehicle service station or public garage shall be located within two hundred (200) feet of any public entrance to a church, school, library, hospital, charitable institution or place of public assembly. Such distance shall be measured in a straight line from said public entrance to the lot line nearest said entrance along the street line.
- H. Where such service stations abut a residential zone, they shall be screened by a buffer area no less than ten (10) feet in depth composed of densely planted evergreen shrubbery, solid fencing or a combination of both which, in the opinion of the Board of Appeals, will be adequate to prevent the transmission of headlight glare across the boundary line. Such buffer screen shall have a minimum height of six (6) feet above finished grade at the highest point of the parking area. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery becomes decayed and fails to provide an adequate screen, the Zoning Inspector may direct the property owner to replace said shrubs.

§ 56-50. Cluster residential developments.

- A. Cluster residential developments of single-family dwellings may be permitted with a special use permit in any R District of the village, provided that the following conditions and requirements are observed:
- (1) The project shall encompass a minimum land area of ten (10) acres.
 - (2) The lot area difference between the minimum lot size shown on the Schedule¹⁰ and the minimum lot size permitted in a cluster development shall be set aside as open space as provided for hereinafter.

¹⁰ Editor's Note: The Schedule of Village of Arkport Zoning Ordinance is included at the end of this chapter.

- (3) The developer shall show all unsubdivided lands as permanent open space. In no case shall such lands be less than twenty-five percent (25%) of the total project area. All such lands shall be suitable, in the opinion of the Planning Board, for the intended use. Such lands shall be offered for dedication to the Board of Trustees of the Village.
 - (4) The developer shall have received informal conditional approval from the Planning Board of the design and arrangement of streets, lots, open areas and other elements of the project prior to filing the special use permit application.
 - (5) The requirements of this chapter, insofar as density, minimum lot area, minimum lot width, minimum side and rear yard areas and maximum lot coverage areas as specified in the Schedule of this chapter, have been met.
- B. All distance requirements of the Schedule¹¹ shall be observed.

§ 56-51. Multifamily structures.

Multifamily structures may be permitted in the village, provided that the following requirements are met:

- A. Each lot shall have at least twenty thousand (20,000) square feet of land area plus four thousand (4,000) square feet for each additional unit over three (3).
- B. Each lot shall have at least one hundred (100) feet of frontage on a public road plus twenty (20) feet additional frontage for each additional unit over three (3), up to a maximum frontage of two hundred (200) feet.
- C. No lot so used shall be covered by more than thirty-five percent (35%) with any buildings.

¹¹ Editor's Note: The Schedule of Village of Arkport Zoning Ordinance is included at the end of this chapter.

- D. No structure shall exceed thirty five (35) feet in height above the average finished grade line.
- E. No building or parts of the same building shall be located within twenty (20) feet of any other building or any other part of the same building.
- F. No building or parking area shall be located within ten (10) feet of any lot line or right-of-way line.
- G. No building shall be located within thirty (30) feet of any right-of-way line.
- H. No building shall contain more than eight (8) units.
- I. Each dwelling unit shall be provided with two (2) off-street parking spaces according to the requirements of § 56-53.
- J. Each unit shall be provided with a rough storage area at least four (4) feet by five (5) feet and shall be at least six (6) feet high.
- K. If individual units do not have provisions for laundry machines, each building shall be equipped with at least one (1) washer and one (1) dryer.
- L. Internal driveways shall have at least twenty (20) feet of hard-surface passageway exclusive of parking.
- M. No internal dead-end driveway shall be more than two hundred (200) feet long and shall be provided with a cul-de-sac at the end of at least a forty-foot radius.
- N. Each side of all internal driveways faced by buildings shall be paralleled with a sidewalk at least three (3) feet wide which will provide continuous pedestrian access to the right-of-way.
- O. Garages or carports are permitted so long as they conform to the requirements of this section for any principal building and do not exceed twelve (12) feet in height.
- P. All yard areas shall be grass seeded or sodded.
- Q. Each apartment building shall be provided with trees and shrubs in such locations as will make an attractive development.

§ 56-52. Mobile home parks.

The development of land zoned R-3 as Mobile Home Parks is hereby permitted and controlled with a special use permit according to the provisions of § 56-11 and as hereinafter regulated.

A. Park development.

- (1) Each mobile home park shall contain space for at least twenty-five (25) mobile homes.
- (2) Water supply systems. All water supply systems shall be installed as per plans approved by the Village Engineer, the New York State Department of Health and/or other appropriate authority. Such systems shall be designed to provide a sufficient supply of potable water, under adequate pressure, to outlets servicing mobile homes, community structures, drinking fountains, hose connections, hydrants and so on. Where a public water supply system is not available, an adequate private water supply system, approved by the New York State Department of Health or the local Health Department having jurisdiction, shall be provided. Private water supply systems shall be certified by the Village Health Officer and/or the New York State Department of Health as being pure and safe for human consumption (potable) on February 1 and August 1 of each year. Such systems shall be so designed to prevent freezing.
- (3) Sewage disposal systems. All sewage disposal systems shall be installed in accordance with plans approved by the Village Engineer and/or the New York State Department of Health. Such systems shall provide each mobile home and community structure containing plumbing fixtures with an adequate and safe method of sewage disposal. Where a public sewage disposal system is not available, an adequate private sewage disposal system, approved by the New York State Department of Health and/or the Village Engineer, shall be provided. Waste from all sanitation and washing facilities, including washing machines at

any location within the mobile home court, shall be discharged into a duly approved public or private sewage disposal system which serves the entire mobile home park collectively.

- (4) Storm water drainage. Mobile home courts shall have adequate facilities for the drainage of surface and subsurface water. The entire mobile home court shall be graded to facilitate the safe and efficient drainage of surface water and to permit no ponding areas where water will stand for lengths of time so as to constitute a health or other hazard. Drainage ditches shall be provided where necessary to provide for the removal of surface drainage. Such ditches shall be provided in such a way as not to constitute a hazard to pedestrians. Gutters, culverts, catch basins, drain inlets, stormwater sewers, approved combined storm and sanitary sewers or other satisfactory drainage systems shall be utilized where deemed necessary and shall be of a size specified by the Village Engineer.
- (5) Internal driveways. All mobile home parks shall be provided with internal driveways with at least twenty (20) feet of all-weather, paved surface exclusive of parking areas. All curves on such drives shall have a minimum turning radius of sixty (60) feet. No dead-end drive shall be over two hundred (200) feet long and shall be constructed with a cul-de-sac at the terminus having a radius of forty (40) feet.
- (6) Curbs and gutters. Curbs and gutters shall be provided on both sides of all internal drives.
- (7) Continuous sidewalks. Continuous sidewalks shall be provided along both sides of all internal driveways and shall provide pedestrians access to the right-of-way. Such sidewalks shall be at least three (3) feet wide and shall have a thickness of four (4) inches and shall be provided with joints so designed as to minimize cracking. All walkways shall be made of concrete or blacktop or other similar material approved by the Village Engineer.

- (8) Double access. All mobile home parks shall have access from two (2) points to public rights-of-way, or if bordering on two (2) streets, access can be one (1) for each street, such access points being separated by at least one hundred (100) feet.
- (9) Recreation space. Recreation space shall be provided in a central location and at a ratio of three hundred (300) feet per lot. Such space shall be enclosed with shrubs or evergreen hedges placed not farther than ten (10) feet apart nor higher than four (4) feet.
- (10) Refuse disposal. Each mobile home lot shall be provided with at least one (1) twenty-gallon metal garbage can with a tight-fitting cover. The cans shall be kept in a sanitary condition at all times. It shall be the responsibility of the court owner to ensure that garbage and rubbish shall be collected and properly disposed of outside of the mobile home court as frequently as may be necessary to ensure that garbage cans do not overflow. Exterior property areas shall be maintained free from organic and inorganic materials that might become health, accident or fire hazards.
- (11) Parking area paving. Areas for motor vehicle parking may be surfaced with uniform sized gravel or crushed stone to a minimum depth of eight (8) inches, in the absence of fully hard or penetrated surface paving.
- (12) Mobile home stand. Each mobile home lot shall contain a mobile home stand capable of containing a mobile home in a fixed position. The mobile home stand shall be graded with an impenetrable material at least six (6) inches in thickness. It may be surfaced with a layer of uniform sized, crushed stone to a depth of nine (9) inches, in lieu of paving. The entire area of each mobile home stand shall be so improved. The topographic change of the mobile home stand shall not exceed one and one-half (1½) feet. The elevation, distance and angle of the mobile home stand in relation to the accessway shall be such as to facilitate the safe and efficient placement and removal of the mobile home.

- (13) Trees. All existing trees shall be preserved, insofar as possible, in the design of the court.
- (14) Lighting and overhead wires. Artificial lighting shall be provided to illuminate walks, driveways and parking spaces for the safe movement of pedestrians and vehicles at night. Specifically, streetlighting standards shall be provided as follows:
- (a) Overhead streetlighting standards shall be placed no farther than one hundred (100) feet apart, shall have minimum clearance above the pavement of twelve (12) feet and shall have a capacity of one hundred (100) watts.
 - (b) Alternate side streetlighting (post lamps) shall be placed not farther than sixty (60) feet apart, as measured along the center line of the street [one hundred twenty (120) feet on one (1) side of the street] shall have a minimum height of four (4) feet and a maximum height of seven (7) feet and shall have a capacity of sixty (60) watts.
 - (c) Service buildings shall have sufficient exterior lighting fixtures so as to properly illuminate entrances and drying yards connected therewith.
 - (d) Streets and service buildings shall be illuminated during all hours of darkness and according to the following schedule:

	Dark to 11:00 p.m. (watts)	11:00 p.m. to Dawn (watts)
Streets		
Overhead lights	100	40
Side lights	60	25
Service Buildings		
Entrances	50	none

- (e) Wires installed above driveways and parking spaces shall have a clearance of not less than

eighteen (18) feet. Whenever possible, wires shall be located underground.

B. Unit requirements.

- (1) No mobile home shall be located within five (5) feet of any side site or plot line.
- (2) No mobile home shall be located within fifteen (15) feet of any rear site or plot line.
- (3) Each mobile home or attachment thereto shall be maintained with a minimum distance of twenty (20) feet from any other mobile home or attachment thereto.
- (4) No mobile home or attachment thereto shall be permitted within forty (40) feet of any service building.
- (5) No mobile home or accessory service building shall be located within fifteen (15) feet of any internal driveway.
- (6) No mobile home shall be located within forty (40) feet of any other zoning district.
- (7) No mobile home or accessory service building shall be located within seventy-five (75) feet of any public street.
- (8) Each mobile home shall be located on a site or plot having a minimum of thirty (30) feet frontage on a private internal drive. Each site or plot shall contain a minimum of five thousand (5,000) square feet of area.
- (9) Each mobile home site or plot shall be provided with two (2) parking spaces at least ten (10) feet by twenty (20) feet.
- (10) Each mobile home shall be equipped and maintained with a skirt of rigid fireproof material around the base, covering all of the undercarriage and running gear.
- (11) No open fires shall be permitted at any place within the park, except for food preparation.

- (12) No occupied travel or vacation trailer or other form of temporary type living units shall be permitted in a mobile home court.
- (13) Mobile homes shall be used only for single-family residential purposes.
- (14) Landscaping. Each mobile home lot shall be provided with at least two (2) shade trees with trunks not less than one and one-half (1½) inches in diameter as measured three (3) feet from the ground. Poplars, silver or soft maples, box elders, catalpas and horse chestnuts shall not be planted. The planting of elms is not recommended. Shade trees shall also be planted at intervals of not less than fifty (50) feet within the buffer areas to the sides and rear of the mobile home court. Shade trees are recommended in the buffer area between the public highway and the adjacent mobile home lots. Due regard shall be given to the obstructive qualities of limbs and branches along mobile home movement and access ways.

C. Maintenance by and obligations of mobile home court owner. In general, mobile home courts shall be properly maintained so as to ensure the desirable residential character of the property. Specifically, the following shall apply:

- (1) Yard maintenance. Mobile home courts shall be maintained reasonably free from holes and excavations, sharp protrusions and other objects or conditions which might be potential causes of personal injury. Walks, steps, driveways that contain holes or tripping hazards shall be filled, repaired or replaced as the need indicates. Trees or limbs of trees that constitute a hazard shall be removed.
- (2) Noxious weeds. Ragweed and other noxious weeds considered detrimental to health, such as poison ivy, poison oak or poison sumac, shall be completely eliminated from all areas of the mobile home court. Open areas shall be maintained free of heavy undergrowths of any description.

- (3) **Accessory structures.** All accessory buildings or structures shall be kept in good repair and free from health, fire and accident hazards. They shall be of durable construction and shall be appropriate for intended use and location. Exterior wood surfaces of all structures that are not inherently resistant to deterioration shall be periodically treated with a protective coating or paint or other suitable preservative.
- (4) **Gravel areas.** All areas surfaced with gravel shall be kept clear of all forms of vegetation.
- (5) **Infestation.** Grounds and structures shall be maintained free of insect, vermin and rodent harborage and infestation. Methods used for purposes of extermination shall conform with generally accepted practices.

§ 56-53. Parking requirements.

- A. Requirements by usage. There shall be provided in all districts in every industrial, business, institutional, recreational, residential or any other use, at the time any building or structure is erected, enlarged or increased in capacity, off-street parking and loading spaces for motor vehicles in accordance with the requirements of this and other applicable sections of this zoning chapter.
- B. Requirements for off-street parking spaces.
 - (1) The size of off-street parking spaces shall be ten (10) feet wide by twenty (20) feet long for all side-by-side parking or eight (8) feet wide by twenty-three (23) feet long for all parallel parking.
 - (2) Off-street parking facilities shall be located as hereinafter specified. Where distance is specified, such distance shall be measured from the nearest point of the parking facility to the nearest point of the building or use such facility is required to serve. Off-street

parking spaces shall be allowed in required yards except where specifically prohibited by this chapter.

- (a) For multiunit dwellings: not more than one hundred (100) feet from the buildings they are required to serve.
 - (b) For hospitals, sanitariums, convalescent, nursing and rest homes for the aged, retirement homes, private clubs, lodges and offices: not more than one hundred (100) feet from the buildings they are required to serve.
 - (c) For uses other than those specified above: not more than three hundred (300) feet from the buildings they are intended to serve.
- (3) In stadiums, churches and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one (1) seat.
 - (4) Whenever there is a change in use or an increase in floor area or other unit of measurement, and such change and such increase creates a need for an increase of more than ten percent (10%) in the number of required off-street parking spaces, as determined by the requirements in this section, additional off-street parking spaces shall be provided in accordance with this section for that addition or change in use.
- C. The number of off-street parking facilities required shall be set forth in the following, and in the case of a use not specifically mentioned below, the requirements for off-street parking facilities to which said use is similar shall be set forth by the Zoning Inspector.
- (1) Auditorium: one (1) for each five (5) seats.
 - (2) Automotive sales and service: one (1) for each three hundred (300) square feet of floor area.
 - (3) Banks and business and professional offices: one (1) for each two hundred (200) square feet of floor area.

- (4) Bowling alleys: three (3) for each alley plus the necessary spaces as set forth in this section for affiliated uses such as bars, restaurants or other commercial uses.
- (5) Churches: one (1) for each five (5) seats in places of worship.
- (6) Dance halls and assembly halls without fixed seats, exhibition halls, except church assembly rooms in conjunction with auditorium: one (1) for each one hundred (100) square feet of floor area used for assembly or dancing.
- (7) Dwellings: two (2) for each family or dwelling unit.
- (8) Funeral home or mortuary: six (6) for each reposeing room or parlor.
- (9) Hospitals: one (1) for each three (3) beds.
- (10) Rooming houses or lodging houses: one (1) for each two (2) bedrooms.
- (11) Libraries, museums or galleries: one (1) for each six hundred (600) square feet of floor space.
- (12) Manufacturing plants, research or testing laboratories or bottling plants: one (1) for each three hundred (300) square feet of floor area.
- (13) Medical and dental clinics or offices: one (1) for each two hundred (200) square feet of floor area.
- (14) Motels and hotels: one (1) for each living or sleeping unit.
- (15) Restaurants, cafes and night clubs: one (1) for each two hundred (200) square feet of floor area.
- (16) Retail stores, shops, etc: one (1) for each two hundred (200) square feet of floor area.
- (17) Sanitariums, convalescent homes, homes for the aged or children's homes: one (1) for each four (4) beds.
- (18) Theaters or assembly halls, other than schools: one (1) for each five (5) seats.

- (19) Wholesale establishments or warehouses: one (1) for each three thousand (3,000) square feet of floor area.

D. Off-street parking facilities shall adhere to the following:

- (1) Off-street parking space shall be furnished with necessary passageways and driveways. All such space shall be deemed to be required space on the lot on which it is situated and shall not be encroached upon or reduced in any manner. All parking areas, passageways and driveways (except where provided in connection with one-family residences) shall be surfaced with a dustless, durable, all-weather pavement, clearly marked for car spaces and shall be adequately drained, all subject to the approval of the Building Inspector.
- (2) None of the off-street parking facilities as required in this chapter shall be required for any existing building or use unless said building or use shall be enlarged.
- (3) The collective provision of off-street parking areas by two (2) or more buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately, and further provided that the land upon which the collective facilities are located is owned or leased by one (1) or more of the collective users.
- (4) Access drives or walkways to any B or I District through any R District shall not be permitted.

§ 56-54. Signs and outdoor advertising.

A. General Provisions.

- (1) The provisions of this section shall govern outdoor signs and display structures with respect to location, size and maintenance.
 - (a) No sign shall be erected or structurally altered except in conformance with this chapter.

- (b) No sign shall project closer than two (2) feet to any curb face or traffic lane.
 - (c) No sign shall be erected which causes a traffic hazard due to its location.
 - (d) No person shall erect or maintain a sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.
 - (e) No sign shall in any way have the characteristic or shape of any traffic control device or highway sign.
 - (f) No sign shall be permitted which is painted directly on the side or wall of any building.
 - (g) No sign shall be permitted which flashes except time and temperature signs.
 - (h) No sign shall be erected without a building permit.
 - (i) Any sign now or hereafter existing which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent or person having control of the building or structure upon which such sign may be located.
- (2) Christmas displays are exempt from these regulations except that such displays shall be erected in such a manner that they remain affixed for the duration of the season.
- (3) Other signs exempted are:
- (a) Legal notices.
 - (b) House numbers.
 - (c) Traffic control signs and devices.
 - (d) Such temporary signs, not exceeding thirty (30) days in duration, as may be granted by the Board

of Appeals. Only those signs advertising on-site products or uses shall be permitted. Billboards displaying any product or use not located on the same premises are hereby prohibited.

B. Signs for nonconforming uses.

- (1) Directional or name signs pertaining to or advertising products sold on the premises of a nonconforming building or use may be continued only when the nonconforming uses are permitted to continue, and any such signs shall not be expanded in area, height, number or illumination.
- (2) New signs for a nonconforming use in an R District shall be permitted not exceeding thirty (30) square feet of exterior surface and may be erected only after all other signs are removed.

C. The following signs are permitted in each use district:

- (1) An unlighted sign of not over one (1) square foot in area for home occupations and professional identification.
- (2) One (1) illuminated bulletin board or identification sign not exceeding forty (40) square feet for any school, hospital or any public or semipublic uses.
- (3) One (1) unlighted real estate sign advertising the sale, rental or construction on only the premises on which it is maintained, not exceeding a total area of twelve (12) square feet. Such sign shall be removed upon completion of the project or within ninety (90) days, whichever occurs first.
- (4) One (1) temporary, unlighted sign not exceeding one hundred (100) square feet in area in a real estate development containing twenty-five (25) or more dwelling units. Such sign shall be removed within three (3) years of the date of its construction.

D. Signs in R-3, Multifamily Residence District.

- (1) Any sign permitted and as regulated in § 56-54C.

(2) One (1) illuminated professional sign not over two (2) square feet in area.

(3) A sign not exceeding six (6) square feet in area.

E. Signs in B-1, Local Business District.

(1) Not over forty (40) square feet of signage, either illuminated or unilluminated.

F. Signs in B-2, Shopping Center District.

(1) Each use or business located within a shopping center may erect a sign at the site of its use or business so long as the area of such signs does not exceed one (1) square foot for each two hundred (200) feet of floor area per use.

(2) Each shopping center may erect two (2) freestanding signs totaling not over two hundred (200) square feet to advertise only the entire shopping center complex. No individual business or use shall be permitted free-standing advertising.

G. Signs in B-3, Central Business District. Any sign not prohibited elsewhere in this chapter limited to no more than one hundred (100) square feet of area per use or business.

H. Signs in I-1 and I-2, Industrial Districts. Four hundred (400) square feet for each use or any one (1) industry in a building covering more than fifty-five thousand (55,000) square feet of land area in an I-1 or I-2 District shall be permitted oversize sign area, calculated at two percent (2%) of the floor area over forty thousand (40,000) square feet, but in no case shall any sign in either an I-1 or I-2 District be larger than one thousand (1,000) square feet.

ARTICLE IX¹
Floodplain Overlay Zone
[Added 2-19-80 by L.L. No. 1-1980]

§ 56-54.1. Definitions.

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

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

COMMUNITY — The Village of Arkport.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling grading, paving, excavation or drilling operations, excluding normal maintenance to farm roads.

FLOOD or FLOODING:

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
- (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (3) Mudslides (i.e. mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.
- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and

¹ Editor's Note: Former Article IX, Floodplain Overlay Zone, added 6-15-77 by L.L. No. 2-1977, was repealed 2-19-80 by L.L. No. 2-1980.

unforeseeable event which results in flooding as defined in Subsection A(1) of this definition.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOODPLAIN OR FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source.

FLOODPLAIN OVERLAY ZONE — That area of the municipality identified as being subject to flood and/or mudslide hazards, which area is delineated on the Zoning Map, and for which special floodplain management requirements and criteria are enumerated herein.

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.

HABITABLE FLOOR — Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not "habitable."

MOBILE 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. It does not include recreational vehicles or travel trailers. The term includes but is not limited to the definition of "mobile home" as set forth in regulations governing the Mobile Home Safety and Construction Standards Program [24 CFR 3828.7(a)].

MOBILE HOME PARK or MOBILE HOME SUBDIVISION — A parcel, or contiguous parcels, of land divided into two (2) or more mobile home lots for rent or sale.

ONE-HUNDRED-YEAR FLOOD — See "base flood."

PERSON — Includes any individual or group of individuals, corporation, partnership, association or any other organized group of persons, including local governments and agencies thereof.

REGULATORY FLOODWAY — The channel of a river or other watercourse and that adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

SPECIAL FLOOD HAZARD AREA — The land in the floodplain subject to a one-percent-or-greater chance of flooding in any given year; the area designated as Zone A on the FHBM.

SPECIAL HAZARD AREA — An area having special flood, mudslide and/or other flood-related erosion hazards and shown on an FHBM or FIRM as Zone A, A1 through A99, VO, V1 through V30, M or E.

STRUCTURE — For floodplain management purposes, a walled or roofed building, including a gas- or liquid-storage tank, that is principally above ground, as well as mobile homes.

SUBDIVISION — Any area of land divided by owners or agents, either by lots or by metes and bounds, into lots or parcels two (2) or more in number for the purpose of conveyance, transfer, improvement or sale of one (1) or more.

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.

WATER SURFACE ELEVATION — The projected heights, in relation to mean sea level, reached by floods of various magnitudes and frequencies in the floodplains or coastal or riverine areas.

§ 56-54.2. Areas of special flood hazard.

The areas of special flood hazard are identified by the Federal Insurance Administration in a scientific and engineering report entitled the "Flood Insurance Study for the Village of Arkport," dated March 4, 1980, with accompanying Flood Insurance Rate Maps and Flood Boundary - Floodway Maps, which is hereby adopted by reference and declared to be a part of this Article. The Flood Insurance Study is on file at the Arkport Village Hall, Arkport, New York.

§ 56-55. Floodplain Overlay (FP) Zone established; effect of other provisions.

- A. There is hereby established a Floodplain Overlay Zone, the boundaries of which are delineated on the Zoning Map. This section provides additional special requirements for areas within the defined Floodplain Overlay Zone. These requirements are in addition to those contained in the underlying zoning district.
- B. The provisions of this section shall take precedence over any other zoning Article, ordinance or law, to the extent that the provisions of this section are consistent with other regulations.

§ 56-56. Purpose.

The purpose of this Article is the control of floodplain development, such as fill, dumping, storage of materials, structures, buildings and any other works which, acting along or in combination with other existing or future uses, will cause damaging flood heights and velocities by obstructing flows and reducing flood storage, and, further, to protect human life and health, minimize property damage, minimize surface and ground water pollution and provide public awareness of the flooding potential.

§ 56-57. Warning and disclaimer of liability.

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes based on available

knowledge of past floods. Larger floods may occur on rare occasions or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. Nothing herein shall be interpreted to imply that areas outside the floodplain district or uses permitted within such district will be free from flooding or flood damage. These regulations shall not create liability on the part of the Village of Arkport, or any officer or employee thereof, for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

§ 56-58. Permitted uses.

Permitted uses shall be as specified by the underlying zoning district; provided, however, that within the Floodplain Overlay Zone, all uses other than nonstructural open space uses shall be authorized by the Zoning board of Appeals as special permit uses as provided elsewhere in these regulations and subject to the special provisions of this section.

§ 56-59. Certification of floodproofing methods.

- A. Where floodproofing is utilized to comply with any provision of these regulations, a registered professional engineer or architect shall certify that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.
- B. Such floodproofing certificate indicating the specific elevation, in relation to mean sea level, to which the structures are floodproofed shall be submitted with the permit application.

§ 56-60. Duties of Zoning Officer.

In carrying out the intent of this Article, the Zoning Officer shall:

- A. Review all development permit applications as required herein to determine whether proposed development sites will be reasonably safe from flooding. If a proposed development site

is in a location that has a flood hazard, any proposed development, new construction or substantial improvement, including prefabricated and mobile homes, must be in compliance with this Article, and provided further that a separate permit shall be required for each such development activity, structure or mobile home.

- B. Review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposal shall be reviewed to assure that all such proposals are consistent with the need to minimize flood damage and are in compliance with this Article.
- C. Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement, including prefabricated and mobile homes, must be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure, must use construction materials and utility equipment that are resistant to flood damage and must use construction methods and practices that will minimize flood damage.
- D. Review subdivision proposals and other proposed new developments to assure that all such proposals are consistent with the need to minimize flood damage; all public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage; and adequate drainage is provided so as to reduce exposure to flood hazards.
- E. Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate the infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

- F. Obtain, review and reasonably utilize any base flood elevation data available from federal, state or other sources until such data has been provided by the Administrator as criteria for requiring compliance with this Article.
- G. Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse and submit copies of such notification to the Administration.
- H. Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- I. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- J. Take such other official action as may be reasonably necessary to carry out the objectives of this Article.
- K. Within all A Zones, for all new construction and substantial improvements, obtain and maintain records of the elevation of the lowest habitable floor, including basement, and/or floodproofing certification.

§ 56-61. Construction requirements.

All development and substantial improvements, as defined herein, in areas designated A1 through A30, unnumbered A Zones and A99 Zones shall comply with all the requirements of § 56-60A above and the following:

- A. All new construction and substantial improvements of residential structures within Zones A1 through A30 shall have the lowest floor, including basement, elevated to or above the base flood level.
- B. All new construction or substantial improvements of nonresidential structures in Zones A1 through A-30 shall:
 - (1) Have the lowest floor, including basement, elevated to or above the base flood elevation; or

- (2) Together with attendant utility and sanitary facilities, be designed so that, below the base flood level, the structure shall be watertight with walls substantially impermeable to the passage of water, and structural components shall be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- C. New mobile home parks or mobile home subdivisions, expansions thereto or repair, reconstruction or improvement of the streets, utilities and pads thereof, equal to or exceeding fifty percent (50%) of the value of the same before repair, improvement or reconstruction, shall comply with the following:
- (1) Stands or lots shall be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level.
 - (2) Adequate surface drainage and access for a hauler shall be provided.
 - (3) When elevating on pilings, lots shall be large enough to permit steps, and piling foundations shall be placed in stable soil no more than ten (10) feet apart, and reinforcement shall be provided for pilings more than six (6) feet above ground level.
- D. Mobile homes to be placed in Zones A1 through A30 other than in a mobile home park or mobile home subdivision, shall comply with Subsection C(1) through (3) of this section.
- E. All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Special requirements shall be that:
- (1) Over-the-top ties be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations, with mobile homes less than fifty (50) feet long requiring one (1) additional tie per side.
 - (2) Frame ties be provided at each corner of the home, with five (5) additional ties per side at intermediate points, with mobile homes less than fifty (50) feet long requiring four (4) additional ties per side.

- (3) All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds.
- (4) Any additions to the mobile home be similarly anchored.
- F. Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited within the regulatory floodway if such encroachment would result in any increase in flood levels during the occurrence of the base flood discharge.
- G. The placement of any mobile home, except in an existing mobile home park or mobile home subdivision, shall be prohibited within the regulatory floodway.

§ 56-62. Variances.

In addition to the requirements for variances specified elsewhere herein, the following requirements shall apply to variances in the Floodplain Overlay Zone:

- A. Variances may be issued for the construction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in this section.
- B. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- C. 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, in conformance with the procedures of Subsections D, E, F and G of this section.
- D. Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship to the applicant and 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.

- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. The community shall notify the applicant, in writing over the signature of a community official, that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.) for one hundred dollars (\$100.) of insurance coverage and that such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in Subsection G of this section.
- G. A community shall maintain a record of all variance actions, including justification for their issuance, and shall report such variances issued in its annual report submitted to the Administrator.

§ 56-63. Factors to be considered.

Applications for uses in the Floodplain Overlay Zone shall be considered in light of all relevant factors, including but not limited to other sections of these regulations and the following:

- A. Effects of the proposed use upon increasing flood heights.
- B. The extent of floodplain or floodway encroachments.
- C. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- D. The danger that material may be swept onto other lands downstream.
- E. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owners and the community.

- F. The importance of the services provided by the proposed facility to the community.
- G. The necessity for the facility to be located in a flood-prone area.
- H. The availability of alternative locations not subject to flooding.
- I. The relationship of the proposed use to the Comprehensive Plan and floodplain management program of the community and adjoining municipalities.
- J. The safety of access to the property in times of flood.
- K. The expected height, velocity, duration, rate of rise and sediment transport of floodwaters expected at the site.
- L. The acceptable social and economic use of the land in relation to the hazards involved.
- M. The preservation of the flood-prone areas for open space purposes.
- N. The diversion of development to flood-safe areas in light of the need to prevent flood damages and environmentally incompatible floodplain uses.
- O. Flood warning and emergency preparedness plans.
- P. The need for evacuation plans and escape routes.
- Q. The coordination of floodplain management plans with those of adjacent communities.
- R. Such other factors which are relevant to the purpose of these regulations.

§ 56-64. Effect of other provisions.

Whenever the existing Zoning Ordinance conflicts with the provisions of this Article relative to the Floodplain Overlay Zone, then the provisions provided by these amendments shall prevail.

§ 56-65. When effective.

This local law shall take effect immediately.

ARTICLE X**Satellite Dishes, Towers and Windmills
[Added 10-16-86 by L.L. No. 5-1986]****§ 56-66. Purpose and findings.**

The construction and installation within the village of satellite dishes, parabolic dishes, windmills, towers and similar antennas, equipment and devices must be controlled to protect the health, safety and welfare of the residents and to preserve and protect the aesthetic qualities of the village and its residential character.

§ 56-67. Definitions.

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

HEIGHT OF TOWER — Measured from the natural grade surrounding the tower is mounted to the extremity of the tower's uppermost protrusion.

LENGTH OF TOWER — Measured from the top of the base on which the tower is mounted to the extremity of the tower's uppermost protrusion.

SATELLITE DISH — Any parabolic dish, antenna or other device or equipment of whatever nature or kind, the primary purpose of which is to receive television, radio, microwave or other electronic signals from space satellites.

TOWER — Any tower, pole antenna or other structure, whether attached to a building, guyed or freestanding, designed to be used for the transmission and/or reception of radio frequency signals, including but not limited to broadcast, shortwave, citizen's band, FM, television or microwave.

WINDMILL — A machine built to harness wind power, the vanes of which are over eighteen (18) inches long or the top of which is over eight (8) feet above grade.

§ 56-68. Windmills prohibited.

No windmill may be erected within the village.

§ 56-69. Satellite dishes.

- A. No satellite dish shall exceed twelve (12) feet in height, width or depth. All measurements shall be taken from the base at grade level. Measurements shall include all attachments, supports and guy wires.
- B. Satellite antennas shall be located in the rear yard, and no more than one (1) dish is permitted per lot. When located on a corner lot, the dish, in addition to being located in the rear yard, shall be set back from the lot line of the side yard adjacent to the street at least the distance required by the line of setback as determined in accordance with § 56-70C.
- C. Satellite dishes may only be erected as accessory structures to existing buildings.
- D. All satellite antennas shall be located at least six (6) feet from the side and rear lot lines, except that, when a public alley abuts the rear lot line, the clearance from this line is reduced to one (1) foot. When measuring setbacks, all cables, guy wires, other supports and any protuberances constitute a part of the antenna.
- E. All satellite antennas shall be screened from adjoining lots and public view by a barrier of evergreen plantings, the height of which at maturity or four (4) years, whichever is less, shall equal that of the antenna.
- F. No satellite antenna may be erected for commercial purposes.
- G. No satellite antenna may be erected except in accordance with a building permit.

- H. A trailer-mounted satellite dish may be present on a lot for up to one (1) week with the prior written permission of the Building Inspector.

§ 56-70. Towers.

- A. No tower may be erected which exceeds sixty (60) feet in height or length.
- B. Towers may be erected only as accessory structures to existing buildings. They may not be located in the front or side yards of a lot.
- C. Towers shall be located so that the setbacks from the side and rear lot lines are at least six (6) feet greater than the length of the tower, except that, when a public alley abuts the rear lot line, the clearance from this line is reduced to one (1) foot greater than the length of the tower. All cables, guy wires and other tower supports are subject to the same setback requirements.
- D. No tower may be erected for commercial purposes.
- E. Towers over ten (10) feet in length may only be erected after a building permit has been obtained.

§ 56-71. Building permits and procedures.

- A. An application to erect a satellite dish or a tower shall include the following information:
 - (1) The location of all utility poles, above- and below-ground utility lines, trees or other natural or artificial structures;
 - (2) The location and specific plant identification of evergreen barrier plantings and descriptions of any other types of screening or fencing.
 - (3) All information prepared by the manufacturer of the dish or tower for which a permit is being sought, including but not limited to the following:
 - (a) The make and model.

- (b) Manufacturer's suggested installation instructions.
 - (c) Manufacturer's suggested maintenance and/or inspection procedures.
 - (d) Complete details of any planned deviations from the manufacturer's suggested installation procedures and the reasons therefor.
- (4) Any proposed anticleimbing devices if the application is for a grade-level-erected tower.
- B. The Building Inspector shall review and consider the application and shall determine whether or not the proposed dish will:
 - (1) In any way adversely affect the public health, safety or welfare.
 - (2) Interfere with the reasonable use and enjoyment or aesthetics of abutting properties.
 - (3) Be in keeping and character with the use of abutting properties.
 - (4) Impose a possibility of danger or detriment to abutting properties.
- C. The Building Inspector, in granting any approval, may require the applicant to provide additional barrier plantings or other suitable screening, fencing, anticleimbing protection or other protective measures as deemed necessary or proper to reduce or eliminate aesthetic or safety concerns.
- D. If the application is approved by the Building Inspector, the applicant shall submit and file with the village, prior to the start of construction or prior to use, all Federal Communications Commission, National Electrical Code, Federal Aviation Administration and any other state, federal or local permits or approvals which may be required for the construction of the dish or tower and shall submit to the village, upon completion of construction or installation, a certification that the construction or installation as completed is in full compliance with the manufacturer's suggested installation procedures or the modified procedures approved in the permit application.

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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(Note)

TO OWNERS:

The INDEX to this Code will be published in the near future. It will be inserted here.

Changes, alterations and new legislation inevitably follow the creation of a new Code. A complete and usable Index must include this new material. Upon enactment, these additions will be Indexed with the present legislation to make a complete and easy-to-use method of finding all information.

In the interim, refer to the TABLE OF CONTENTS in the forward part of this volume for a complete listing of all legislation; then refer to the Scheme at the beginning of each chapter for reference to particular subject matter.

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