

Chapter 1

GENERAL PROVISIONS

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

ARTICLE I

Adoption of Code

[Adopted 2-9-2004 by L.L. No. 1-2004]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Village of Philmont, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 160, together with an Appendix, shall be known collectively as the "Code of the Village of Philmont," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Village of Philmont" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

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 Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

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

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of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

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

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

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

- A. Any right or liability established, accrued or incurred under any legislative provision of the Village of Philmont 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 Philmont 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 Philmont.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Philmont.
- E. Any local law or ordinance of the Village of Philmont 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 Philmont or any portion thereof.
- F. Any local law or ordinance of the Village of Philmont 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 Philmont or other instruments or evidence of the Village's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the Village.
- N. Any local law adopted subsequent to 6-30-2002.
- O. Local Law No. 2-1996, which provides that the current Village Clerk and Deputy Village Clerk shall serve until their retirement, after which terms shall revert to the terms set forth in the Village Law.

§ 1-5. Severability.

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

§ 1-6. Copy of Code on file.

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

§ 1-7. Amendments to Code.

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

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

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

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

Copies of the Code, or any chapter or portion of it, may be purchased from the Village Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the Board

of Trustees. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-10. Penalties for tampering with Code.

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

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

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Village of Philmont, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)¹
- C. Throughout the Code, references to "Building Construction Code" are changed to "Uniform Fire Prevention and Building Code."

§ 1-12. Incorporation of provisions into Code.

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

§ 1-13. When effective.

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

1. Editor's Note: In accordance with § 1-11B, the chapters, parts and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 2-9-2004 by L.L. No. 1-2004." "Schedule A, which contains a complete description of all changes, is on file in the Village offices.

Chapter 5

ASSESSMENTS

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont 3-30-1989 by L.L. No. 3-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Taxation — See Ch. 134.

§ 5-1. Intent.

The intent of the Board of Trustees of the Village of Philmont is to implement § 1402(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 chapter to abolish the position of Board of Assessors and to terminate any and all responsibility as provided by law for the review of the assessments of real property located within the Village of Philmont.

§ 5-2. Cessation of assessing unit status.

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

§ 5-3. Position of Assessor abolished.

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

§ 5-4. Board of Assessment Review abolished.

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

§ 5-5. Taxes to be levied on town assessment roll.

On or after the effective date of this chapter, taxes in the Village of Philmont, beginning with the Village 1990 tax levy, shall be levied on a copy of the applicable part of the assessment roll of the Town of Claverack with the taxable status date of such Town controlling for Village purposes.

§ 5-6. Filing of chapter with state.

Within five days of the effective date of this chapter, the Board of Trustees of the Village of Philmont shall file a copy of such chapter with the Clerk and Assessor of the Town of Claverack and with the State Board of Real Property Services.

§ 5-7. When effective; referendum.

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

Chapter 10

BOARDS

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

ARTICLE I

Alternate Members of Planning Board and Zoning Board of Appeals [Adopted 2-9-2000 by L.L. No. 1-2000]

§ 10-1. Short title.

This article shall be known as Local Law 1 of 2000 or the "Planning Board and Zoning Board of Appeals Alternate Members Law of the Village of Philmont."

§ 10-2. Legislative findings.

A five-member Planning Board and Zoning Board of Appeals serve in the Village of Philmont for the hearing of appeals from decisions of the code officer, for variances from the Zoning Chapter and approval of site plans and subdivisions for within the Village of Philmont. Pursuant to state law, three members of the Boards must be present to have a quorum. Due to the time constraints required and the low financial remuneration, it is difficult to always have a quorum present. In 1998, §§ 7-712 and 7-718 of the State Village Law were amended so that alternate members of a Planning Board or Zoning Board of Appeals may be appointed. The Board of Trustees finds that it is in the interest of the Village to have alternate members of the Planning Board and the Zoning Board of Appeals to insure that quorums are always present at meetings and to avoid needless adjournments.

§ 10-3. Appointment of alternate members.

Pursuant to State Village Law § 7-712, Subdivision 11, and § 7-718, Subdivision 16, the following article is hereby enacted:

- A. Up to three alternate members of the Planning Board and/or Zoning Board of Appeals shall be appointed by the Mayor of the Village of Philmont, subject to the approval of the Board of Trustees, with each alternate member serving for a three-year term.
- B. The Chairperson of the Planning Board and/or Zoning Board of Appeals may designate an alternate member to substitute for a member when such member is unable to participate in a matter before the Board. When so designated, the alternate member shall possess all of the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the Planning Board meeting and/or Zoning Board of Appeals meeting at which the substitution is made.
- C. All provisions relating to Planning Board and Zoning Board of Appeals member training, education, attendance, conflict of interests, compensation, eligibility, vacancy of office,

removal and service on other boards shall be applicable to alternate members.

Chapter 13

ETHICS, CODE OF

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont 3-12-2012 by L.L. No. 1-2012.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Boards — See Ch. 10.

§ 13-1. Purpose.

Officers and employees of the Village of Philmont hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Village Board of the Village of Philmont recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This Code of Ethics establishes those standards.

§ 13-2. Definitions.

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

BOARD — The governing board of a municipality and any municipal administrative board (e.g., planning board, zoning of board of appeals), commission, or other agency or body comprised of two or more municipal officers or employees.

CODE — This Code of Ethics.

INTEREST — A direct or indirect financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the municipality or an area of the municipality, or a lawful class of such residents or taxpayers. A municipal officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization's outstanding stock.

MUNICIPALITY — Village of Philmont. The word "municipal" refers to the municipality.

MUNICIPAL OFFICER OR EMPLOYEE — A paid or unpaid officer or employee of the Village of Philmont, including, but not limited to, the members of any municipal board.

RELATIVE — A spouse, parent, step-parent, sibling, step-sibling, sibling's spouse, child, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a municipal officer or employee, and individuals having any of these relationships to the spouse of the officer or

1. Editor's Note: This local law was originally adopted as Ch. 34 but was renumbered to maintain the alphabetical organization of the Code.

employee.

§ 13-3. Applicability.

This Code of Ethics applies to the officers and employees of the Village of Philmont and shall supersede any prior municipal Code of Ethics. The provisions of this Code of Ethics shall apply in addition to all applicable state and local laws relating to conflicts of interest and ethics including, but not limited to, Article 18 of the General Municipal Law and all rules, regulations, policies and procedures of the Village of Philmont

§ 13-4. Prohibition on use of municipal position for personal or private gain.

No municipal officer or employee shall use his or her municipal position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

§ 13-5. Disclosure of interest in legislation and other matters.

- A. Whenever a matter requiring the exercise of discretion comes before a municipal officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the municipal officer or employee shall disclose in writing the nature of the interest.
- B. The disclosure shall be made when the matter requiring disclosure first comes before the municipal officer or employee, or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.
- C. In the case of a person serving in an elective, office, the disclosure shall be filed with the governing board of the municipality. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the municipal officer, employee or board having the power to appoint to the person's position. In addition, in the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

§ 13-6. Recusal and abstention.

- A. No municipal officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.
- B. In the event that this section prohibits a municipal officer or employee from exercising or performing a power or duty:
 - (1) If the power or duty is vested in a municipal officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or

- (2) If the power or duty that is vested in a municipal officer individually, then the power or duty shall be exercised or performed by his or her deputy or; if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.
- (3) If the power or duty is vested in a municipal employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

§ 13-7. Exceptions; disclosure, recusal and abstention not required.

- A. This code's prohibition on use of a municipal position (§ 13-4), disclosure requirements (§ 13-5), and requirements relating to recusal and abstention (§ 13-6), shall not apply with respect to the following matters:
 - (1) Adoption of the municipality's annual budget;
 - (2) Any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:
 - (a) All municipal officers or employees;
 - (b) All residents or taxpayers of the municipality or an area of the municipality; or
 - (c) The general public; or
 - (3) Any matter that does not require the exercise of discretion.
- B. Recusal and abstention shall not be required with respect to any matter:
 - (1) Which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by § 13-6 of this code;
 - (2) Which comes before a municipal officer when the officer would be prohibited from acting by § 13-6 of this code and the matter cannot be lawfully delegated to another person.

§ 13-8. Investments in conflict with official duties.

- A. No municipal officer or employee may acquire the following investments:
 - (1) Investments that can be reasonably expected to require more than sporadic recusal and abstention under § 13-6 of this code; or
 - (2) Investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.
- B. This section does not prohibit a municipal officer or employee from acquiring any other investments or the following assets:
 - (1) Real property located within the municipality and used as his or her personal residence;

- (2) Less than 5% of the stock of a publicly traded corporation; or
- (3) Bonds or notes issued by the municipality and acquired more than one year after the date on which the bonds or notes were originally issued.

§ 13-9. Private employment in conflict with official duties.

No municipal officer or employee, during his or her tenure as a municipal officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

- A. Can be reasonably expected to require more than sporadic recusal and abstention pursuant to § 13-6 of this code;
- B. Can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee;
- C. Violates § 805-a1c or d of the General Municipal Law; or
- D. Requires representation of a person or organization other than the municipality in connection with litigation, negotiations or any other matter to which the municipality is a party.

§ 13-10. Future employment.

- A. No municipal officer or employee may ask for, pursue or accept a private postgovernment employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within the 30 days following final disposition of the matter.
- B. No municipal officer or employee, for the two-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she serves.
- C. No municipal officer or employee, at any time after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

§ 13-11. Personal representations and claims permitted.

This code shall not be construed as prohibiting a municipal officer or employee from:

- A. Representing himself or herself, or his or her spouse or minor children before the municipality; or
- B. Asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

§ 13-12. Use of municipal resources.

- A. Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel, and the municipality's money, vehicles, equipment, materials, supplies or other property.
- B. No municipal officer or employee may use or permit the use of municipal resources for personal or private purposes, but this provision shall not be construed as prohibiting:
 - (1) Any use of municipal resources authorized by law or municipal policy;
 - (2) The use of municipal resources for personal or private purposes when provided to a municipal officer or employee as part of his or her compensation; or
 - (3) The occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.
- C. No municipal officer or employee shall cause the municipality to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

§ 13-13. Interests in contracts.

- A. No municipal officer or employee may have an interest in a contract that is prohibited by § 801 of the General Municipal Law.
- B. Every municipal officer and employee shall disclose interests in contracts with the municipality at the time and in the manner required by § 803 of the General Municipal Law.

§ 13-14. Nepotism.

Except as otherwise required by law:

- A. No municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the municipality or a municipal board.
- B. No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

§ 13-15. Political solicitations.

- A. No municipal officer or employee shall directly or indirectly to compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.
- B. No municipal officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any municipal officer or employee, or an applicant for a position as a municipal officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political

purpose.

§ 13-16. Confidential information.

No municipal officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.

§ 13-17. Gifts.

- A. No municipal officer or employee shall solicit, accept or receive a gift in violation of § 805-a1a of the General Municipal Law as interpreted in this section.
- B. No municipal officer or employee may directly or indirectly solicit any gift.
- C. No municipal officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of \$75 or more when:
 - (1) The gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties;
 - (2) The gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
 - (3) The gift is intended as a reward for any official action on the part of the officer or employee.
- D. For purposes of this section, a "gift" includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift's fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed \$75 must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.
- E. Gifts intended to influence or reward.
 - (1) A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.
 - (2) A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding 12 months.
- F. This section does not prohibit any other gift, including:

- (1) Gifts made to the municipality;
- (2) Gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;
- (3) Gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;
- (4) Unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
- (5) Awards and plaques having a value of \$75 or less which are publicly presented in recognition of service as a municipal officer or employee, or other service to the community; or
- (6) Meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

§ 13-18. Posting and distribution.

- A. The Village Clerk of the Village of Philmont must promptly cause a copy of this code, and a copy of any amendment to this code, to be posted publicly and conspicuously in each building under the municipality's control. The code must be posted within 10 days following the date on which the code takes effect. An amendment to the code must be posted within 10 days following the date on which the amendment takes effect.
- B. The Village Clerk of the Village of Philmont must promptly cause a copy of this code, including any amendments to the code, to be distributed to every person who is or becomes an officer and employee of the Village of Philmont.
- C. Every municipal officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing. Such acknowledgments must be filed with the Village Clerk of the Village of Philmont who must maintain such acknowledgments as a public record.
- D. The failure to post this code or an amendment to the code does not affect either the applicability or enforceability of the code or the amendment. The failure of a municipal officer or employee to receive a copy of this Code of Ethics or an amendment to the code, or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of the code or amendment to the code.

§ 13-19. Enforcement; violations.

- A. Any municipal officer or employee who violates this code may be censured, fined, suspended or removed from office or employment in the manner provided by law.
- B. Any infractions of this Code of Ethics will be referred to the Columbia County Board of Ethics for the purpose of rendering advisory opinions to the officers and employees of the

Village of Philmont with respect to Article 18 of the General Municipal Law and this code.

§ 13-20. When effective.

This chapter shall take effect immediately upon filing with the Secretary of State.

Chapter 24

JUSTICE, VILLAGE

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont by L.L. No. 1-1992. Amendments noted where applicable.]

§ 24-1. Legislative findings.

The Board finds that Village Law § 3-300, Subdivision 2(b), grants authority to the Village Board of Trustees in villages with populations of less than 3,000 to amend the residency requirements of the Village Justice and allow individuals residing within the county in which the Village is located. The Board finds that it is eligible to amend the justice residency requirements under Village Law § 3-300, Subdivision 2(b), and that such an amendment would be in the best interests of the Village in that it would expand the number of eligible candidates for the position.

§ 24-2. Residency requirement.

Pursuant to Village Law § 3-300, Subdivision 2(b), in addition to any other legal requirements or prohibitions, any citizen of the United States of America, who is at least 18 years old and a resident of the County of Columbia, shall be eligible for election to the position of Village Justice of the Village of Philmont.

Chapter 33

PROCUREMENT POLICY

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont 3-13-1996. Amendments noted where applicable.]

§ 33-1. Review of purchases.

Every prospective purchase of goods or services shall first be evaluated to determine the applicability of § 103 of the General Municipal Law. Every Village officer, board, department head or other personnel with the requisite purchasing authority (hereinafter referred to as the "Purchaser") shall estimate the cumulative amount of the items of supply or equipment needed in any given fiscal year. That estimate shall include the canvass of other Village departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

§ 33-2. Formal bidding requirements.

All purchases of supplies or equipment which will exceed \$10,000 in the fiscal year, or public works contracts over \$20,000 shall be formally bid in accordance with the provisions of § 103 of the General Municipal Law.

§ 33-3. Request for proposals.

A. All estimated purchases of:

- (1) Less than \$10,000 but greater than \$3,000 shall require a written request for a proposal (RFP) and written/faxed quotes from three vendors.
- (2) Less than \$3,000 but greater than \$1,000 shall require an oral request for the goods and an oral/fax quote from two vendors.
- (3) Less than \$1,000 shall be left to the discretion of the Trustee in charge of the department.

B. All estimated public works contracts of:

- (1) Less than \$20,000 but greater than \$10,000 shall require a written request for a proposal and a written/faxed proposal from three contractors.
- (2) Less than \$10,000 but greater than \$3,000 shall require a written request for proposals and written/faxed proposals from two contractors.
- (3) Less than \$3,000 shall be left to the discretion of the Purchaser.

C. Any written request for a proposal shall describe the desired goods, quantity, and the

particulars of delivery. The Purchaser shall compile a list of all vendors from whom written/fax/oral quotes are offered. All information gathered in complying with the procedures of this guideline shall be preserved and filed with the documentation supporting the subsequent purchaser or public works contract.

§ 33-4. Awarding of contracts.

The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the Purchaser prepares a written justification providing reasons why it is in the best interest of the Village and its taxpayers to make an award to other than the low bidder. If the bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

§ 33-5. Inability to obtain required number of proposals.

A good-faith effort shall be made to obtain the required number of proposals or quotations. If the Purchaser is unable to obtain the required number of proposals or quotations, the Purchaser shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.

§ 33-6. Exemptions from solicitation of proposals.

Except when directed by the Village Board, no solicitation of written proposals or quotations shall be required under the following circumstances:

- A. Acquisition of professional services;
- B. Emergencies;
- C. Sole source situations;
- D. Goods purchased from agencies for the blind or severely handicapped;
- E. Goods purchased from correctional facilities;
- F. Goods purchased from another governmental agency;
- G. Goods purchased at auction;

§ 33-7. Annual review.

This policy shall be reviewed annually by the Village Board at its organizational meeting, or as soon thereafter as is reasonably practicable.

Chapter 46

ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont 2-13-1984 by L.L. No. 1-1984. Amendments noted where applicable.]

§ 46-1. Legislative intent.

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

§ 46-2. Definitions.

For the purpose of this chapter, the following terms shall have the meanings ascribed to them. All other words shall have the meanings normally ascribed to them in regular usage.

ALCOHOLIC BEVERAGE — Includes alcohol, spirits, liquor, wine, beer, cider and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being.

CONTAINER — Any bottle, can, glass or other receptacle suitable for, or used to hold, any liquid.

INTENT TO CONSUME — Drinking from the container, with alcohol on the breath of the possessor and/or any circumstances evidencing an intent to ultimately consume on any public lands.¹

PUBLIC LANDS — Any highway, street, sidewalk, park or playground.

VILLAGE — The Village of Philmont.

§ 46-3. Possession and consumption on public lands prohibited.

It shall be a violation of this chapter for any person to:

- A. Consume any alcoholic beverage on any public land within the Village.

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

- B. Have in his possession with intent to consume any open container containing any alcoholic beverage on any public lands within the Village.²
- C. Have within his possession for the purposes of consumption on public lands by either himself or another person any open container containing an alcoholic beverage on any public lands within the Village.

§ 46-4. Exceptions.

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

§ 46-5. Applicability.

This chapter shall apply to all persons on public lands in the Village except as provided in § 46-4 above and shall not apply to any person drinking an alcoholic beverage while operating a motor vehicle upon any public highway within the Village in violation of § 1227 of the Vehicle and Traffic Law of the State of New York.

§ 46-6. Penalties for offenses. ³

Each violation of this chapter shall be punishable by a fine not exceeding \$250, imprisonment for not more than 15 days, or both, for each offense.

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

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

Chapter 50

ANIMALS

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

ARTICLE I

Keeping of Cattle, Swine, Fowl and Bees

[Adopted 1-3-1967]

§ 50-1. Keeping of certain animals prohibited. [Amended 8-8-2011 by L.L. No. 1-2011¹]

No person shall keep, maintain or harbor within the Village of Philmont any cattle, swine, ducks, geese, chickens or bees.

§ 50-2. Penalties for offenses. [Amended 2-9-2004 by L.L. No. 1-2004]

Any violation of this article shall be punishable by a fine of not more than \$250, imprisonment for not more than 15 days, or both such fine and imprisonment.

ARTICLE II

Dogs

[Adopted by L.L. No. 2-1980; amended in its entirety 7-26-2006 by L.L. No. 2-2006]

§ 50-3. Running at large and nuisance behavior prohibited.

- A. It shall be unlawful for any owner of, or any person harboring, any dog within the Village of Philmont to permit or allow such dog to:
- (1) Run at large unless said dog is restrained by an adequate collar and leash and accompanied by its owner or a responsible person able to control the animal. A dog shall not be considered "running at large" while said dog is on property of the owner or person harboring said dog.
 - (2) Engage in habitual loud howling or barking or to conduct itself in such a manner as to habitually annoy any person other than the owner or person harboring such dog.
 - (3) Cause damage or destruction to property or commit a nuisance upon the premises of a person other than the owner or person harboring the dog.
 - (4) Chase, jump at, bark at or otherwise harass any person in such manner as to reasonably cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.

¹. Editor's Note: Section 4 of this local law provided that its intent is to prohibit any new harboring of chickens within the Village; existing chickens harbored as of the date of adoption are allowed until such particular animals are deceased, and such animals are not to be replaced.

- (5) Habitually chase or bark at motor vehicles.
 - (6) Defecate, or otherwise create a nuisance upon property, other than property owned or leased by the owner or harborer of the dog, except as follows: the owner or harborer of the dog shall cause the defecation stool to be immediately removed and disposed of in a sanitary fashion.
- B. It shall be unlawful for any person to walk a dog on a leash or otherwise accompany a dog without a device suitable to cause the removal of the stools of such dog's defecation for sanitary disposal under this article.

§ 50-4. Confinement of dogs in heat.

It shall be unlawful for the owner or person harboring any female dog to permit such dog to run at large while in heat, and such dog shall be confined to the owner's or harborer's premises during such period.

§ 50-5. Construal of provisions.

Nothing herein contained shall be construed in such a manner as to be in conflict with the Agriculture and Markets Law of the State of New York or the provisions of any other law of the State of New York relating to dogs and their conduct, custody or control.

§ 50-6. Appearance tickets.

Any dog control officer appointed by, or under contract with, the Town of Claverack or the Village of Philmont and any police officer of the Village of Philmont may issue appearance tickets pursuant to the Criminal Procedure Law of the State of New York for violations of this article.

§ 50-7. Filing of complaint.

Any person who observes a dog engaging in any of the activities declared unlawful in § 50-3 or 50-4 of this article may file a signed complaint, under oath, with the Village Justice specifying the objectionable conduct of the dog, the date thereof, a description of the dog, and name and residence, if known, of the owner or person harboring said dog.

§ 50-8. Summons to appear; warrant for arrest.

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 Village Justice may permit the filing of an information and issue a warrant for the arrest of such person.

§ 50-9. Penalties for offenses.

A violation of this article, or a violation of § 119 of the Agriculture and Markets Law of the State of New York, shall be prosecuted pursuant to the Penal Law of the State of New York and shall be punishable by a fine of not more than \$25, except that where the person was found to have

violated this article within the preceding five years, the fine may be not more than \$50, and where the person was found to have committed two or more of such violations within the preceding five years, it shall be punishable by a fine of not more than \$100 or imprisonment for not more than 15 days, or both.

Chapter 57

BUILDING CONSTRUCTION

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

GENERAL REFERENCES

Unsafe buildings — See Ch. 61.

ARTICLE I

Building Permits

[Adopted 7-31-1975 by L.L. No. 1-1975]

§ 57-1. Building permit required; application procedure.

- A. No individual, corporation or firm shall start the erection, construction, enlargement, conversion or change in the nature of occupancy of any building or structure, or cause the same to be done, without first obtaining a building permit from the Building Inspector for each such building or structure, except that no building permit shall be required for the performance of painting, decorating or ordinary repairs which are not structural in nature.
- B. Application for a building permit shall be made to the Building Inspector on forms provided by this office. The applicant will be required to give dimensions of the lot, the street and location, statement of the use and occupancy anticipated, estimated duration of the construction, the valuation of the proposed work, the name and address of the owner or officers of the firm, a complete set of plans and specifications in triplicate and any other required information necessary to establish compliance of the proposed work with the building laws and ordinances or rules established by the Building Inspector.
- C. Application shall be made by the owner, lessee, architect, engineer or contractor employed in connection with the proposed work.
- D. Pursuant to General Municipal Law § 125, the Village is prohibited from issuing a building permit unless the applicant has provided proof of workers' compensation insurance and disability benefits coverage or an affidavit that the applicant has not engaged an employer or any employees to perform work relating to the building permit.¹
- E. The plans and specifications shall include a plot plan drawn to scale, showing the proposed work, location of such and all utilities connected therewith. Distances from lot lines, indication of structures and adjoining properties, finished grades and location of streets and sidewalks, etc., shall be included. Drawing shall include floor plans, elevations, sections and other details as may be required and show all information concerning the construction of the building, including general construction, mechanical equipment, plumbing and

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

electrical work. The Building Inspector may waive the requirements for plans and specifications for minor alterations and issue a building permit so stating.

- F. Plans and specifications shall bear the signature of the person responsible for the design and drawings.
- G. Where the State Education Law requires the seal of the registered architect or licensed professional engineer, the Building Inspector shall require such seal on the drawings and specifications before they are submitted for approval.
- H. In general, a residence and other buildings which contain less than 1,500 square feet of habitable or fully developed space will not require such seal.
- I. Where the applicant requests approval of plans and specifications covering a factory, mercantile building or place of public assembly or other type of building structure which comes under the jurisdiction of the State Labor Department, these plans must first be filed and approved by the State Labor Department before they can be received for consideration by the Building Inspector.
- J. Amendments or revisions to plans and specifications may be made if such amendments are filed and approved prior to the completion of the work, subject to the approval of the Building Inspector. The Building Inspector shall not approve plans which fail to comply with any ordinance of the Village of Philmont.
- K. The application shall include a statement signed by the owner that the applicant consents to permit the Building Inspector and any person employed by said Building Inspector to enter upon the premises without a search warrant as set forth in § 57-9.

§ 57-2. Examination of application; approval or disapproval.

- A. Upon completion of the appropriate application form and submittal of the necessary plans and specifications, the Building Inspector shall examine or cause to be examined all plans, specifications, permits and other documents filed therewith. He shall approve or disapprove the application within two weeks. Upon approval of the application and receipt of the legal fees therefor, he shall issue a building permit to the applicant upon the form prescribed by the Village and he shall affix his signature or cause his signature to be affixed thereto.
- B. Upon approval of the application, all sets of plans and specifications shall be endorsed with the words: "Approved, Building Inspector, Village of Philmont, New York." Two sets of plans and specifications shall be retained in the files of the Building Inspector and the other set shall be returned to the applicant, together with the building permit. These shall be kept at the building site open to inspection by the Building Inspector or his authorized representative at all reasonable times.
- C. If the application, together with the plans and specifications and other required documents filed, does not conform to all requirements of the applicable Uniform Fire Prevention and Building Code regulations and any other requirements, the Building Inspector shall disapprove the same and shall return said plans and specifications to the applicant. Upon request of the applicant, the Building Inspector shall cause such refusal, together with the reasons for same, to be transmitted to the applicant in writing.

- D. In the event that an application for a building permit is not approved the applicant shall be entitled to a refund of 50% of the fee paid providing no work has been commenced. If the work has been started and the application is not approved, the fee shall not be refunded.

§ 57-3. Duration of permit; extension. [Amended 9-11-1989 by L.L. No. 5-1989]

Any building permit shall be valid to authorize the beginning of work in accordance with the application and the approved plans and specifications on which it is based, for a period of six months after the date of its issuance. For good cause and special circumstances, the Building Inspector may grant one six-month extension of this date.

§ 57-4. Compliance required.

The issuance of a building permit constitutes authority to the applicant to proceed with the work, but only in accordance with the approved plans and specifications and in accordance with all applicable building laws, codes, and regulations. Any change to be made to the building shall first be approved by the Building Inspector.

§ 57-5. Fees and charges; estimates.

- A. An approved permit for construction shall not be issued to the applicant until a fee has been paid to the Building Inspector. A fee schedule shall be established and amended as necessary by resolution of the Village Board of Trustees. Such fees may be charged for the issuance of permits, certificates of occupancy, conditional certificates of occupancy and for firesafety inspections.²
- B. Permits will be required for all work under the jurisdiction of the Building Inspector. Cost of the construction of a building shall be secured from the architect, engineer or contractor in charge of the work. Applicant for the permit shall present bid sheets or proposal sheets or contract documents to substantiate the building costs. If no bona fide certificate of cost by the above methods is available, then the Building Inspector will establish the cost by using a square foot, cubic foot or by an acceptable estimate method, whichever will produce a fair price for the project. In case of dispute, the Building Inspector is empowered to employ the services of an architect, engineer or contractor to make an estimate of the said cost.
- C. The cost of a building shall include the general construction, plumbing, mechanical equipment and electrical work, but shall not include the cost of land, landscaping, sidewalks, driveways, etc.
- D. Permit fees for mechanical, electrical or other separate contracts not included in the architect's or general contractor's estimate shall be paid for by each of the various separate contractors doing work in accordance with the prices listed on the schedule of fees.
- E. No charge will be made for building permits in connection with work done by or for the Village of Philmont on municipally owned buildings, structures or other property.

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

§ 57-6. Grounds for revocation; stop orders.

- A. The Building Inspector may revoke a building permit issued by him in the following instances:
- (1) If he finds that a permit has been issued in error and not in accordance with the applicable law.
 - (2) If he finds a false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.
 - (3) Where it is found that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications or the building regulations or zoning laws.
 - (4) Where the person to whom the building permit is issued fails or refuses to comply with a stop order issued by the Building Inspector.
- B. Whenever the Building Inspector has reasonable grounds to believe that the work on any building or structure is being prosecuted in violation of the provisions of any of the applicable building laws or ordinances or not in conformity with the plans and specifications on which the permit was based, or the construction is being done in an unsafe and dangerous manner, he shall notify the owner of the property or building, or the owner's agent or the contractor or the person performing the work, to suspend all operations. All building activities shall cease until the stop order has been rescinded. Work shall not resume until the owner or his representative is notified in writing by the Building Inspector that the stop order has been rescinded.

§ 57-7. Appeals.

- A. Wherever the Building Inspector rejects any plan or specifications for the erection or alteration of any building or structure, or where he claims that plans violate part or parts of the State Uniform Fire Prevention and Building Code or local ordinances or any other building regulations, or where he disallows a permit because in his interpretation of this section a violation will result, then the owner or applicant may appeal as follows:³
- (1) An appeal involving a question which pertains to the local ordinances or regulations of the Village shall be taken within 30 days from the date of decision of the Building Inspector to the Village Board of the Village of Philmont by filing a notice of appeal with the Village Clerk.
- B. If the decision of the reviewing board is favorable to the applicant, the Building Inspector shall issue a building permit in accordance therewith.

§ 57-8. Compliance; certificate of occupancy; inspections.

- A. No building hereinafter erected shall be occupied or used in whole or in part until completed in accordance with the plans and specification filed with the building permit

3. Editor's Note: Former Subsection A(1), regarding appeal under the State Building Construction Code, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

application and until a certificate of occupancy has been issued by the Building Inspector.

- B. No building hereinafter altered, extended, enlarged or worked upon requiring the issuance of a building permit, where the alterations, extensions, enlargement or work shall be of such a nature as to constitute, before its completion, a hazardous condition which shall endanger the lives or persons of the occupants, shall be used or occupied until the Building Inspector has issued a certificate of occupancy.
- C. It is the duty of the Building Inspector to make or direct to have made by his representative an examination and inspection of the building in question during its construction work and, at its completion, to satisfy himself that the work has been done in a safe manner and in conformity with the plans and specifications filed when the building permit was issued and in accordance with this section.
- D. When the final inspection has been made and he is satisfied that the work has been completed in accordance with the State Uniform Fire Prevention and Building Code and all applicable ordinances, then he shall issue a certificate of occupancy within 10 days of such application. This certificate shall be dated, give the name of the project and certify that the work has been done in conformity with applicable building laws and regulations. The certificate shall indicate the address of the building and the use or uses for which the structure was made.
- E. Where the Building Inspector has reasonable doubt as to the safety of the structure or any part thereof, then he may require that the same be subjected to reasonable tests or investigations to make sure of the structural safety or compliance with the State Uniform Fire Prevention and Building Code. He may require documentary proof of strength of certain materials or require the registered architect or professional engineer in charge of the job to provide affidavits concerning the workmanship or materials or design of any or all parts of the building. No certificate shall be issued until all work is in conformity.
- F. The Building Inspector shall charge a fee as set by resolution of the Village Board of Trustees for the issuance of a certificate of occupancy, which fee shall be paid to the Village before the certificate is issued. [Added 9-11-1989 by L.L. No. 5-1989⁴]

§ 57-9. Right of entry.

The Building Inspector and any person employed by said Building Inspector, upon showing the proper credentials and in the discharge of their duties, shall be permitted to enter upon any building, structure or premises without interference, during reasonable working hours.

§ 57-10. Penalties for offenses.

- A. It shall be unlawful for any person, firm or corporation to build, repair, alter, move, use or occupy any building or structure or portion thereof in violation of any provisions of this article or to fail in any manner to comply with a notice or directive of the Building Inspector.
- B. Any person who shall fail to comply with the written order of the Building Inspector within

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

the fixed time for compliance therewith, and any owner, builder, contractor, architect, tenant, subcontractor or any person assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of this article or any directives of the Building Inspector, shall be punished by a fine of not more than \$250 or 15 days in jail, or both.

- C. Except as provided otherwise by law, such a violation shall not be a crime, and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment and shall not impose any disability upon or affect or impair the credibility as a witness or otherwise of any person convicted thereof.
- D. This section shall not apply to the violation of the provisions of the Uniform Fire Prevention and Building Code punishable under § 382 of the Executive Law of New York State, nor to violations of the provisions of the Multiple Residence Law of the State of New York.

ARTICLE II
Electrical Inspections
[Adopted 8-11-1975]

§ 57-11. Electrical Inspector. ⁵

The Chief Inspector, and each of the duly appointed Inspectors of the New York Board of Fire Underwriters or other qualified inspection agency approved by the Village are hereby authorized and deputized as agents of the Village of Philmont to make inspections and reinspections of all electrical installations heretofore and hereafter described, and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and reinspections be a charge against the Village of Philmont.

§ 57-12. Duties of Electrical Inspector.

- A. It shall be the duty of the Inspector to report in writing to the Chief Building Inspector, whose duty it shall be to enforce all provisions of this article, all violations or deviations from or omissions of the electrical provisions of the Uniform Code applicable to the Village of Philmont and of all local laws, ordinances and the Uniform Code as referred to in this article insofar as any of the same apply to electrical wiring. The Inspector shall make inspections and reinspections of electrical installations in and on properties in the Village of Philmont upon the written request of an authorized official of the Village of Philmont or as herein provided. The Inspector is authorized to make inspections and reinspections of electrical wiring, installations, devices, appliances and equipment, in or on properties within the Village of Philmont where he deems it necessary for the protection of life and property. In the event of an emergency it is the duty of the Inspector to make electrical inspections upon the oral request of an official or officer of the Village of Philmont.
- B. It shall be the duty of the Inspector to furnish written reports to the proper officials of the Village of Philmont and owners and/or lessees of property where defective electrical

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

installations and equipment are found upon inspection. He shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with this article. He shall direct that a copy of the certificate of compliance be sent to the Village of Philmont to the attention of the Building Inspector.

§ 57-13. Violations. ⁶

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

§ 57-14. Penalties for offenses. ⁷

Any person convicted of a violation of this article shall be punishable by a fine of not more than \$250, imprisonment for not more than 15 days, or both such fine and imprisonment. This section shall not apply to the violation of the provisions of the Uniform Fire Prevention and Building Code, punishable under § 382 of the Executive Law.

ARTICLE III
Tenancy Certificate of Occupancy
[Adopted by L.L. No. 2-1997]

§ 57-15. Definitions.

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

LANDLORD — The owner in fee simple of property who has leased it for a term to another person called the "tenant."

NEW TENANT — Tenants of a premises, none of the adult occupants of the premises who have previously occupied the premises in the last 30 days.

TENANT — An individual (or individuals) who holds or occupies premises of another for residential purposes; one who has a temporary use and occupation of real property owned by another person herein called the "landlord" for a definite term and duration.

§ 57-16. Tenancy certificate of occupancy.

Whenever a residential apartment, house or dwelling is to be rented to a new tenant, the landlord is required to make application in writing to the Village of Philmont for a tenancy certificate of occupancy. Such certificate of occupancy shall certify that the residential unit to be occupied and

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

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

the services to the unit are in compliance with the New York State Uniform Fire Prevention and Building Code and Chapter 160, Zoning, of the Village of Philmont.

§ 57-17. Application for certificate.

The landlord of the premises shall make application, in writing, for such certificate of occupancy to the Philmont Building Inspector at the Philmont Village Hall. All such applications shall be acted upon immediately by the Philmont Village Building Inspector. If the application is not acted upon within eight days of receipt by the Village Office, it shall be deemed approved without inspection. However, should the premises be unavailable for inspection to the Building Inspector within eight days at a time sent by the Building Inspector, this time period shall be stayed until such time as the premises is available for inspection.

§ 57-18. Correction of violations.

Any such violations found by the Village Building Inspector shall be corrected before the premises shall be occupied and a tenancy certificate of occupancy issued.

§ 57-19. Issuance of certificate.

Upon inspection and approval of the premises by the Village's Building Inspector, the Village shall issue a tenancy certificate of occupancy certifying that the premises is in compliance with the New York State Uniform Fire Prevention and Building Code.

§ 57-20. Duration of certificate.

The certificate of occupancy shall be for a duration no longer than that time period that the new tenants shall occupy the premises. Prior to occupation by a new tenant, an additional certificate of occupancy shall be required.

§ 57-21. Certificate required prior to occupancy.

No building, house or dwelling may be occupied by a new tenant until such time a tenancy certificate of occupancy has been issued by the Building Inspector or the time period for inspection has elapsed without action by the Building Inspector.

§ 57-22. Penalties for offenses.

- A. In addition to those penalties set forth in Executive Law § 382, any landlord who shall rent premises in violation of this law shall be guilty of a violation and shall be punishable by a fine of not more than \$250 or imprisonment not exceeding 15 days, or both.
- B. Any tenant who occupies a premises without a tenancy certificate of occupancy shall be guilty of a violation and shall be punishable by a fine of not more than \$50.

§ 57-23. Fees.

The fee for the issuance of an apartment certificate of occupancy shall be the sum of \$10, payable to the Village of Philmont.

Chapter 61

BUILDINGS, UNSAFE

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

GENERAL REFERENCES

Building construction — See Ch. 57.

§ 61-1. Definitions.

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

BUILDING — Any structure, house, shed or other man-made structure or part thereof used for residential, business, industrial or any other purpose.

BUILDING INSPECTOR — The official Building Inspector of the Village of Philmont..

PERSON — Includes one or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities capable of being sued.

§ 61-2. Enforcement.

This chapter will be enforced by the Building Inspector of the Village of Philmont.

§ 61-3. Conditions constituting dangerous buildings.

All buildings or structures situate within the corporate limits of the Village of Philmont, New York, in business, industrial, multiple-dwelling and residential sections that, from any cause, may now have or shall hereafter have any or all of the following defects shall be deemed "dangerous buildings":

- A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- B. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members or 50% of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have significant strength to be reasonably safe for the purpose used.
- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the

people of the Village Philmont, New York.

- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, morals, safety or general welfare of those living therein.
- F. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.
- G. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- H. Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Village of Philmont, New York.
- I. Those buildings existing in violation of any provisions of any Building Code of the Village of Philmont, New York, now or hereafter adopted.

§ 61-4. Dangerous buildings deemed nuisances.

- A. All dangerous buildings within the terms of § 61-3 of this chapter are hereby declared to be public nuisances and shall be repaired, vacated, demolished or removed as hereinbefore and hereinafter provided.
- B. It shall be the responsibility of the owner of the property to remove all unsanitary, flammable or combustible materials and to board up all windows, doors and openings to the building. This shall take place at the direction of the Building Inspector after the building has been declared unsafe, after the building has been declared uninhabitable or after the building has been vacant for more than 60 days. In the event that the owner of the property fails to carry out these functions, the Building Inspector shall take action to cause the removal of all unsanitary, flammable or combustible materials and to board up all windows, doors and openings so as to prevent entrance. The cost of such action shall be a lien on the property and shall be collectible in the same manner as delinquent taxes.

§ 61-5. Duties of Building Inspector.

The Building Inspector shall:

- A. Inspect any building, wall or structure about which complaints are filed by any persons to the effect that a building, wall or structure is or may be existing in violation of this chapter.
- B. Inspect any building, wall or structure reported by the Philmont Fire Department or any officer or member thereof or reported by the Police Department of said Village or any officer thereof to either the Building Inspector or to the Board of Trustees as probably existing in violation of the terms of this chapter or reported as aforesaid to be suspected to be existing in violation of the terms of this chapter.
- C. Inspect any building, wall or structure concerning which he or she has reasonable grounds to suspect that the same is or may be existing in violation of this chapter.

- D. As expeditiously as possible and not later than 30 days immediately following his or her examination and inspection, report in writing and file such report with the Village Clerk, stating the date of his or her inspection and stating the particulars in which the building or structure is unsafe or dangerous or violative of this chapter.
- E. Serve or cause to be served, in the manner and upon such person or persons as prescribed by §§ 61-6 and 61-7 of this chapter, all notices and orders hereafter specified in §§ 61-6 and 61-7 hereof and attend to the posting of all notices, orders and surveys provided for by this chapter.
- F. Act as one of the surveyors as an official of the Village of Philmont, New York, in all cases where a survey is required.
- G. Perform such other and further duties as may lawfully be delegated by the Board of Trustees.

§ 61-6. Notice and order to comply.

Upon the filing of his report with the Village Clerk, as heretofore provided in § 61-5D hereof, or at any time thereafter whenever, in the opinion of the Building Inspector, any building or structure or any part thereof in the business, industrial, multiple-dwelling or residential sections in the Village of Philmont, New York, is, for want of repair or by reason of age or dilapidated condition or for any other cause, either structurally unsafe or from any cause dangerous or unsafe to the public or from any cause violative of the terms of this chapter or from any cause is in such an unsafe condition as to endanger life or property, the Building Inspector shall have authority to order any owner, agent or person in possession, charge or control of such building or structure or any part thereof to put the same in a safe condition and to repair and secure the same or to take down and remove the same or any part thereof within such reasonable time as may be determined by the Building Inspector in such order; provided, however, that in all cases such order shall fix the time when compliance therewith shall commence at not more than 10 calendar days after the service thereof, and provided further that, except in case of emergency, not less than 30 calendar days shall be allowed in such order for completion of compliance therewith. The Building Inspector shall serve or cause to be served a notice, in writing, on the owner or some one of the owner's executors, legal representatives, agents or lessees and upon any other person or persons having a vested or contingent interest in such building or structure or any part thereof, which notice shall contain a description of the premises and a statement of the particulars in which the building or structure is unsafe or dangerous, and which notice shall be served as herein provided concurrently with an order requiring said building or structure to be made safe and secure or removed. Such notice and order shall be served or caused to be served either personally or by registered mail, addressed to the last known address, if any, of the owner or some one of the owner's executors, legal representatives, agents or lessees and other person or persons having a vested or contingent interest in said building or structure or any part thereof as shown by the records of the Columbia County Treasurer and the Columbia County Clerk. The Building Inspector shall post or cause to be posted conspicuously on the outer exterior wall of such premises, at the time of such service or within a reasonable time thereafter, a copy of such notice and order. Such notice and order shall remain posted until the required changes have been made, and it shall be unlawful for any person to remove, deface or destroy such notices without permission of the Building Inspector.

§ 61-7. Failure to comply with notice; survey of premises.

- A. Upon the refusal or neglect of the person or persons served with the notice and order provided for by § 61-6 of this chapter to comply with any or all of the requirements of such notice and order within the time prescribed by such notice and order, then, upon order of the Village Board of Trustees, a notice of survey shall be served upon such person or persons in the manner prescribed by § 61-6 of this chapter, notifying such person or persons that a survey of the premises described in such notice of survey will be made at the time and place specified in such notice of survey, which time shall not be less than 24 hours from the time of the service of such notice of survey, and which notice of survey shall further notify such person or persons that such survey will be made at such time and place as are specified therein by the Building Inspector of the Village of Philmont, New York, and a practical builder, engineer or architect named by the Board of Trustees of the Village of Philmont, New York, and designated in such notice and by a practical builder, engineer or architect appointed by the person or persons notified as herein provided. Such notice shall further notify such person or persons that, in the event of the refusal or neglect of such person or persons so notified to appoint such third surveyor and to cause his attendance at the time and place of the survey as set forth in the notice of survey, then and in such event the Building Inspector of Philmont, New York, and the practical builder, engineer or architect named by the Board of Trustees and designated in such notice of survey shall make the survey and report. Such notice of survey shall state that, in the event that the building or structure or any part thereof shall be reported unsafe or dangerous under such survey, then an application will be made at a special term of the Supreme Court in the Eighth Judicial District not less than five nor more than 10 calendar days thereafter for an order determining the building or structure or any part thereof to be a public nuisance and directing that it shall be repaired and secured or taken down and removed.
- B. At the time and place set forth in the notice of survey provided for in Subsection A of this section, the surveyors specified in such Subsection A shall survey the premises described in the notice of survey and shall make a report, in writing, stating the particulars in which the building or structure is unsafe or dangerous or violative of this chapter, and such report shall be signed by each of the surveyors and filed with the Village Clerk of the Village of Philmont, New York.
- C. In case the premises referred to in such report shall be reported dangerous under such survey, said report will be placed before the Supreme Court as indicated in such notice.
- D. The failure, refusal or neglect of any surveyor to sign the report of the survey shall not affect the validity thereof, and the same shall be filed, posted and placed before the Supreme Court as provided herein, whether or not signed by all surveyors. The majority report of the survey shall be sufficient and deemed the report of the survey hereunder. Any surveyor hereunder shall have the right to file a minority or dissenting report with the Village Clerk concurrently with the majority report of the survey hereunder.

§ 61-8. Posting of report of survey on premises.

A copy of the report of the survey shall be posted on the building which is the subject thereof by the persons holding the survey immediately on their signing such report.

§ 61-9. Compensation of surveyors.

The practical builder, the engineer or the architect named by the Board of Trustees as hereinbefore provided who may act on any survey called in accordance with this chapter and the practical builder, engineer or architect appointed as hereinbefore provided by the person or persons notified as hereinbefore provided shall each be entitled to and receive a fee to be fixed by the Village Board to be paid by the Village Treasurer. A cause of action is hereby created for the benefit of the Village against the owner of said building or structure and against the owner of the lot or parcel of land on which the same is situated for the amount so paid with interest. The amount so collected shall be paid to the Village Treasurer in reimbursement of the amount paid by him or her as aforesaid.

§ 61-10. Assessment of costs and expenses.

All costs and expenses incurred by the Village in connection with the proceedings to remove, demolish, repair or vacate any dangerous building or structure as hereinbefore defined, including all surveyor's fees, attorneys' fees, advertising costs, title searches and all other expenses necessarily incurred in such proceedings, and all costs and expenses incurred by the Village in connection with the actual repair, vacating, demolishing or removal of any and all such buildings or structures under and by the direction of the Board of Trustees shall, when properly certified by the Board of Trustees, be audited and paid by the Village in the same manner as other claims against the Village are audited and paid. A bill for such expenses incurred by the Village as aforesaid shall be presented to the owner personally or by leaving the same at his or her residence with any adult person or, if he or she is a nonresident of the Village, by mailing the same to him or her at his or her last known place of residence or, if the name of such owner or his or her place of residence cannot be ascertained after due diligence, by posting the same in a conspicuous place on the premises. If such owner shall fail to pay the same within 10 calendar days thereafter, the Board of Trustees shall file, immediately preceding the time for making the annual assessment roll, a certificate of the actual expenses incurred as aforesaid, with a statement as to the property in connection with which such expenses were incurred, with the Assessors of the Town of Claverack, who shall, in the preparation of the last assessment roll of general Village taxes, assess such amount of such actual expenses upon such property and against each building or structure and the lot or land upon which the same is situate, and the same shall be levied, collected and enforced in the same manner, by the same proceedings, at the same time, under the same penalties and having the same lien upon the property assessed as the general Village tax and as a part thereof. The imposition and collection of any fine or penalty prescribed by this chapter or by any existing ordinance shall not bar the right of the Village to collect such aforesaid actual expenses as herein prescribed.

§ 61-11. Emergency conditions.

In cases of great emergency, where the delay of proceedings as herein before provided would result in probable loss of life or property, the Board of Trustees shall have the power to proceed at once to take such action as is needed to guard the safety of persons and property. In such cases, the Board of Trustees shall have the full power and authority to provide all necessary means therefor, and all expenses therefor shall be paid and collected as provided in § 61-10 hereof and in Article 5, § 78-b of the General Municipal Law of the State of New York.

§ 61-12. Execution of court order.

Upon receiving an order from the Supreme Court of the State of New York as provided in § 61-7 hereof, the Building Inspector shall immediately proceed to execute it as therein directed and may employ such labor and assistance as may be necessary for that purpose.

§ 61-13. Remedies.

The remedies of the Village of Philmont as herein set forth shall not be exclusive, but the Village shall have any other and further remedies, at law or otherwise, now existing or as may be hereafter provided for under the laws of the State of New York, and any and all such remedies shall be deemed cumulative, and the pursuit of any remedy shall not be construed as an election or the waiver of the right to pursue any and all others.

§ 61-14. Penalties for offenses.

- A. It shall be unlawful for any person or corporation to knowingly maintain or cause to be maintained or to knowingly allow or permit any other person or corporation or agent, lessee or otherwise to maintain, any dangerous, unsafe or hazardous building, residence or structure, as herein defined, and any owner, occupant, lessee or other person or corporation who shall knowingly maintain or cause to be maintained or knowingly allow or permit to be maintained any such dangerous, unsafe or hazardous building, residence or structure and who shall fail to comply with any order or any provisions of any order of the Supreme Court of the State of New York, obtained as herein set forth, directing that such unsafe building, residence or structure be demolished or repaired shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by imprisonment for not more than 15 days, or both, and, each and every day such failure to comply continues beyond the date fixed for such compliance by an order of the Supreme Court of the State of New York, obtained as herein set forth, shall constitute a separate offense. An adjudication by the Supreme Court of the State of New York determining that the building, residence or structure is dangerous and/or unsafe and a public nuisance shall be conclusive evidence of the fact of the existence of such dangerous or unsafe building, residence or structure.
- B. Any person removing any notice provided for in this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by imprisonment for not more than 15 days, or both, for each offense.

Chapter 66

CURFEW

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

ARTICLE I

Memorial Field

[Adopted 6-13-1977 by L.L. No. 3-1977]

§ 66-1. Curfew hours established.

No person other than a duly appointed and acting police or peace officer shall be permitted to enter or remain upon Memorial Field from 1/2 hour after sunset to 1/2 hour before sunrise, unless the field lights have been turned on, in which event no such person shall be permitted to enter or remain upon Memorial Field from the time the field lights have been turned off until 1/2 hour before sunrise.

§ 66-2. Penalties for offenses. [Amended 2-9-2004 by L.L. No. 1-2004]

A violation of this article shall constitute an offense punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both.

ARTICLE II

Beachfront Park

[Adopted 5-23-1978 by L.L. No. 2-1978]

§ 66-3. Curfew hours established.

No person other than a duly appointed and acting police or peace officer shall, from 1/2 hour after sunset to 1/2 hour before sunrise, be permitted to enter or remain upon that portion of the beachfront park along Lakeside Drive which lies north of the northerly boundary of Lakeside Drive.

§ 66-4. Penalties for offenses. [Amended 2-9-2004 by L.L. No. 1-2004]

A violation of this article shall constitute an offense punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both.

ARTICLE III

Juvenile Curfew

[Adopted 8-26-1996 by L.L. No. 3-1996; amended in its entirety 7-14-2008 by L.L. No. 3-2008]

§ 66-5. Short title.

This article shall be known as the "Philmont Juvenile Curfew."

§ 66-6. Legislative findings.

By the adoption of this article, the Village Board of Trustees finds that unsupervised minors can create neighborhood problems, including damage to property, gambling, drug dealings, noise, intoxication, physical assaults, thefts, and other detrimental activities, and that it is in the best interest of the Village, to preserve public health, safety and welfare of the community, to adopt a curfew directed toward youth within its Village limits under the age of 18 to protect minors from each other, to protect others and their property and to reduce juvenile crime. It is found that the following curfew legislation is reasonable in relation to the ends sought to be achieved and does not infringe on the fundamental rights of juveniles.

§ 66-7. Curfew established.

- A. It shall be unlawful for any minor under the age of 18 to be in or remain upon any public building, street, highway, park, vacant lot or other public place between the hours of 10:00 p.m. and 6:00 a.m.
- B. It shall be unlawful for any parent or other individual legally responsible for the custody of a minor under the age of 18 to knowingly permit or by inefficient control to allow such minor to be in violation of the juvenile curfew. "Knowingly" shall be defined as knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in his or her legal custody.
- C. It shall be unlawful for the operator of any public establishment to allow a minor under the age of 18 to be in the establishment after curfew hours.

§ 66-8. Exceptions.

The following shall constitute valid exceptions to the operation of the curfew:

- A. At any time, if the minor is accompanied by his or her parent, legal guardian or other legally responsible person designated by the parent or guardian in writing, in advance, such designation to be carried on the minor's person.
- B. If the minor is legally employed and while going directly between his or her residence and place of employment. This exception shall also apply if the minor is in a public place during curfew hours in the course of his or her employment.
- C. If the minor is on the property of or the sidewalk directly adjacent to the building in which he or she resides.
- D. If the minor is coming directly home from a community, school or religious event or place of public entertainment, such as a movie, play or sporting event. This exception will apply for 1/2 hour after the completion of such event.
- E. If the minor is exercising first amendment rights protected by the Constitution, such as free exercise of religion, freedom of speech, and the right of assembly, provided the minor has first given notice to the Mayor of the Village of Philmont by a written communication signed by the minor and countersigned by the parent or legal guardian of the minor which specifies when, where, and for what first amendment purpose the minor will be exercising during the curfew period.

- F. The minor is in a motor vehicle with parental consent for normal travel, with interstate travel through Philmont excepted in all cases from the curfew.
- G. During a bona fide emergency.

§ 66-9. Enforcement.

- A. A police officer who has probable cause to believe that a minor is in violation of this curfew shall ascertain the name, address and proof of age of said minor. If the minor cannot produce documentation that he or she is not in violation of this curfew by virtue of age or above-referenced exceptions, such minor shall be taken into the custody of the police and an immediate attempt shall be made to notify the parent or other individual legally responsible for the custody of the minor that the minor is in police custody and that they can take custody of the minor. A record of the violation shall be maintained by the Police Department.
- B. Names of absent parents shall be reported to the Columbia County Department of Social Services for investigation of possible child neglect.
- C. Whenever the owner or person in charge or control of any place of amusement, entertainment, refreshment or other place of business shall find any person under the age of 18 years in or about such place in violation of this curfew, he or she shall immediately order such minor or minors to leave, and if such minor or minors refuse to leave, the owner or person in charge shall immediately inform the Police Department of the violation.
- D. When the police discover habitual violations of this curfew law by a minor, such that the violations establish the minor is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child's care, the police may institute a proceeding seeking to adjudicate the minor as a "person in need of supervision" pursuant to Article 7 § 33(a) of the New York Family Court Act.

§ 66-10. Penalties for offenses.

- A. Any violation of this article by a parent or other individual legally responsible for the custody of a minor under the age of 18 shall be a violation prosecutable in Village Court.
- B. In the case of a first violation by a minor, the police shall send the minor's parents or legal guardian written notice of the violation, warning them that a second violation will result in criminal prosecution of them. The parents of any minor who violates this curfew more than once in an eighteen-month period shall be subject to a fine not to exceed \$250 and/or 15 days in jail.
- C. The owner or person in charge of a business establishment indicated in §§ 66-7C and/or 66-9C who fails to comply with the curfew requirements shall be subject to a fine not to exceed \$250 and/or 15 days in jail.
- D. Repeated or habitual violations of this article by a minor shall be prosecutable pursuant to Article 7 of the New York Family Court Act.

Chapter 72

ENTERTAINMENT, OUTDOOR

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

§ 72-1. Definitions.

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

BOARD OF TRUSTEES — The Board of Trustees of the Village of Philmont.

PARADE — Any parade, march, procession (excluding customary and normal wedding or funeral processions), demonstration of any kind or any similar display in or upon any street, park or other public place within the Village of Philmont.

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

POLICE — The police of the Village of Philmont.

VILLAGE — The Village of Philmont.

VILLAGE CLERK — The Village Clerk of the Village of Philmont.

§ 72-2. License required; application; contents; fee.

- A. No carnival, circus, traveling show, music festival or parade shall be opened or operated in the Village unless and until a license has been issued for the same in accordance with this chapter.
- B. A person seeking issuance of a license shall file an application with the Village Clerk on forms provided by the Village. Such application shall be delivered to the Village no earlier than 120 days before the event and no later than 30 days before the event.
- C. The application for a license shall set forth the following information:
 - (1) The name, address and telephone number of the person or persons sponsoring the event.
 - (2) If the application is made on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized or responsible persons.
 - (3) The date(s) when the event is to be conducted.
 - (4) The route to be traveled or the area within the Village to be used for the event, including the starting point and termination point.

- (5) The approximate number of persons who will constitute the event and, if there are animals and vehicles, the approximate number and types of animals and the approximate number and description of vehicles.
 - (6) The hours when the event will start and terminate and the times at which any portions of the event will begin to assemble at a particular area or areas.
- D. No license application will be considered or reviewed unless the application has been completed in its entirety and is accompanied by the requisite fee.

§ 72-3. Review of application; approval or denial of license.

- A. The application for license shall be reviewed by the Board of Trustees and, after such review, the Board of Trustees shall approve or deny such application. In reaching such determination, the Board of Trustees shall consider relevant information and factors, including but not limited to the following:
- (1) Whether the requested event will substantially interrupt the safe and orderly movement of traffic within and contiguous to the event.
 - (2) Whether the requested event will require the Village to police such event, and whether the numbers of police officers assigned to properly police such event will prevent the Village from providing adequate police protection to the remainder of the Village.
 - (3) Whether the requested event will unduly or substantially interfere with proper and adequate fire and police protection or proper and adequate ambulance service to the areas contiguous to such event and the Village in general.
 - (4) Whether the requested event will substantially interfere with the movement of fire-fighting equipment or ambulance service to the Village or to the areas contiguous to the requested event.
 - (5) Whether the requested event will otherwise substantially interfere with or be a substantial detriment to the general health, safety and welfare of the Village.
 - (6) Whether there are other events scheduled on the day of the requested event.
- B. In the case of the approval of a license, the Board of Trustees shall establish such conditions regulating time, place and the manner in which the event is conducted and such other conditions as will assure the general health, safety and welfare of the Village, its residents and people participating in such event.

§ 72-4. Fees.

The application for a license shall be accompanied by a fee. The application fees for events shall be as set forth in a fee schedule established and amended as necessary by resolution of the Board of Trustees and shall be kept on file at the Village Hall.

§ 72-5. Duties of licensee.

- A. A licensee hereunder shall comply with all license directions and conditions and with all applicable laws of the Village and the State of New York.
- B. The event chairman or other person in charge of such event shall carry the license upon his or her person during the conduct of such event.

§ 72-6. Suspension or revocation of license.

The Board of Trustees shall have the right to suspend or revoke any license issued under this chapter for violations of one or more of the regulations promulgated hereunder.

§ 72-7. Interference prohibited; enforcement.

- A. No person shall unreasonably hamper, obstruct, impede or interfere with any event or with any person, vehicle or animal participating or used in an event issued a license under this chapter.
- B. No driver of a vehicle shall drive between the vehicles or persons comprising a parade or event when such vehicles or persons are in motion and are conspicuously designed.
- C. Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along the highway or part thereof constituting any portion of a parade route or event. The police shall post signs to such effect.

§ 72-8. Penalties for offenses.

Any person violating the provisions of this chapter shall, upon conviction, be guilty of an offense and shall be punishable by a fine of not less than \$50 nor more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment.

Chapter 76

EXPLOSIVES AND FIREARMS

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont as revised to 3-4-1955. Subsequent amendments noted where applicable.]

§ 76-1. Storage and transportation of explosives.

It shall be unlawful to store or keep any dynamite, nitroglycerine or other explosive in a room or building or in any premises within the Village limits, except on a permit issued by the Board of Trustees and only then upon an inspection by the Fire Chief recommending such application. No dynamite or other high explosive shall be transported through the streets of the Village except upon a permit issued by the Board of Trustees, and the said Board of Trustees shall have entire jurisdiction as to methods and safety of transportation; no volatile inflammable liquid shall be kept or carried in open vessels except for the purpose of immediately filling the tanks of automobiles; nor shall any volatile inflammable liquid be allowed to fall upon the floor or to fall or pass into the drainage system of a garage, nor be placed into or removed from any tank or container while any light or fire on the same is burning.

§ 76-2. Giving firearms to minors.

It shall be unlawful for any person to give, sell or loan within the limits of this municipality to any minor, a revolver, pistol or firearm of any description, including any so-called blank cartridge pistols.

§ 76-3. Penalties for offenses. ¹

Any violation of any of the provisions of this chapter shall be punishable by a fine of not more than \$250, imprisonment for not more than 15 days, or both. Each day's violation of any provision of this chapter shall constitute a separate offense.

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

Chapter 80

FIRE HYDRANTS

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont 1-11-1995 by L.L. No. 1-1995. Amendments noted where applicable.]

§ 80-1. Short title.

This chapter shall be known as Local Law 1 of 1995 or the "Philmont Fire Hydrant Law."

§ 80-2. Legislative findings.

By the adoption of this chapter, the Village Board of Trustees declares its intention to restrict the use of Village fire hydrants. It is the finding of the Board that unrestricted use of fire hydrants causes health and safety hazards and exposes the residents of the Village of Philmont, New York to the threat of inoperable fire hydrants in a fire emergency. It is the further finding of the Board that unrestricted use of fire hydrants results in adverse water pressure to residents, needlessly exposes fire hydrants to the risk of damage and jeopardizes the health and safety of all Village residents. It is the finding of the Village Board of the Village of Philmont that enactment of this chapter is necessary for the health, safety and welfare of the residents of the Village.

§ 80-3. Use of hydrants prohibited; exceptions.

Other than the individuals specifically set forth herein, no individual will be allowed to use or operate any fire hydrant located within the Village of Philmont or owned by the Village of Philmont and located outside the municipal boundaries of the Village. Excluded from this prohibition are the following individuals:

- A. Members of the Philmont Village Fire Company performing firematic duties under the auspices of the Village Fire Company;
- B. Employees of the Village of Philmont;
- C. Those individuals who have expressed written authorization from the Village Board of the Village of Philmont to operate or use a fire hydrant;
- D. Members of other fire companies responding to Mutual Aid fires; and
- E. For those fire hydrants located outside the municipal boundaries of the Village of Philmont, members of fire companies for the fire district in which the fire hydrant is located when performing their firematic duties under the auspices of their fire company.

§ 80-4. Penalties for offenses.

Violation of this chapter shall be considered a violation and shall be punishable by a fine not to exceed \$250 or 15 days in jail. The minimum penalty for a violation shall be \$100. Each day that

a violation occurs shall be a separate and distinct offense.

Chapter 84

FRESHWATER WETLANDS

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont 8-23-1976 by L.L. No. 2-1976. Amendments noted where applicable.]

GENERAL REFERENCES

Waterways — See Ch. 155.

§ 84-1. Regulatory authority.

Pursuant to § 24-0501 of the New York State Freshwater Wetlands Act (Article 24 of the New York Environmental Conservation Law), the Incorporated Village of Philmont shall fully undertake and exercise its regulatory authority with regard to activities subject to regulation under the Act in freshwater wetlands, as shown on the Freshwater Wetlands Map, as such map may from time to time be amended, filed by the Department of Environmental Conservation pursuant to the Act, and in all areas adjacent to any such freshwater wetland up to 100 feet from the boundary of such wetland. Such regulatory authority shall be undertaken and exercised in accordance with all of the procedures, concepts and definitions set forth in Article 24 of the New York Environmental Conservation Law and Title 23 of Article 71 of such law relating to the enforcement of Article 24, as such law may from time to time be amended, with the following exceptions:

- A. Projects for which applications have been filed pursuant to Article VII of the Public Service Law.¹
- B. Emergency work which is immediately necessary to protect the health, safety and well-being of any person or prevent damage to personal or real property.
- C. Ordinary maintenance and repair of existing structures or improved areas which does not involve expansion or substantial restoration, reconstruction, rehabilitation or modification, including but not limited to bridges, roads, highways, railroad beds, bulkheads, docks, piers, pilings or paved areas.

§ 84-2. Required permit or approval.

The acquisition of a permit under this chapter does not remove any person's obligation to acquire any other required permit or approval, whether federal, state or local.

§ 84-3. Filing of Freshwater Wetlands Map.

This chapter, adopted on the date as set forth above, shall take effect upon the filing with the Clerk of the Incorporated Village of Philmont of the final Freshwater Wetlands Map by the New

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

York State Department of Environmental Conservation pursuant to § 24-0301 of the Freshwater Wetlands Act applicable to any or all lands within the Incorporated Village of Philmont.

Chapter 87

GAMES OF CHANCE

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont by L.L. No. 1-1981. Amendments noted where applicable.]

§ 87-1. Authority.

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 Philmont."

§ 87-2. Definitions.

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

§ 87-3. Games of chance authorized; restrictions.

- A. Games of chance may be conducted in the Village of Philmont 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 of the State of New York.

§ 87-4. Effective date; approval by voters.

This chapter shall take effect immediately upon filing with the Secretary of State after approval thereof by the qualified voters of the Village of Philmont voting thereon at a general election to be held on the third Tuesday of March, 1981.

Chapter 100

NOISE

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont by L.L. No. 4-1991. Amendments noted where applicable.]

§ 100-1. Short title.

This chapter shall be known as Local Law 4 of 1991 or the "Philmont Noise Control Act."

§ 100-2. Legislative findings.

By the adoption of this chapter, The Village Board of Trustees declares its intention that harmful and unregulated noise presents a health hazard that has an adverse effect on health, and causes loss of hearing, physiological changes, cardiovascular effects, interferes with speech and is injurious to susceptible groups in the community. Accordingly, it is the finding of the Village Board that noise should be regulated within the Village limits.

§ 100-3. Definitions. ¹

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

A-WEIGHTED SOUND LEVEL — The frequency-weighted sound pressure level (in decibels) measured on a sound-level meter with an A-weighted scale as specified in the American National Standards Institute (ANSI) specifications for sound-level meters (ANSI No. 4-1971).

CONSTRUCTION ACTIVITIES — Any and all activity incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads, or appurtenances thereto, including land clearing, grading, excavating and filling.

DECIBEL (dB) — A unit of level which denotes the ratio between two quantities which are proportional to power. The number of decibels corresponding to the ratio of two amounts of power is 10 times the logarithm to the base 10 of this ratio.

SOUND-LEVEL METER — An instrument, including a microphone, an amplifier, an output meter and frequency weighting networks, for the measure of sound levels.

§ 100-4. Prohibited activities.

No person, firm or corporation shall allow the emission of sound in air which, as measured at the property lines, has a sound level in excess of 60 decibels on the A-weighted scale between the hours of 7:00 a.m. and 8:00 p.m. and in excess of 50 decibels on the A-weighted scale between the hours of 8:00 p.m. and 7:00 a.m.

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

§ 100-5. Determination of violation.

For the purposes of this chapter, excessive noise shall be determined at the property line of the lot from which the noise is emitted. Sound measurements shall be accomplished through the sound-level meter having an A-weighted filter constructed in accordance with specifications of the American National Standards Institute.

§ 100-6. Exemptions from enforcement.

It is the further finding of the Village Board of Philmont that certain noises that would be classified as prohibited activities are necessary for the health and safety of Village residents. These noises are exempt from this chapter. The following uses and activities shall be exempt from these noise regulations:

- A. Temporary construction noises between the hours of 7:00 a.m. and 8:00 p.m.
- B. Transient noises from moving sources, such as automobiles and trucks.
- C. Noises from safety signals, warning devices and emergency pressure relief valves.
- D. The sound of bells or chimes from a church.

§ 100-7. Additional violations.

- A. It shall be an additional violation of this chapter to commit any of the following acts:
 - (1) When with intent to annoy or harass another person, a person in a public place uses abusive or obscene language or makes an obscene gesture;
 - (2) When with intent to annoy or harass another person, he engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose;
 - (3) When with intent to cause public inconvenience, annoy or alarm or recklessly create a risk thereof, he makes unreasonable noise or engages in fighting or other tumultuous behavior.
- B. It shall be a violation of this chapter regardless of whether the conduct also constitutes a violation of the State Penal Law and/or that the defendant has been charged under the State Penal Law.

§ 100-8. Penalties for offenses; enforcement.

- A. Violations of this chapter shall be a violation and shall be punishable by a fine not to exceed \$250 or 15 days in jail.
- B. Provisions of this chapter shall be enforced by the Village Attorney and may be prosecuted by the Village in any local court of competent jurisdiction.

§ 100-9. Property owner liability.

Upon the conviction or plea of any individual under the terms of this chapter, and should the

court determine that the person generating the excessive noise is not the property owner of the property upon which the noise was generated, the court is directed to notify the Village Building Inspector of the conviction. The Village Building Inspector shall be directed to mail by certified mail, return receipt requested, a copy of the notice of conviction and a copy of this chapter to the owner of the property. Upon the conviction of a third offense by the same individual or by different individuals operating or using the same equipment or performing substantially the same act within a six-month period for noise originating from the same property, the property owner for a one-year period beginning from the date of conviction of the last offense may also be jointly charged for any subsequent violation of this chapter by the same tenant/occupant of the property or by different individuals operating or using the same equipment or performing substantially the same act which previously resulted in convictions under this chapter. It shall be an affirmative defense to this charge that the property owner did not receive notice of the prior violations of this chapter by occupants of this property. It shall be a further affirmative defense that the tenant/occupant has been removed from the property by the owner, that legal proceedings have been commenced to have the tenant removed from the property or that the tenant/occupant was illegally on the property.

§ 100-10. Civil enforcement.

The Village shall also be entitled to obtain civil relief under this chapter prohibiting the owners of the property and the occupants of the premises from committing further violations of the chapter.

Chapter 103

NOTIFICATION OF DEFECTS

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont 6-10-1991 by L.L. No. 3-1991. Amendments noted where applicable.]

§ 103-1. Short title.

This chapter shall be known as Local Law 3 of 1991 or the "Philmont Notice of Defective Condition of Village Property Law."

§ 103-2. Legislative findings.

By the adoption of this chapter, the Village Board of Trustees declares its intention to require prior written notice of defective conditions of Village property before litigation can be commenced against the Village. By so doing, it is the finding of the Board that by the enactment of this chapter that dangerous conditions within the Village, if they should henceforth be created, will more quickly come to the attention of the Village Board, and will result in a lessened chance of injury to individuals. It is the further finding of the Board that creation of a notice requirement will contribute to lower insurance and litigation expenses by the Village.

§ 103-3. Notice required.

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

§ 103-4. Duties of Village Clerk.

The Village Clerk of the Village of Philmont shall keep an indexed record of all written notices which she shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice or snow upon, any Village property, including any Village street, highway, bridge, culvert, sidewalk or crosswalk, which record 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. She shall at the Board meeting next following receipt of such written notice by her, or within 10 days, whichever is sooner, cause said written notice to be brought to the attention of the Board of Trustees. The record of each

notice shall be preserved for a period of five years after the date it is received.

Chapter 108

PEDDLING AND SOLICITING

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

§ 108-1. Title.

This chapter shall be known and may be cited hereinafter as a "Local Law Regulating, Licensing and Restricting Peddlers, Vendors and Solicitors in the Village of Philmont."

§ 108-2. Legislative intent.

The attention of the Board of Trustees of the Village of Philmont has been directed to abuses and unscrupulous and disruptive acts by street vendors and persons engaging in door-to-door soliciting and selling of goods, merchandise and wares; that residents of the Village may have been subjected to exaggerated, unethical and spurious claims and representations with respect to such goods, wares and merchandise; and that such conduct by street vendors and door-to-door solicitors has violated the peace, good order and safety and general welfare of residents of the Village; and it is the intent of the Board of Trustees of the Village of Philmont by the enactment of this chapter to minimize and prevent the foregoing abuses and violations of the rights of the residents of the Village and to protect them and the general welfare as hereafter more fully provided.

§ 108-3. License required.

It shall be unlawful for any person, firm, organization or other entity subject to the provisions of this chapter to act or have any person under its control represent him or it as a peddler, hawker, solicitor, canvasser or sales agent, as defined herein, without first having obtained and having in force and effect a license duly issued as herein provided.

§ 108-4. Definitions; word usage.

The following terms, phrases and words and their derivations shall have the meanings given herein, and, as required, the present tense shall include the future, and words in the plural shall include the singular, and vice versa. The word "shall" is always mandatory and not directory.

ESTABLISHED PLACE OF BUSINESS — A building or structure which is operated as a regularly established place of business and from which a person transacts business and deals in goods, wares or merchandise, or performs services or solicits orders for the same on a continuing and ongoing basis.

MERCHANDISING — Selling, bartering or trading, or offering to sell, barter or trade, any goods, wares, commodities or other merchandise, including periodicals and books and supplying of services.

PEDDLER and HAWKER — Any person, principal or agent who engages in door-to-door merchandising of any goods, wares or commodities, including books, periodicals or services, to homes or places of business, or in any public place or street or from any premises not an established place of business.

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

SOLICITOR and CANVASSER — Any person, principal or agent engaging in door-to-door solicitation at homes, businesses or in any public place or street or from any premises not an established place of business, or orders for sale of goods, wares, commodities or other merchandise, including books or periodicals, or for the performance of future services, or for the making, manufacturing or repairing of any article or thing whatsoever for future delivery.

§ 108-5. Exceptions.

This chapter shall not apply to:

- A. Any sale conducted pursuant to statute or by order of any court.
- B. A wholesaler of articles to dealers or merchants engaged in selling such articles.
- C. Merchants having an established place of business within the Village and the employees of such merchants, and any person vending at the express invitation of the customer or serving the latter on a regular and established basis.
- D. Peddling of meats and agricultural produce by farmers and persons who produce such commodities, provided they have otherwise complied with any licensing and health and safety requirements of any other competent governmental body or agency.
- E. Sale of daily newspapers, nor shall this chapter be interpreted as intending to, nor shall it be construed to, unlawfully interfere with the conduct of interstate commerce, or the impairment of the rights of free speech, press or publication; and shall be construed as implementing and not as limiting the purposes and provisions of the New York State Home Solicitation Sales Act.¹

§ 108-6. Application for license.

Every applicant for a license hereunder shall submit a verified written application to the Village Clerk supplying the following information:

- A. Name, permanent home address and local address, if any, of applicant.
- B. A physical description of the applicant setting forth:
 - (1) Date of birth.
 - (2) Height.
 - (3) Weight.

1. Editor's Note: See Personal Property Law § 425 et seq.

- (4) Color of hair and eyes.
- C. A detailed statement of the particular business, trade or occupation for which the license is requested, and a description of the goods, wares, merchandise or commodities offered for sale.
 - D. The name and address of the person, firm or corporation, if any, he represents; the names and addresses of all partners, if a partnership; the names and addresses of the principal officers, if a corporation; and the name and address of a person upon whom a legal process and notice may be served.
 - E. Prior arrests and the disposition thereof of the applicant and the firm or corporation he represents, including the date and nature of such conviction, and location of the court where such record or disposition is on file.
 - F. The number and kind of motor vehicles to be used in carrying on the business; and the registration, license and insurance data for each such vehicle and operators thereof.
 - G. The length of time for which the license and privilege to do business is desired.
 - H. Two photographs, two inches by two inches in size, taken within 60 days immediately prior to the date of filing of the application, showing clearly the face and shoulders of the applicant.
 - I. References as to the applicant's good character, such as at least two residents of Columbia County, or municipalities in Columbia or adjoining counties in which the applicant has conducted his business or operations.
 - J. If peddling or soliciting is to be conducted as a team, group or other organized party under single leadership or direction, control or sponsorship, the above-required personal information shall also be supplied as to such leader or person in charge and with respect to each such other person, employee or agent so involved.
 - K. If such applicant represents or is the agent for a principal, there shall be appended to the application a letter or other evidence of authorization or agency from the principal describing the nature and scope of such applicant's authority and any restrictions, limitations and conditions imposed on such applicant by the principal agency or organization he represents. In addition, copies of each order form, contract, or other form or document to be utilized by the applicant in such sale or solicitation shall be attached to the application.
 - L. Where the applicant is offering for sale goods, merchandise or commodities required to be sold by weight, measure or count, as provided under Article XVI of the Agriculture and Markets Law of the State of New York, such application shall be accompanied by a certificate from the Sealer of Weights and Measures having jurisdiction hereof, certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.
 - M. Any additional information required by the Village in the interest of the health, safety and welfare of the residents of the Village, including but not limited to denials of licenses or their revocation by other municipalities prior to the present application.

§ 108-7. Fees.

- A. A fee as set forth in a fee schedule established and amended as necessary by resolution of the Board of Trustees shall be paid by each person to be licensed hereunder, and said fee, payable to the Village Clerk, shall be applied to the cost of processing the license applications, and otherwise enforcing and effectuating the objectives of this chapter, without, however, imposing an undue burden on the interstate business activities of any applicant, and provided further that any applicant may apply to the Village Clerk for an adjustment of such fee where the same appears discriminatory, unreasonable or unduly burdensome in the circumstances, as shown by affidavit and appropriate supporting evidence. The Village Clerk shall, within a reasonable time after such request, determine whether the fee fixed hereunder is discriminatory, unreasonable or unduly burdens the applicant's interstate business activities, and shall fix as the license fee an amount that is fair and reasonable in the circumstances, and file his report thereon in the Clerk's records. Any applicant aggrieved by a determination of the Village Clerk shall be advised of his right to appeal such decision to the Mayor, or his designated agent, whose determination shall be final.
- B. Notwithstanding anything in this chapter to the contrary, the following persons, firms, corporations or organizations shall be exempt from payment of the fees set forth hereinabove:
 - (1) An honorably discharged member of the armed forces of the United States, who is crippled as a result of injuries received while in the military services and who has procured a license from the Columbia County Clerk, as provided by General Business Law of the State of New York.
 - (2) Persons peddling, soliciting or vending or collecting for the benefit of any bona fide fraternal, educational, religious or charitable organization; provided, however, that such organization shall have otherwise been certified or otherwise been duly qualified as required by law or by any competent governmental body or agency.

§ 108-8. Investigation; issuance; denial.

- A. The Village Clerk, with such assistance from the Police Department as may be reasonably necessary, shall investigate all applications and shall thereafter, within a reasonable time, issue or deny a license to the applicant. All licenses shall expire on the first day of January following their issuance, but such license may provide for an earlier expiration date.
- B. If, after investigation of any application, the Village Clerk shall deny same, he shall endorse on such application such disapproval and the reason for same, and the Village Clerk shall forthwith notify the applicant in writing of such denial and of his right of appeal as herein set forth.
- C. No license shall be granted to any person under 18 years of age except that such person may be granted a license if he is peddling, soliciting or vending for an organization defined in § 108-7B(2) of this chapter.

§ 108-9. Restrictions.

A licensed peddler or solicitor shall not:

- A. Resort to deceptive acts or practices, physical abuse, threats, intimidation or harassment in the course of conducting his business, or offer for sale any provision, food or merchandise that is unwholesome, unfit, deleterious or harmful to the user or consumer thereof.
- B. Peddle at or solicit on private property which has displayed a sign bearing the words "No Peddling or Soliciting" or words of like intent. Nor shall any licensee remain on the premises after the owner or occupant thereof shall have requested his departure therefrom.
- C. Keep the vehicles and receptacles used by him in an unclean and unsanitary condition, nor the foodstuffs and edibles offered for sale uncovered and unprotected from dirt, dust, insects, contamination or spoilage, or as otherwise required by any competent municipal health authority.
- D. Stand or permit the vehicle used by him to stand in one place in any public place or street for more than 10 minutes, or in front of any premises for any time if the owner or occupant of the premises objects. However, in no case shall the holder of any license issued hereunder remain in any one fixed location and vend his goods, wares and merchandise continuously for a period in excess of 30 minutes, nor shall said licensee resume operations during the same business day from a new location within 1/4 mile of said former site of operation.
- E. Sell any confectionery or ice cream within 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- F. Permit any vehicle used by him to stop or remain on any crosswalk.
- G. Create, erect or maintain any booth or stand, or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.
- H. Blow a horn, ring a bell or use any other noisy device to attract public attention to his wares or shout or cry out his wares.
- I. Assign or transfer his license to any other person, and any transfer to, or use of such license by any other person shall be a violation and shall automatically thereupon terminate such license.
- J. Fail to carry his license upon his person nor to exhibit the same upon demand to any police, Village officer or agent or resident being solicited or involved in a transaction with him.
- K. Obstruct any street, driveway or other public or private right-of-way.

§ 108-10. Orders.

All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor and which shall contain the notice of right of cancellation as set forth in § 108-11 of this chapter.

§ 108-11. Cancellation.

As more fully provided and set forth in the New York State Home Solicitation Sales Act,² which is incorporated herein by reference as to the rights, remedies and procedures in any sale, order for purchase or agreement to buy which was induced by, or the result of harassment, intimidation, abusive conduct, misrepresentation of material facts or high-pressure tactics by the solicitor, any person or consumer shall have the right of cancellation as therein set forth upon giving written notice to the solicitor by any mail properly addressed and postage prepaid; and such notice, the language or tenor of which makes clear the purchaser's intention to return such goods, wares or merchandise, will be sufficient. In such event, the seller's failure to tender to the buyer any payment made by the buyer, with an acknowledgment of his cancellation of the order, shall be deemed a violation of this chapter, and shall subject the licensee to any penalties hereunder in addition to any penalties provided under the New York State Home Solicitation Sales Act.

§ 108-12. Revocation and suspension.

- A. Licenses issued under the provisions of this chapter may be revoked by the Village Clerk after written notice and a hearing, for any violation of this chapter.
- B. Notice of hearing for revocation of a license shall be given in writing setting forth specifically the grounds of the complaint and the time and place of hearing. Such notice shall be mailed to the licensee at least 10 days prior to the date set for the hearing, except as set forth below.
- C. In addition to the foregoing, the Village Clerk may forthwith temporarily suspend any license issued pursuant to this chapter upon receiving information giving reasonable cause to believe that any licensee hereunder has either violated this chapter by an act involving moral turpitude, physical abuse, threats, intimidation or harassment, or has been convicted of any violation of this chapter or of any crime or offense endangering the peace, safety, health or general welfare of the inhabitants of the Village. Within 10 days after such suspension, the Village Clerk shall conduct a hearing and issue her determination as to whether the license shall be revoked or reinstated. If such hearing or determination is not made within said ten-day period, the license shall be restored automatically.

§ 108-13. Appeals.

Any license aggrieved by any action or determination of the Village Clerk may appeal to the Mayor of the Village or any agent or agency designated by him, within 14 days after notice of the action or determination complained of has been mailed to him, by filing a written statement setting forth fully the grounds for the appeal. The Mayor or his/her agent shall set a time and place for a hearing on such appeal and notice of such hearing shall be mailed to the applicant's last known address at least five days prior to the date set for the hearing. The decision and order of the Mayor or his agent on such appeal shall be final and conclusive.

§ 108-14. Records.

2. Editor's Note: See Personal Property Law § 425 et seq.

The Village Clerk shall keep a record of all applications and of all licenses granted hereunder, giving the number and date of each license, the name and residence of the person licensed, the license fee paid, and also the date of revocation of license, if any.

§ 108-15. Enforcement.

Police officers and the Code Enforcement Officer of the Village of Philmont are each hereby authorized and empowered to enforce this chapter by the issuance of appearance tickets for any violation hereof.

§ 108-16. Penalties for offenses.

- A. Any person violating any of the provisions of this chapter shall be subject to a fine of not more than \$1,000 for each violation and/or imprisonment for not more than 15 days, and each day of such violation shall constitute a separate offense.
- B. The remedies contained within this chapter shall further not be exclusive, but shall be in addition to any other remedy provided by law, so long as not inconsistent herewith, nor shall the invoking of any remedy or procedure contained within this chapter preclude the pursuit of any and all other remedies, and the same are intended to be cumulative.

Chapter 118

SEWERS

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

Part 1 Sewer Use

[Adopted 9-10-1979 by L.L. No. 3-1979]

ARTICLE I Definitions

§ 118-1. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Part 1 shall be as follows:

ACT — The Federal Water Pollution Control Act, as amended.

BOD (denoting "biochemical oxygen demand") — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

BUILDING DRAIN — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER — The extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWER — A sewer receiving both surface runoff and sewage.

CONTAMINATION — An impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

ENGINEER — The professional engineer retained by the municipality.

GARBAGE — Solid wastes from the domestic and commercial preparation, cooking and dispensing of food; and from the handling, storage and sale of produce.

INDUSTRIAL WASTES — The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

MUNICIPALITY — The Village of Philmont, Columbia County, New York.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM or NPDES PERMIT — A permit issued pursuant to Section 402 of the Act (33 U.S.C. § 1342).

NATURAL OUTLET — Any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION or NYSDEC — The New York State Department of Environmental Conservation or a duly authorized official of said Department.

PERSON — Any individual, firm, company, association, society, corporation or group.

pH — The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

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

PRETREATMENT — The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of the pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6, General Pretreatment Regulations for Existing and New Sources of Pollution.

PROPERLY SHREDDED GARBAGE — The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

PROPERTY LINE — Curblin if the building sewer is to connect with the public sewer located in a public street. "Property line" shall mean the edge of a sewer right-of-way at such times where the building sewer connects to the public sewer located in a right-of-way. "Property line" shall mean the edge of the street right-of-way at such times where the building sewer connects to a public sewer located off the paved portion of the street.

PUBLICLY OWNED TREATMENT WORKS (POTW) — A treatment works as defined by Section 212 of the Act (33 U.S.C. § 1292). Treatment works shall include any sewers that convey wastewater to the POTW but shall not include pipes, sewers or other conveyances not connected to a facility providing treatment.

PUBLIC SEWER — A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

SANITARY SEWER — A sewer which carries sewage and to which stormwater, surface water and groundwater are not intentionally admitted.

SEWAGE — A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

SEWAGE TREATMENT PLANT — Any arrangement of devices and structures used for

treating sewage.

SEWAGE WORKS — All facilities for collecting, pumping, treating and disposing of sewage.

SEWER — A pipe or conduit used for carrying sewage.

SHALL — Is mandatory; "may" is permissive.

SLUG — Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration or flows during normal operation.

STORM DRAIN (sometimes termed "storm sewer") — A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT — Superintendent of the municipal sewer system, or his authorized deputy, agent or representative.

SUSPENDED SOLIDS — Solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY or USEPA — The United States Environmental Protection Agency or, where appropriate, the Administrator or other duly authorized official of said Agency.

WATERCOURSE — A channel in which a flow of water occurs, either continuously or intermittently.

WATER POLLUTION CONTROL PLANT — Any arrangement of devices and structures used for treating sewage.

ARTICLE II Use of Public Sewers Required

§ 118-2. Unsanitary deposit of waste prohibited.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the municipality, or in any area under the jurisdiction of said municipality, any human or animal excrement, garbage or other objectionable waste.

§ 118-3. Discharge of untreated waste prohibited.

It shall be unlawful to discharge to any natural outlet within the municipality, or in any area under the jurisdiction of the municipality, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Part 1.

§ 118-4. Privies, septic tanks and other wastewater disposal devices.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy

vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

§ 118-5. Connection to public sewers required.

- A. The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the municipality and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the municipality, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Part 1, within 60 days after date of official notice to do so, provided that said public sewer is within 100 feet (30.5 meters) of the property line. Said owner shall also be required to keep said pipes and connections to the public sewer in proper operating condition, and to make necessary repairs to said pipeline within 48 hours after official notice of any defect, leak, stoppage or other malfunction.
- B. Whenever an owner fails to connect his premises to the public sewer as required by this Part 1, the municipality, by resolution, shall authorize the work to be done to cure such failure, and pay the cost thereof out of the sewer fund. The municipality shall be reimbursed for the cost of such work by assessment and levy upon the premises whereon the work was performed, and the cost so assessed shall be a lien on the premises on which it was levied until paid or otherwise satisfied, and after a period of 30 days there shall be added to such cost a penalty of 10% compounded monthly, until paid or otherwise satisfied. [Added 8-14-1980 by L.L. No. 3-1980]

ARTICLE III
Private Sewage Disposal

§ 118-6. Private systems permitted.

Where a public sanitary sewer is not available under the provisions of Article II, § 118-5, the building sewer shall be connected to a private sewage disposal system complying with the requirements of the State of New York Department of Health and under the control and direction of the local County Health Office having jurisdiction, and complying also with the requirements of any other regulatory or governing body having jurisdiction to impose such requirements.

§ 118-7. Connection to public sewer upon availability.

When a public sewer becomes available, the building sewer shall be connected to said sewer within 60 days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

§ 118-8. Inspections.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Superintendent.

§ 118-9. Type, location and layout of system.

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of New York. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet. Such subsurface disposal facilities shall meet all applicable state and federal regulations.

§ 118-10. Operation and maintenance by owner.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the municipality.

§ 118-11. Additional requirements.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Department of Public Health of the State of New York or any other regulatory or governing body having jurisdiction to impose such requirements.

ARTICLE IV
Building Sewers and Connections

§ 118-12. Permit required.

No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

§ 118-13. Connection permit.

Persons desirous of connecting to public sewers shall make application on a special form to be supplied by the Superintendent. The permit application shall be supplemented by plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee, as hereinafter established by resolution of the Municipal Governing Body, shall be paid at the time application is filed.

§ 118-14. Costs to be borne by owner.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the municipality for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

§ 118-15. Separate sewer for each building; exception.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

§ 118-16. Existing building sewers; conditions for use.

Old building sewers may be used in connection with new buildings only when found, on examination and test by the Superintendent, to meet all requirements of this Part 1.

§ 118-17. Rules and regulations governing construction.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the municipality. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing Materials and Water Pollution Control Federation Manual of Practice No. 9 shall apply.

§ 118-18. Elevation required for building sewer.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

§ 118-19. Certain connections prohibited.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

§ 118-20. Standards and requirements for connections.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the municipality, or the procedures set forth in appropriate specifications of the American Society for Testing Materials and the Water Pollution Control Federation Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

§ 118-21. Inspection; connection supervised by Superintendent.

The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his authorized representative.

§ 118-22. Classes of building sewer permits.

- A. There shall be two classes of building sewer permits:
- (1) For residential and commercial service and
 - (2) For service to establishments producing industrial wastes.

- B. In either case, the owner or his agent shall make application on a special form furnished by the Village. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee as set forth in a fee schedule established and amended as necessary by resolution of the Village Board of Trustees for a residential or commercial building sewer permit and for an industrial building sewer permit shall be paid to the Village at the time the application is filed.¹

§ 118-23. Guarding of excavations; restoration of property.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the municipality.

ARTICLE V
Use of the Public Sewers

§ 118-24. Prohibited discharge to sanitary sewer.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

§ 118-25. Discharge of stormwater, unpolluted drainage.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer or natural outlet.

§ 118-26. Prohibitions on wastewater discharges.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- A. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- B. Any waters or wastes containing a toxic or poisonous substance, a high chlorine demand or suspended solids in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters or the effluent of the municipal sewage treatment plant or to exceed the limitation set forth in a Categorical Pretreatment Standard. Such toxic substances shall be limited to the average concentrations listed hereinafter in the sewage and include but are not limited to any pollutant identified pursuant to Section 307 (a) of the Act. If concentrations listed are exceeded, individual establishments will be subject to control in volume and

¹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

concentration by the Superintendent.

Limits of Toxic Substances in Sewage

Parameter	Effluent Concentration Limits (mg/l) 30-Day Average
Cadmium	0.4
Hex. Chromium	0.2
Total Chromium	4.0
Copper	0.8
Lead	0.2
Mercury	0.2
Nickel	4.0
Zinc	1.2
Arsenic	0.2
Available Chlorine	50.0
Cyanide-free	0.4
Cyanide-complex	1.6
Selenium	0.2
Sulfide	6.0
Barium	4.0
Manganese	4.0
Gold	0.2
Silver	0.2
Fluorides:	
To fresh water	6.0 (4.0 if municipal water supply becomes fluoridated.)
Phenol	4.0

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

such as residues, sludges, or scums, to be suitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharge to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

§ 118-27. Limitations on wastewater discharges.

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- A. Any liquid or vapor having a temperature higher than 150° F. (65° C.), but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40° C. (104° F.) unless the POTW treatment plant is designed to accommodate such temperature.
- B. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° F. and 150° F. (0° C. and 65° C.).
- C. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent. Garbage grinders shall not be used for disposal of plastic, paper products, inert materials or garden refuse, and wastes generated in preparation of food not normally consumed on the premises.
- D. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- E. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that such wastes exceed the limits established by the Superintendent for such materials.
- F. Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
- G. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.

- H. Any waters or wastes having a pH in excess of 9.5.
- I. Materials which exert or cause:
 - (1) Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - (2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - (3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - (4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- J. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- K. Any noxious or malodorous liquids, gases or solids which singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.

§ 118-28. Discharge of hazardous substances.

- A. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 118-27, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
 - (1) Reject the wastes;
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
 - (3) Require control over the quantities and rates of discharge; and/or
 - (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of § 118-33.
- B. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

§ 118-29. Interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive

amounts or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspections.

§ 118-30. Preliminary treatment or flow-equalizing facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

§ 118-31. Installation of control manhole.

The municipality shall require significant industrial users or as required by the Superintendent to install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner, at his expense, and shall be maintained by him so as to be safe and accessible at all times.

§ 118-32. Sampling.

All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in this Part 1 shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

§ 118-33. Arrangements for special terms and conditions.

Special agreements and arrangements between the municipality and any persons or agencies may be established when in the opinion of the municipality unusual or extraordinary circumstances compel special terms and conditions.

§ 118-34. Significant industrial users.

A significant industrial user, which is an industrial user of the publicly owned treatment works that: has a flow of 25,000 gallons or more per average workday; has a flow greater than 5% of the flow carried by the municipal system receiving the waste; has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Act; or is found by the

permit issuance authority in connection with the issuance of an NPDES permit to the publicly owned treatment works receiving the waste to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works, must comply with federal pretreatment standards and any other applicable requirements promulgated by the EPA in accordance with Section 307 of the Act, and any more stringent pretreatment standards necessitated by local conditions.

§ 118-35. Authorization required for industrial users.

Industrial users must obtain written authorization from the Superintendent for the disposal of their wastes into the system with periodic renewal of this authorization as directed by the Superintendent.

- A. The maximum period for such authorization shall be two years, subject to written renewals, with each renewal having a maximum period of two years.
- B. Any such authorization, or renewal thereof, is subject to withdrawal, modification or change by the municipality should the municipality deem same in the public interest. Before a withdrawal, modification or change is effected, the industrial user shall be given notice thereof with an opportunity to be heard.
- C. No authorization shall be assigned, transferred or sold, or used at premises or in an operation or process different from that for which same was issued.
- D. Industrial users shall apply for a new written authorization if the operation or process for which same was issued is changed so that wastewater characteristics or flow is altered.

§ 118-36. Information required from industrial users.

Industrial users must, in order to obtain authorization to discharge industrial wastes into the system, provide information describing wastewater, including, but not limited to, volume, constituents and characteristics of wastewater; flow rates; each product produced by type, amount and rate of production; and description of activities, facilities and plant process on the premises, including all materials, processes and types of materials which are or could be discharged.

§ 118-37. Disposal of pollutants prohibited.

The disposal into the sewer system of any pollutant by any person is unlawful except in compliance with the Act, and other applicable laws, rules and regulations.

ARTICLE VI
Protection from Damage

§ 118-38. Tampering with sewage works equipment.

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

ARTICLE VII
Powers and Authority of Inspectors

§ 118-39. Access to properties.

The Superintendent, duly authorized employees of the United States Environmental Protection Agency, New York State Department of Environmental Conservation, and municipality bearing proper credentials and identification shall have ready access to all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Part 1. The Superintendent, USEPA, NYSDEC or municipal representatives shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other processes beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. The municipality shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. The municipality may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required by the municipality's wastewater discharge ordinances and sample any effluents which the owner or operator of such source is required to sample. Where a user has security measures in force, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the municipality will be permitted to enter without delay.

§ 118-40. Indemnification of property owner.

While performing the necessary work on private properties referred to in Article VII, § 118-39, above, the Superintendent or duly authorized employees of the municipality shall observe all safety rules applicable to the premises established by the private property owner, and the private property owner shall be held harmless for injury or death to the municipal employees and the municipality shall indemnify the private property owner against loss or damage to his property by municipal employees and against liability claims and demands for personal injury or property damage asserted against the private property owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the private property owner to maintain safe conditions as required in Article V, § 118-31.

§ 118-41. Easements.

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

ARTICLE VIII
Notification Requirements; Compliance with Standards

§ 118-42. Notification of accidental discharge.

Users shall notify the municipality immediately upon accidentally discharging wastes in

violation of this Part 1. This notification shall be followed, within 15 days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence. Such notification will not relieve users of liability for any expense, loss or damage to the sewer system, treatment plant or treatment process, or for any fines imposed on the municipality under applicable state and federal laws and regulations.

§ 118-43. Municipality authorized to establish more stringent requirements when necessary.

The municipality reserves the right to establish by local law more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives of this Part 1.

§ 118-44. Compliance with industry standards.

When pretreatment regulations are adopted by USEPA or NYSDEC for any industry, then that industry must immediately conform to the USEPA or NYSDEC time table for adherence to federal or state pretreatment requirements, and other applicable requirements promulgated by USEPA or NYSDEC in accordance with Section 307 of the Act. Additionally, such industries shall comply with any more stringent standards necessitated by local conditions as determined by the municipality.²

§ 118-45. Entry points for deleterious wastes.

Any direct or indirect connection or entry point for deleterious wastes to an industrial user's plumbing or drainage system should be eliminated. Where such action is impractical or unreasonable, the industrial user shall appropriately label such entry points to warn against discharge of such wastes in violation of this Part 1.

§ 118-46. Posting notification requirements.

A notice shall be furnished and permanently posted on industrial users' bulletin boards advising employees whom to call in case of an accidental discharge in violation of this Part 1.

§ 118-47. Dilution of discharge in place of treatment prohibited.

No industrial user shall ever increase the use of process waters, in any way, to attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or with any other pollutant-specific limitation developed by the municipality or state.

ARTICLE IX
Violations and Penalties

§ 118-48. Written notice of violation.

Any person found to be violating any provision of this Part 1, except Article VI, shall be served

2. Editor's Note: Former Art. VIII, § 4 was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

by the municipality with written notice stating nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

§ 118-49. Penalties for offenses. ³

Any person who shall continue any violation beyond the time limit provided for in Article IX, § 118-48, shall be guilty of a misdemeanor, and on conviction thereof shall be punishable by a fine in an amount not exceeding \$1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

§ 118-50. Liability for loss, damage or expenses.

Any person violating any of the provisions of this Part 1 shall become liable to the municipality for any expense, loss or damage occasioned the municipality by reason of such violation.

§ 118-51. Cease and desist orders.

The municipality is authorized to issue cease and desist orders and direct those persons not complying with this Part 1 or a wastewater discharge permit to:

- A. Comply forthwith;
- B. Comply in accordance with a time schedule set by the municipality; or
- C. Take appropriate remedial or preventive action.

§ 118-52. Revocation of permits; termination of service.

The municipality may revoke any wastewater discharge permit or terminate or cause to be terminated wastewater service to any premises if a violation of any provision of this Part 1 is found to exist or if a discharge of wastewater causes or threatens to cause a condition of contamination or pollution, as defined in this Part 1.

§ 118-53. Penalty for false statements or inaccurate monitoring. ⁴

Any person who knowingly makes any false statement, representation, record, report, plan or other documentation filed with the municipality or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Part 1, shall be guilty of a misdemeanor, and on conviction thereof shall be punishable by a fine in an amount not exceeding \$1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

ARTICLE X
Extension of System

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

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

§ 118-54. Extension upon recommendation of Superintendent.

The sewer system of the municipality may be extended and improved within the geographical limits of said municipality upon recommendation of the Superintendent, and after duly enacted approval by the Municipal Governing Body.

**Part 2
Sewer User Charges**

[Adopted 6-1-1982 by L.L. No. 1-1982]

**ARTICLE XI
User Charges**

§ 118-55. Declaration of policy.

In order to pay for the cost of the operation, maintenance and repair of the sewer system hereinafter defined, and the interest on and amortization of, or payment of, indebtedness for said sewer system, it is the policy of the Village of Philmont to establish and impose a sewer user charge in conformance with federal and state laws and regulations, including Appendix B to Subpart E to 40 CFR Part 35, and Article 14-F of the General Municipal Law of the State of New York.

§ 118-56. Definitions.

As used in this Part 2, the following terms shall have the meanings indicated:

COMMERCIAL BUILDING — A structure not defined as a "living unit."

LIVING UNIT — An area, comprising all or part of a house or apartment house, containing separate cooking and toilet facilities and an area for sleeping.

SEWER SYSTEM — The Village sewage collection system and treatment works with all appurtenances.

SEWER USER CHARGE or **USER CHARGE** — The charge imposed by the Village for payment of the cost of the operation, maintenance and repair of the sewer system, and the interest on and amortization of, or payment of, indebtedness for the sewer system.

VILLAGE — The Village of Philmont.

§ 118-57. Calculation of user charge.

A. The annual sewer user charges of the Village shall be:

Gallons of Metered Water	Annual Sewer User Charge
0 - 149,000	4.8 times water rate, with a minimum of \$58 per quarter per living unit or per commercial building
150,000 - 199,000	5.6 times water rate

200,000 - 249,000	6.1 times water rate
250,000 - 499,000	6.6 times water rate
500,000 - 749,000	7.2 times water rate
More than 750,000	8.0 times water rate

- B. In adjusting any estimated sewer billings in accordance with § 118-59, below, a required sewer user who was without a functioning water meter during any part of a billing period shall pay for such period the average of the adjusted billings for the two preceding billing periods in which the user charge was based on a functioning water meter, multiplied by 1.5 or, in the event that there are no such two preceding billing periods, the sewer user charge shall be \$100 per living unit, except for commercial buildings where sewer user charge shall be \$500.
- C. The Village shall review user charges quarterly and revise same as needed to offset the cost of the operation, maintenance and repair of the sewer system, and the interest on and amortization of, or payment of, indebtedness for the sewer system, as well as to take into consideration any other factors, including, but not limited to, changes in strength, volume and delivery flow rate characteristics, needed to insure a proportional distribution of costs to each user.
- D. Should any person claim that a living unit is closed permanently, such person, within 10 days of the effective date of this Part 2, shall submit to the Village a written statement that the premises is not occupied.

§ 118-58. Administration.

- A. Sewer user charges shall be due and payable at the Village office on July 1, October 1, January 1 and April 1.
- B. Bills for sewer user charges may be estimated and shall be mailed to users on or about the aforesaid due dates, and payment will be due when presented. After a period of 30 days from the due date there shall be added to the amount due a penalty of 2% per month, compounded monthly, until paid or otherwise satisfied.
- C. All revenues derived from sewer user charges, including penalties thereon, shall be credited to a sewer rent fund in accordance with § 453 of the General Municipal Law.

§ 118-59. Adjustments.

As soon as practicable after the end of each calendar year, the Village shall adjust the sewer user charge based on the actual metered water consumption and make such adjustments on the bills for the next billing period.

Chapter 123

SOLID WASTE

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

ARTICLE I

Dumps

[Adopted 7-11-1988 by L.L. No. 2-1988]

§ 123-1. Short title.

This article shall be known as Local Law No. 2 of 1988, or the “Dump Prohibition Act.”

§ 123-2. Declaration of policy.

It is hereby determined by the Board of Trustees that the operation of dumps for the disposal of garbage and rubbish is likely to constitute a hazard and menace to the safety, health, comfort and general welfare of the inhabitants of the Village of Philmont and it is therefore the intent of this article to prohibit the operation of dumps for the disposal of garbage and rubbish in the Village of Philmont.

§ 123-3. Definitions.

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

DUMP — A place used or the disposal and leaving of paper, garbage, rubbish and waste materials of any kind or nature whatsoever, by the public or by any person.

PERSON — Includes an individual, firm, partnership, corporation, municipality or association of individuals.

§ 123-4. Operation of dump prohibited.

The operation or maintenance of a dump, as defined herein, is hereby prohibited in the Village of Philmont.

§ 123-5. Exception.

Nothing herein contained shall be deemed to prohibit any person from disposing of noncommercial or nonindustrial garbage, rubbish or waste material on property upon which such garbage, rubbish or waste material is produced. Furthermore, nothing herein contained shall be deemed to prohibit the operation of any landfill or refuse disposal area operated by the Village of Philmont.

§ 123-6. Penalties for offenses. ¹

Any person violating any of the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine not exceeding \$1,000 for each offense or by imprisonment for not more than one year, or by both such fine and imprisonment. The Village Board shall also have the power to bring a civil action to restrain any violation of this article in a court of competent jurisdiction. When a violation of this article is continuous, each 24 hours thereof shall constitute a separate and distinct offense.

ARTICLE II
Surcharge for Collection
[Adopted by L.L. No. 4-1988]

§ 123-7. Short title.

This article shall be known as Local Law No. 4 of 1988, or the “Municipal Trash Surcharge Act.”

§ 123-8. Sanitation pickup. [Amended 3-30-1989 by L.L. No. 2-1989]

All trash, refuse and other items to be discarded for municipal sanitation pickup within the municipal limits shall be contained in a neat and orderly manner in sealed plastic bags not exceeding 30 gallons' capacity and shall have affixed thereto on a conspicuous place a Village disposal sticker or shall be contained in specially marked trash bags issued by the Village of Philmont. No trash, refuse or other items shall be accepted for disposal by the Village without said stickers or contained in such specially marked trash bags. No refuse generated outside the municipal limits shall be accepted for disposal by the municipal sanitation pickup. Origin of generation shall be defined as the site from which the trash, refuse or other items is discarded.

§ 123-9. Village disposal stickers and Village-issued garbage bags. [Amended 3-30-1989 by L.L. No. 2-1989²]

The Village Clerk shall be authorized to sell such Village disposal stickers or specially marked garbage bags at the Village offices during business hours at a fee as set forth in a fee schedule established and amended as necessary by resolution of the Village Board of Trustees. Village residents disposing of garbage in garbage bags not exceeding a 15 gallons' capacity shall be allowed to affix 1/2 of a Village disposal sticker for pickup. Said fees shall be payable to the Village of Philmont. The Village Board of Trustees shall have the authority to modify such fee from time to time as it deems fit.

§ 123-10. Recyclable items.

The Village Board of Trustees shall designate a site within the municipal limits for the disposal of recyclables free of charge. Recyclables shall be defined as thoroughly rinsed glass bottles without lids, thoroughly rinsed plastic bottles without lids, thoroughly rinsed tin cans, and newspapers tied or put in brown grocery bags. The disposal of recyclables shall also be subject to

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

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

such rules and regulations promulgated by the Columbia County Solid Waste Department. No refuse, trash or other items other than those specifically listed herein shall be discarded at the recyclable disposal site.

§ 123-11. Penalties for offenses.

Any person violating any of the provisions of this article shall be guilty of a violation and upon a first conviction thereof be punished by a fine not exceeding \$25; upon a second conviction thereof be punished by a fine not exceeding \$100; and upon a third conviction thereof be punished by a fine not exceeding \$200. Upon a third conviction thereof, municipal sanitation pickup shall be suspended and shall resume only upon passage of a resolution by the Village Board of Trustees authorizing the resumption of municipal sanitation pickup.

ARTICLE III
Refuse Storage and Disposal
[Adopted by L.L. No. 2-1993]

§ 123-12. Short title.

This article shall be known as Local Law 2 of 1993, or the “Philmont Refuse Storage Law.”

§ 123-13. Legislative findings.

By the adoption of this article, the Village Board of Trustees declares its intention to prohibit and control the storage and disposal of garbage and waste. It is the finding of the Board that such activities and business constitute a health, safety and general welfare hazard to the residents of the Village of Philmont, that materials collected in such areas constitute attractive nuisances to children and may harbor rats, mice and other vermin. It is therefore the finding of the Village Board of the Village of Philmont that enactment of this article is necessary for the health, safety and welfare of the residents of the Village.

§ 123-14. Definitions.

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

CONTAINERS — A round, covered, metal or heavy-duty plastic pail or drum having not less than two handles and not exceeding 18 inches in diameter and 26 inches in height, or a heavy-duty plastic liner or sack approved by the Village of Philmont as fit and suitable for such purpose, to contain garbage or refuse or a dumpster used for pickup by a commercial trash hauler.

GARBAGE — All waste vegetable, animal or other matter, liquid or solid, likely to ferment or decompose and produce noxious odors or become injurious to the public health.

REFUSE — Trash and litter, whether or not combustible, consisting of, but not limited to, paper and paper products, wood and wood products, metal and metal products, plastic and plastics products, glass and glass products, ashes, dust and dirt, rock, concrete and other mineral waste, sweeping, grass, leaves and yard trimming or any and all other discarded objects and materials; provided, however, that "refuse" shall not include earth and wastes from building operations, nor shall it include solid wastes resulting from industrial processes and manufacturing operations.

§ 123-15. Dumping prohibited.

No person, firm or corporation shall place, cause or permit to be placed, or discard in, on or about any alley, street, lane, sidewalk or public places or stream or body of water, within the Village of Philmont, any garbage, refuse or filthy liquid, except as provided by this article.

§ 123-16. Rules for placement of material for collection.

- A. Garbage and refuse shall be placed in a container for collection.
- B. In no event shall the combined weight of a container and its contents, nor of a bundle of refuse, exceed 50 pounds.
- C. Containers shall be kept and maintained by their owners in suitable condition to permit safe handling by the collector.

§ 123-17. Material likely to spill: placement; collection of.

- A. No person, firm or corporation shall place or fill, or cause or permit to be placed or filled, any container or refuse bundle in such manner that such container or bundle shall rupture, overflow, spill or scatter any part of its contents.
- B. Any spillage or scattering of garbage or refuse out of a container or bundle, caused by any means other than the fault or neglect of the collector, shall be collected up by the person who set out such container or bundle and lawfully disposed of by him.

§ 123-18. Placement of containers for collection.

- A. Containers of garbage and refuse shall be set out for collection by the occupant of premises contiguous to a street along which such collection is made, at the side of such street.
- B. Such containers shall be set out not earlier than 7:00 p.m. of the day preceding, nor later than 7:00 a.m. of collection day. Emptied containers shall be removed from the alley side or curblin, as the case may be, within a reasonable time following such emptying, and in no event later than 6:00 p.m. of collection day.

§ 123-19. Storage of refuse.

No person shall store garbage or refuse within the Village of Philmont except in a container, as the term is defined herein. All garbage and refuse shall be stored out of view of adjoining properties and from public streets.

§ 123-20. Dumping of foreign waste within Village prohibited.

No person shall dispose of any garbage, refuse or waste collected outside the Village of Philmont within such Village or leave out for collection within the Village of Philmont.

§ 123-21. Inspection of collection and disposal practices; complaints.

The Department of Public Works, and the Building Inspector when so requested, shall from time to time inspect the manner and conduct of garbage, refuse and waste collection, storage of and of

the setting out of containers by residents and occupants and make complaint to the Department of Police or the Village Justice of the Village of Philmont against any person, firm or corporation charged by such Department of Public Works or Inspector to be in violation of any provision of this article relating thereto.

§ 123-22. Scavenging in garbage and refuse containers prohibited.

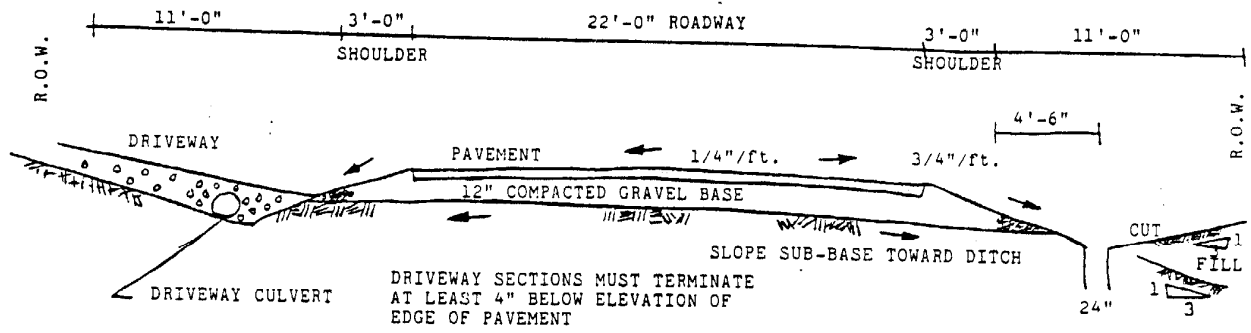
No person shall engage in alley or rag picking, sorting or salvaging or otherwise scavenging in any container of garbage or refuse or refuse bundle, or otherwise disturbing the contents thereof.

§ 123-23. Penalties for offenses.

Any person committing an offense against any provision of this article shall be guilty of a violation punishable as follow: by imprisonment for a term not exceeding 15 days or by a fine not exceeding \$250, or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

STREETS AND SIDEWALKS

Typical Roadway Section



TYPICAL ROADWAY SECTION

Chapter 127

STREETS AND SIDEWALKS

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

ARTICLE I

Trees

[As last revised 3-4-1955]

§ 127-1. Placement of trees and shrubbery.

No person shall set out or plant any shrubbery or tree of any description on any of the streets of the Village, otherwise than inside of the curblin, without the permission of the Board of Trustees of the Village, and all trees within the Village within close proximity of the street line shall be kept trimmed as ordered and directed by the Board of Trustees of the Village.

§ 127-2. Penalties for offenses. ¹

Any violation of the above section shall be punishable by a fine not to exceed \$250, imprisonment for not more than 15 days, or both such fine and imprisonment.

ARTICLE II

Display of Goods on Sidewalks

[As last revised 3-4-1955]

§ 127-3. Placement of articles in front of buildings.

No person shall place in any street or hang out or suspend over any street or sidewalk any goods, wares, or merchandise or any other article in front of any building at a greater distance than three feet from the building line, excepting for the time actually and necessarily required in receiving and delivering the same.

§ 127-4. Penalties for offenses. ²

Any violation of the above section shall be punishable by a fine not to exceed \$250, imprisonment for not more than 15 days, or both such fine and imprisonment.

ARTICLE III

Cleaning of Sidewalks and Gutters

[As last revised 3-4-1955]

§ 127-5. Streets to be kept clean; removal of snow and ice.

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

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

No owner or occupant of any building or lot in the Village shall neglect or refuse upon written notice from the Board of Trustees of the Village to clean the streets, sidewalks or alleys adjoining such premises as ordered and directed by the Board of Trustees; nor shall any owner or occupant of any building or lot neglect to keep the sidewalks and gutters adjoining said premises free and clear from all ice and snow.

§ 127-6. Penalties for offenses. ³

Any violation of the above section shall be punishable by a fine not to exceed \$250, imprisonment for not more than 15 days, or both such fine and imprisonment.

ARTICLE IV
Snow and Ice Removal
[Adopted 12-8-1986 by L.L. No. 1-1986]

§ 127-7. Duty to keep sidewalks clear.

The owner of every lot or premises within the Village of Philmont shall keep the sidewalks adjoining said lot or premises free and clear of all ice and snow for the entire length and width, at least 24 inches, of said sidewalk.

§ 127-8. Time limit for removal.

Snow and ice shall be removed and cleared away from the sidewalks in the manner specified in § 127-7 hereof within 24 hours after each snow or ice shall have fallen or formed on said sidewalks.

§ 127-9. Placing ice or snow on plowed street prohibited.

No person shall throw or place, by any means, any snow or ice on any portion of any Village street or thoroughfare which has been plowed or shovelled out for the purpose of allowing the passage of traffic. On any lot or premises where there is no room to dispose of snow or ice, snow and ice may be piled at the edge of the sidewalk again, leaving sufficient space for pedestrian traffic as outlined in § 127-7 above.

§ 127-10. Penalties for offenses. ⁴

Any person committing an offense against any provision of this article shall be guilty of a violation and shall appear in Village Court to answer same. Punishment shall be a fine not to exceed \$250 and/or imprisonment for 15 days for each offense. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

ARTICLE V
Road Utility Specifications
[Adopted 7-11-1988 by L.L. No. 3-1988]

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

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

§ 127-11. Right-of-way width.

- A. The developer shall dedicate to the Village of Philmont a minimum right-of-way width of 50 feet for straight rights-of-way and a minimum of diameter of 100 feet for streets ending in a cul-de-sac. All utilities and street improvements shall be included within the bounds of the dedicated rights-of-way. Streets shall be centered within the right-of-way.
- B. Drainage ditches and culverts shall only be installed outside street rights-of-way if absolutely necessary. In such cases a right-of-way at least 20 feet wide shall be granted to the Village of Philmont and the drainage ditch or culvert shall be centered on the right-of-way.
- C. Greater right-of-way widths may be required for streets other than minor streets.
- D. All rights-of-way shall be described by accurate metes and bounds descriptions.

§ 127-12. Drainage.

No street will be accepted by the Village of Philmont without proper positive drainage consisting of roadside ditches, catch basins and culverts as necessary. All culverts shall be corrugated steel meeting New York State Department of Transportation specifications and shall be 16 gauge minimum.

§ 127-13. Approval of plans.

Plans prepared by a licensed professional engineer are to be submitted to the Village of Philmont to be reviewed by the Village Highway Superintendent and Village Engineer before commencing any street or utility construction. Street and drainage details shall be clearly set out on the plan, and the plans shall include topography at a two-foot contour interval, typical road section at each 100 foot station and culvert profiles.

§ 127-14. Street construction.

- A. Clearing and grubbing.
 - (1) All trees/bushes and other vegetation shall be removed from the entire width of the right-of-way. Topsoil shall be removed to acceptable subgrade material and the subgrade topsoil shall be brought to proper line and grade. A ten-ton minimum steel wheeled roller shall be used to compact the subgrade.
 - (2) Subgrade shall be free of sod, roots and other objectionable materials and any soft spots or material considered unsuitable shall be removed as required and backfilled with run-of-bank gravel.
 - (3) Low spots may be filled with acceptable excess subgrade material.
 - (4) Filled sections shall be constructed of acceptable subgrade materials free of sod, roots, frozen materials and other objectionable materials and shall not contain stones larger than six inches in largest dimensions. Fills shall be brought up in successive six-inch lifts and each lift shall be thoroughly compacted.

- B. Foundation course. A twelve-inch-thick foundation course shall be placed over the entire road section as shown in the attached typical section. The foundation course shall consist of clean gravel of such a size as 100% shall pass a four-inch square sieve. Thirty percent to 65% shall pass a number 200 sieve. The foundation course shall be placed and thoroughly compacted into separate lifts to produce a final compacted thickness of 12 inches. A ten-ton roller shall be used for compaction.
- C. Settlement period. Once the foundation course has been placed, a minimum three-month settlement period shall be allowed prior to placing the wearing surface. Calcium chloride shall be applied to control dust.
- D. Wearing surface.
 - (1) The wearing surface shall consist of a triple course bituminous mat and shall, in general, be installed in accordance with the requirements of Section 410 of New York State Department of Transportation standard specifications as applicable and otherwise specified. The wearing course shall be installed in the following steps:
 - (a) Fine grade foundation course and roll thoroughly. Broom surface to remove any loose material or dust pockets.
 - (b) Place gravel shoulders using foundation course gravel minus any stone larger than one inch in size.
 - (c) Apply MC-70 medium curing liquid asphalt at 0.5 gallons per square yard.
 - (d) Apply No. 2 crushed stone and roll thoroughly to produce an additional one-inch layer.
 - (e) Apply RC-800 rapid curing liquid asphalt at 0.75 gallons per square yard.
 - (f) Apply No. 1 crushed stone and roll thoroughly to produce an additional one-inch layer.
 - (g) Apply RC-800 rapid curing liquid asphalt at 0.5 gallons per square yard.
 - (h) Apply No. 1A crushed stone at 16 pounds per square yard and roll thoroughly.
 - (i) Blot any excess asphalt as necessary with No. 1A stone and reroll as necessary.
 - (2) RC-250 rapid curing asphalt maybe substituted with prior approval for RC-800 during cooler weather.
 - (3) Asphalt and crushed stone shall conform to New York State Department of Transportation standard specifications.
 - (4) Prior notice is to be given before placing foundation course and before paving. The Village of Philmont reserves the right to inspect the work or have its representative do so at any time and complete access shall be given.

§ 127-15. Final acceptance.

No rights-of-way or improvements will be acceptable by the Village of Philmont until a final

inspection has been made by the Village Highway Superintendent or the Village Engineer after all improvements have been made and after it has been demonstrated that the drainage facilities installed are adequate under actual conditions. The Village of Philmont reserves the right to require additional improvements to correct drainage or other problems prior to acceptance.

§ 127-16. Applicability.

This specification applies to rights-of-way and street improvements for minor roads. These specifications may be modified for roads considered major roads.

§ 127-17. Sewage and utilities.

Sewer lines shall consist of a ten-inch SCH. 40 PVC pipe. Water lines shall consist of a six-inch SCH. 40 PVC pipe with fire hydrants every 200 feet. Electric and telephone lines shall be laid out by the appropriate utility.

Chapter 130

SUBDIVISION OF LAND

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont by L.L. No. 3-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 57.
Sewers — See Ch. 118.
Streets and sidewalks — See Ch. 127.
Water — See Ch. 152.
Zoning — See Ch. 160.

ARTICLE I Title and Purpose

§ 130-1. Title.

This chapter shall be known as Local Law 3 of 1990 or the "Subdivision Law of the Village of Philmont, New York."

§ 130-2. Enacting clause.

The Village Board of the Village of Philmont in the County of Columbia, pursuant to § 7-718 of the Village Law, Municipal Home Rule Law § 10, Subdivision 1(ii)(e)(3), and Local Law No. 2-1990, hereby ordains, enacts and publishes this chapter.

§ 130-3. Purpose.

The purpose of this chapter is to promote the general welfare of the people in accordance with the Village's Comprehensive Master Plan. Therefore, this chapter is designed to:

- A. Encourage the most appropriate use of Village land with regard to its natural beauty, so as to conserve and enhance the value of its property;
- B. Protect and conserve the aesthetic aspects, character, environment, social and economic stability of the Village;
- C. Provide adequate and suitably located commercial facilities;
- D. Regulate building densities in order to assure access of light and circulation of air, facilitate the prevention and fighting of fires, and prevent undue concentration of population;
- E. Assure privacy for residents and freedom from nuisance and things harmful to the senses;
- F. Protect the community against unsightly, obtrusive and noisy land uses and operations;
- G. Lessen congestion on streets and highways and provide efficient municipal services;

- H. Improve traffic circulation; plan for adequate off-street parking and loading facilities;
- I. Provide adequately for water, sewerage, educational facilities, parks, conservation and recreation areas;
- J. Protect streams and ponds from pollution and avoid hazardous conditions and excessive damage from stormwater runoff and flooding;
- K. Protect the water table and encourage wise use and sound management of natural resources so that they may be preserved;
- L. Assure future preservation of open space and recreation lands as an integral part of future development;
- M. Provide a variety of housing types and environments in order to afford the maximum opportunity for people to find a housing and living style suitable to their needs and desires.

ARTICLE II
Procedure for Approval of Land Subdivision

§ 130-4. Required application procedures.

The following subdivision regulations are hereby enacted pursuant to § 7-718 of the Village Law. Whenever any subdivision of land is proposed, and before any contract for the sale or lease of, or any offer to sell or lease any lots in such subdivision or any part thereof is made, before any property is transferred or deed is recorded, and before any permit for the erection of any structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in strict accordance with the following procedures.

§ 130-5. Sketch plat review and classification.

- A. Submission of sketch plat. The property owner, or his duly authorized representative, shall submit to the Clerk of the Planning Board at least 14 days prior to the regular meeting of the Planning Board a sketch plat application and three copies of a sketch plat of the proposed subdivision for purposes of classification and preliminary discussion. If the proposed subdivision is a major subdivision, the sketch plat shall conform to the requirements listed in §§ 130-8 and 130-9 of these regulations.
- B. Classification and designation. Classification of the sketch plat is to be made at the regular meeting by the Planning Board as to whether it is a minor or major subdivision as defined in these regulations. A notation regarding classification shall be made by the Planning Board directly on the sketch plat. The Planning Board may require, however, when it deems necessary for protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions. If the sketch plat is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in § 130-7 of these regulations. If it is classified as a major subdivision, the subdivider shall then comply with the procedures outlined in §§ 130-8 and 9. The Planning Board shall, based upon input provided by the applicant, also designate the name by which the subdivision shall be known.

C. Study of sketch plat.

- (1) The Planning Board shall within 60 days of a complete submission determine whether the sketch plat meets the objectives of these regulations and shall, where it deems necessary, make in writing specific recommendations to be incorporated by the applicant in the next submission to the Planning Board. In its review, the Planning Board may schedule a field visit to the site. To facilitate the inspection of the site, the subdivider shall have the corners of the property, proposed lot corners, and the center line of any proposed streets marked by temporary stakes. The subdivider may be requested to accompany the Planning Board during its site visit.
- (2) Sketch plat review requires the filing of an initial application and payment of a fee in accordance with the subdivision fee schedule established and annually reviewed by the Village Board upon recommendation of the Planning Board. Sketch plat endorsement does not allow filing of a plat with the County Clerk or authorize the sale or lease of, or any offer to sell or lease, any lots in such subdivision or any part thereof.

§ 130-6. Minor subdivision/major subdivision dichotomy.

- A. Subdivision defined. The division of any parcel of land into two or more lots, plots, sites, or other division of land for the purpose of lot line alteration, transfer of ownership, lease or building development. For purpose of these regulations, a parcel shall be considered already subdivided if intersected, crossed or divided by one or more public streets, railroad or utility rights-of-way.
- B. Minor subdivision. Any subdivision containing less than 20.0 acres within the Village, and for which subdivision approval for any portion of the parcel has not been granted within 10 years from the date of application and which contains not more than four lots, each of at least the minimum lot area and dimension permitted by this chapter, each fronting on an existing street, and not involving any new street or road.
- C. Major subdivision. Any subdivision not classified as a minor subdivision.

§ 130-7. Approval of minor subdivision plat.

- A. Application and fee. Within six months of the classification by the Planning Board of the sketch plat of a proposed subdivision as a minor subdivision, the property owner, or his duly authorized representative, shall submit an application for approval of a minor subdivision plat. The plat shall conform to the layout shown on the sketch plat plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in § 130-20 of these regulations. Any application for plat approval for a minor subdivision shall be accompanied by the applicable fee in accordance with the subdivision fee schedule established and annually reviewed by the Village Board upon recommendation of the Planning Board. A copy of said fee schedule shall be available from the Clerk of the Planning Board.
- B. Number of copies. The application for approval of a minor subdivision plat, complete with six copies of the subdivision plat and all further required data specified within § 130-20,

shall be filed with the Clerk of the Planning Board at least 14 days prior to the regular meeting of the Planning Board at which time it shall be introduced and considered officially received by the Planning Board for purposes of these regulations.

- C. Subdivider to attend Planning Board meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the minor subdivision plat.
- D. Approval procedure.
 - (1) Within 62 days of the receipt of the complete subdivision plat application by the Planning Board, the Planning Board shall hold a public hearing on such plat.¹
 - (2) Notice of the public hearing shall be advertised at least once in the official newspaper of the Village at least five days before such hearing.
 - (3) Within 62 days from the date of such public hearing, the Planning Board shall act by resolution on the subdivision plat. The Planning Board shall either approve, conditionally approve with or without modification, or disapprove the plat. The Board shall specifically state in writing its reasons for any such disapproval. In the event that the required public hearing is not held, or if the Board fails to disapprove the subdivision plat within the 62 days prescribed above, the plat shall be deemed approved. The time in which the Planning Board must take action may only be extended by mutual consent of the owner and the Planning Board.²
 - (4) Upon a resolution of approval, a reproducible and eight copies of the subdivision plat shall be provided by the applicant and properly signed by the Chairman of the Planning Board. The subdivision plat may then be filed by the applicant in the office of the Columbia County Clerk. Any minor subdivision plat not so filed or recorded within 62 days of the date upon which such plat is approved, or considered approved by reason of the failure of the Planning Board to act, shall become null and void. If conditional approval is granted, the Planning Board shall empower the Chairman of the Planning Board to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within five days of the resolution granting conditional approval, the plat shall be so certified by the Clerk of the Planning Board as conditionally approved, a copy filed in the Planning Board office, and a copy so certified mailed to the subdivider. The copy mailed to the subdivider shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. Conditional approval of a plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted, for a period not to exceed two additional periods of 90 days each.³

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

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

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

§ 130-8. Approval of preliminary plat for a major subdivision.

A. Application and fees.

- (1) Prior to the filing of an application for the approval of a major subdivision plat, and within six months of the classification by the Planning Board of the sketch plat of a proposed subdivision as a major subdivision, the property owner, or his duly authorized representative, shall file an application for consideration with a preliminary plat of the proposed subdivision. Such preliminary plat shall be clearly marked "preliminary plat" and shall be in the form and include all the data prescribed by § 130-22 hereof. The preliminary plat shall, in all respects, comply with the requirements of Article 7 of the Village Law and these regulations, except where a waiver of any specific requirement may be specifically requested from, and authorized by, the Planning Board.
- (2) Payment of a fee shall accompany all applications for approval of a preliminary plat for a major subdivision. Said application fee shall be in accordance with the subdivision fee schedule established and annually reviewed by the Village Board upon recommendation of the Planning Board. A copy of said fee schedule shall be available from the Clerk of the Planning Board.

B. Purpose.

- (1) The preliminary plat and the supporting documents for a proposed subdivision constitute the material to be officially submitted to the Planning Board, and later one copy shall become the official record of the Village Clerk. The preliminary plat and supporting documents shall show the layout of the subdivision and its public improvements, so that the Planning Board can indicate its approval or disapproval of the subdivision prior to the time that the final plat, including the final engineering design and detailing of the public improvements and utilities, is completed. Approval of the preliminary plat does not constitute an approval of the final plat, nor should it be considered a valid basis for the construction of site improvements or other commitments which depend upon its design characteristics.
- (2) The preliminary layout shall additionally serve as a key map to subdivisions subsequently laid out in sections or phases on final plats.

C. Number of copies. The application for approval of the preliminary plat, complete with six copies of the preliminary plat, shall be filed with the Clerk of the Planning Board at least 14 days prior to the regular meeting of the Planning Board at which time it shall be introduced and considered officially received by the Planning Board for purposes of these regulations. A proposed submission which does not include all the required drawings and documents specified within § 130-22 of these regulations shall not be accepted by the Clerk of the Planning Board.

D. Subdivider to attend Planning Board meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the preliminary plat.

E. Study of preliminary plat. The Planning Board shall study the practicality of the

preliminary plat taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relationship to the topography of the land, water supply, sewage disposal, drainage, lot sizes and configuration, the future development of lands as yet unsubdivided, and the requirements of the Master Plan, Official Map, if one exists, and Chapter 160, Zoning.

F. Approval procedure.

- (1) Within 62 days of receipt of the complete preliminary plat application by the Planning Board, the Planning Board shall hold a public hearing on such preliminary plat.⁴
- (2) Notice of the public hearing shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing.
- (3) Within 62 days from the date of such public hearing, the Planning Board shall act by resolution on the preliminary plat. The Planning Board shall either approve with or without modifications, or disapprove the preliminary plat. The time in which the Planning Board must take action may only be extended by mutual consent of the owner and the Planning Board. Failure of the Planning Board to take action on a preliminary plat within the time prescribed therefore shall be deemed approval of the plat.⁵
- (4) When approving a preliminary plat, the Planning Board shall state in writing the modifications, if any, it deems necessary for submission of the plat in final form with respect to the specific changes which it will require in the preliminary plat, the extent of waivers which may have been specifically requested and which in the Planning Board's opinion may be authorized without jeopardy to the public health, safety, and general welfare, and the categories of improvement and the estimated amount of all bonds or similar performance guarantees which the Planning Board shall require as a requisite to the approval of the final plat. The action of the Planning Board plus any conditions attached thereto shall be noted on three copies of the preliminary plat. One copy shall be returned to the subdivider, one copy shall be retained by the Planning Board and one copy shall be forwarded to the Village Board, through the Village Clerk. Prior to the approval of the final plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

§ 130-9. Approval of final plat for a major subdivision.

A. Application and fee.

- (1) Following approval, with or without modifications, of the preliminary plat, the property owner, or his duly authorized representative, shall prepare a final plat, together with all other supplementary documents, in accordance with § 130-18 of

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

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

these regulations. The application for final plat approval for a major subdivision, or any section thereof, shall be accompanied by a processing fee in accordance with the Village's subdivision fee schedule.

- (2) The final plat and other supplementary documents shall be filed with the Clerk of the Planning Board, together with a written application for final approval, within 180 days after approval, with or without modifications, of the preliminary plat, unless such time limit is extended by mutual consent of the applicant and the Planning Board.
- B. Purpose. The final plat and the supporting documents for a proposed subdivision constitute the complete development of the subdivision proposal. After public hearing, as required, and approval by the Planning Board, this complete submission along with the applicable performance guarantee and the general liability insurance policy, as approved by the Village Board, becomes the basis for the development of the subdivision, the installation of required improvements and the applicable inspection services by the Planning Board, the designated Village Engineer or other delegated Village officials.
- C. Number of copies. The application for approval of the final plat, complete with six copies of the final plat, shall be filed with the Clerk of the Planning Board at least 14 days prior to the regular meeting of the Planning Board at which time it shall be introduced and considered officially received by the Planning Board for purposes of these regulations.
- D. Approval procedure.
- (1) Within 62 days of the receipt of the final plat by the Planning Board, the Planning Board shall hold a public hearing, if required, on such final plat. Such hearing shall be advertised at least once in a newspaper of general circulation in the Village; provided, however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under § 130-8 of this chapter, and modified in strict accordance with requirements of such approval, if such preliminary plat has been approved with modifications, the Planning Board may waive by resolution the requirement for such public hearing.⁶
 - (2) Within 62 days from the date of such public hearing, or from the date of receipt of the application by the Clerk of the Planning Board if no such hearing is held, the Planning Board shall act by resolution on the final plat. The Planning Board shall either approve, conditionally approve with or without modification, or disapprove the final plat. The time in which the Planning Board must take action may only be extended by mutual consent of the owner and the Planning Board. Failure of the Planning Board to take action on a final plat within the time prescribed therefore shall be deemed approval of the plat.⁷
 - (3) If conditional approval is granted, the Planning Board shall empower the Chairman of the Planning Board to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within five

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

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

days of the resolution granting conditional approval, the plat shall be so certified by the Clerk of the Planning Board as conditionally approved, a copy filed in the Planning Board office, and a certified copy mailed to the subdivider which shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. Conditional approval of a plat shall expire, and the application shall be considered to have been withdrawn, 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. Upon specific request by the applicant, the Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted, for a time not to exceed two additional periods of 90 days each.

- E. Final approval and filing. Upon completion of the requirements in § 130-9, and notation to that effect upon the subdivision plat, the subdivision plat shall be deemed to warrant final approval. A reproducible and eight copies, as provided by the applicant, shall be properly signed by the Chairman of the Planning Board upon receipt of notification that the required performance guarantee and insurance, as may be requested, have had the approval of the Village Attorney and that the performance guarantee has been accepted by the Village Board. The final plat may then be filed by the applicant in the office of the Columbia County Clerk. Planning Board approval of a final plat shall not be deemed an acceptance by the Village of any street, or other land, shown as offered for cession to public use.
- F. Expiration of approval. The approval of a final plat shall expire within 62 days after the date of the Planning Board resolution authorizing the Chairman of the Planning Board to sign the drawings, unless filing of the plat or a section thereof, as may be authorized by the Planning Board, is accomplished within that time period in the office of the Columbia County Clerk in accordance with § 7-728, Subdivision 11, of the Village Law. Expiration of an approval shall mean that any further action shall require submission of a new application, payment of a new filing fee and Planning Board review of all previous findings. On and after such expiration of plat approval, any formal offers of cession submitted by the subdivider shall be deemed to be invalid, void, and of no effect.⁸
- G. Filing in sections. At the time of final plat approval, the Planning Board may permit the plat to be divided into two or more sections subject to any conditions the Board deems necessary to insure the orderly development of the plat. In accordance with this approval the applicant may file a section of the approved plat with the County Clerk, which section shall consist of not less than 10 lots nor less than 10% of the total number of lots shown on the approved plat. In this circumstance, plat approval on the remaining sections of the plat shall continue in effect for a period of three years from the filing date of the first section with the County Clerk. When a plat is filed by section with the County Clerk, the applicant shall, within 30 days, file with the Village Clerk the entire approved preliminary plat. The subdivider shall not be permitted to begin construction of buildings in any other section until such section has been filed in the office of the Columbia County Clerk and the required improvements have been installed and approved in such section or a satisfactory performance guarantee covering the cost of such improvements has been posted.

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

§ 130-10. Building permits; certificates of occupancy.

- A. Only upon the posting of a satisfactory performance guarantee or upon certification of the completion or installation of all required improvements to the satisfaction of the Village Board, in accordance with §§ 130-11 through 130-17 of these regulations, and upon Planning Board approval of the final plat, the subdivider, or his successor in title, may be issued building permits for the construction of buildings in accordance with the approved subdivision plat, Chapter 160, Zoning, and other applicable laws, rules and regulations.
- B. In instances where building permits have been authorized upon the posting of a satisfactory performance guarantee, the subdivider or his successor in title may not be subsequently issued certificates of occupancy for any buildings constructed in the subdivision until completion of all required improvements to Village standards and upon certification of such as required in § 130-14 of these regulations.

ARTICLE III
Improvements and Performance Guarantees

§ 130-11. Requirements for major subdivisions.

Any subdivider who proposes to develop a major subdivision in the Village of Philmont shall comply with the regulations provided in this chapter regarding the posting of performance guarantees and the provision or installation of utilities and other required improvements.

§ 130-12. Required improvements.

- A. In making determinations regarding the necessity and extent of the provision and installation of required subdivision improvement, the Planning Board shall take into consideration the prospective character, density and uses within the proposed subdivision, whether residential, commercial or industrial.
- B. The Planning Board shall require the provision and installation of the following improvements unless it shall specifically waive in writing any such improvements as provided in § 130-24 of these regulations.
 - (1) Parks, playgrounds, or other public open spaces of adequate size and location for recreational purposes constituting at least 10% of the land of the subdivision.
 - (2) Paved streets, roadways, common driveways, and driveway aprons.
 - (3) Street signs and posts.
 - (4) Pedestrianways.
 - (5) Streetlighting.
 - (6) Curbs and gutters.
 - (7) Street trees.
 - (8) Water supply facilities.
 - (9) Sanitary sewage disposal facilities.

- (10) Storm drainage facilities.
- (11) Seeding and other means of erosion control for all lands within the subdivision tract, including all lots, common areas and rights-of-way.
- (12) Monuments or other acceptable markers suitably placed and installed.

§ 130-13. Reserved areas and dedications.

- A. General requirements. Pursuant to Village Law § 7-730, before the Board shall approve a major subdivision plat or plan of development, it may require such plat or plan to show in proper cases a park or parks suitably located for playground or other recreation purposes. Reservation of the title to any streets, drainage facilities or easements reserved for public use shown on the plat is prohibited. All land offered for dedication or reserved by the owner for a particular purpose and all easements shall be shown and appropriately marked on the plat or plan of development.
- B. Areas for recreation and public use.
 - (1) Features shown on Comprehensive Plan. Where a proposed park, playground, school or other public use is shown on the Comprehensive Plan, if any, in a location which is entirely or partially within the area of a proposed subdivision or development, the Board shall require the dedication or reservation of such area.
 - (2) Recreation area not shown on Comprehensive Plan. In cases where the Comprehensive Plan, if any, does not show a recreation area within a proposed subdivision and the Board deems that recreation space would be desirable and appropriate, the Board may require the dedication or reservation of designated sites for park, playground or other recreation purposes. Such sites shall be of suitable size, dimension, topography, location and general character for particular purposes envisioned by the Board. In no case shall the Board require that more than 10% of the gross area of the subdivision be dedicated or reserved for recreation purposes. In calculating such percentage, the Board may give due credit for open areas reserved by covenants in all deeds for the common use of all property owners in the area proposed to be subdivided.
 - (3) Recreation sites. Land offered for dedication or reservation for recreation purposes shall be of a character, shape and location suitable for such purposes. In the case of a play field or playground, the land shall be relatively level and dry, no dimension of the site shall be less than 200 feet on one or more streets.
 - (4) Waiver on land for recreation. In cases where the Board finds that, due to the size, topography or location of the subdivision or for other reasons, a requirement that land be dedicated or reserved for recreation would be unreasonable or undesirable, the Board may waive such requirement subject to the condition that the subdivider shall, in lieu of such dedication or reservation, pay to the Village in cash an amount equal to 5% of the appraised value for each proposed lot or unit in the subdivision at the time of final approval. Such moneys shall be deposited in a special Village Trust Fund to be used by the Board of Trustees exclusively for neighborhood parks, playgrounds or recreational purposes. In determining the value of the property, the Board shall

designate an appraiser to rate the property and the cost of the appraisal shall be paid by the applicant. [Amended by L.L. No. 2-1994]

- (5) Lands conveyed by a developer for park purposes shall be impressed with a public trust and may not be alienated without a special act of the State Legislature.
- (6) Standards for installation. All improvements required by the Planning Board shall be installed in accordance with standards, specifications, and procedures acceptable to the appropriate Village departments or as provided in these regulations.
- (7) Modification of the design of improvements shown on the approved plat. If at any time before or during construction of the required improvements shown on the approved plat it is demonstrated to the designated Village Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the designated Village Engineer may, upon concurrence of the Chairman of the Planning Board, suggest minor modifications which are within the spirit and intent of the Planning Board's approval and do not extend to constitute the waiver or substantial alteration of the function of any of the improvements required by the Planning Board. Such modifications will be considered by the Board at the next regularly scheduled meeting. The designated Village Engineer shall suggest any such modifications under this provision in writing to the Clerk of the Planning Board for report to the Planning Board at its next regular meeting.
- (8) Inspection of improvements.
 - (a) At least five days prior to commencing construction of the required improvements, the subdivider shall pay to the Village Clerk the inspection fee required by the Village Board and shall notify the Village Board in writing of the time when he proposes to commence construction of such improvements so that the Village Board may cause such inspection to be made to assure that all Village specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities as required by the Planning Board. The inspection fee shall provide reimbursement to the Village for actual direct cost incurred for such engineering services, not to exceed 2% of the cost of the improvements.
 - (b) In order to facilitate inspection of required improvements during construction, the applicant shall notify the designated Village Engineer at least three working days before reaching each of the following stages of construction:
 - [1] Rough grading complete;
 - [2] Drainage and other underground facilities installed, but prior to backfilling;
 - [3] After gravel base is spread and compacted;
 - [4] When each pavement course is being applied; and
 - [5] After completion of all improvements.
 - (c) The applicant shall not proceed to work on any stage subsequent to the first

stage until the work of the previous stage has been inspected and approved by the designated Village Engineer, or his duly-authorized representative. In the case of any other improvements, the designated Village Engineer shall inspect the work at such progressive stages as he shall specify. The designated Village Engineer shall certify to the Planning Board that the work was inspected by him and was found to be in accordance with the approved plans and specifications.

- (9) Proper installation of improvements. If the designated Village Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance guarantee, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Village Board, the Building Inspector and the Planning Board. The Village Board shall then notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the Village's rights under the performance guaranteed. No plat shall be approved by the Planning Board as long as the subdivider is in performance default on any previously approved plat within the Village.
- (10) All subdivisions dividing into three or more lots shall be hooked up to the municipal sewer and water system. In addition, each subdivision which combined with previous subdivision approvals granted by the Planning Board totaling three or more lots shall be required to connect to the municipal sewer and water, to both the proposed lots or the existing lots before subdivision approval can be granted. This chapter shall not be deemed to be a waiver of existing Village law for three subdivisions of less than three lots that are required to hook up to the sewer and water system. The developer shall be responsible for all costs of connecting to the existing sewer and water systems.

§ 130-14. Performance guarantees for required improvements.

A performance bond or equivalent security shall be delivered to the Village to guarantee thereby to the Village that the subdivider shall faithfully cause to be constructed and completed within a reasonable time the required improvements and convey the required lands and improvements, where applicable, to the Village free and clear of all encumbrances.

- A. Procedure. Before the Planning Board grants final approval of the final subdivision plat, the subdivider shall provide to the Clerk of the Planning Board a detailed engineer's cost estimate for all required improvements for review and concurrence by the designated Village Engineer and shall subsequently follow the procedure set forth in either Subsection A(1) or (2) herein:
 - (1) In any amount set by the Planning Board the subdivider shall either file with the Village Clerk a certified check to cover the full cost of the required improvements or the subdivider shall file with the Village Clerk a performance guarantee to cover the full cost of the required improvements. Any such performance bond or equivalent security shall comply with the requirements of § 7-730 of the Village Law and further, shall be satisfactory to the Village Board and Village Attorney as to form, sufficiency, manner of execution and surety. A period of one year or such other period as the Planning Board may determine appropriate but not exceeding three

years, shall be set forth in the bond or equivalent security as the period within which the required improvements must be completed. The subdivider shall additionally file a copy of said certified check or other performance guarantee with the Clerk of the Planning Board. If the Planning Board shall decide at any time during the term of the performance guarantee that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such performance guarantee, or that required improvements have been installed as provided in this article and by the Planning Board in sufficient amount to warrant reduction in the face amount of said bond, or that the character and extent of such development requires additional improvements previously waived for a period stated at the time of filing the original terms of such bond or equivalent security, the Planning Board may modify its requirements for any or all such improvements, and the face value of such performance guarantee shall thereupon be reduced or increased by an appropriate amount so that the new face value will cover the cost in full of the amended list of improvements required by the Planning Board and any security deposited with the bond may be reduced or increased proportionately.

- (2) The subdivider shall complete all required improvements to the satisfaction of the designated Village Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board. For any required improvements not so completed, the subdivider shall file with the Village Clerk a bond or certified check covering the costs of such improvements, in addition to the cost of satisfactorily installing any improvements not approved by the designated Village Engineer. Any such bond shall be satisfactory to the Village Board and Village Attorney as to form, sufficiency, manner of execution and surety. The subdivider shall additionally file a copy of said certified check or other performance guarantee with the Clerk of the Planning Board.

- B. As-built drawing required. No required improvements shall be considered to be completed until the installation of the improvements has been approved by the designated Village Engineer and a map satisfactory to the Planning Board has been submitted indicating the specific location of all underground utilities as actually installed. The Planning Board may require the as-built drawings to be submitted in phases and may designate the stages of development in which the drawings need be submitted. If the subdivider completes all required improvements according to provisions of Subsection A(2) above, then said map shall be submitted prior to endorsement of the final plat by the Planning Board Chairman. However, if the subdivider elects to provide a performance guarantee for all required improvements as specified in Subsection A(1) above, such bond or equivalent security shall not be released until such map is submitted and deemed satisfactory by the Planning Board.

§ 130-15. Maintenance bonds.

The subdivider shall file with the Village Board a maintenance bond in an amount not less than 20% of the cost estimate for installation of the required improvements and which shall be adequate to assure the satisfactory condition and operation of the initial public improvements for a period of one year following their completion and acceptance, where applicable, by the Village Board. Such maintenance bond shall be satisfactory to the Village Attorney as to form, manner

of execution and surety and in an amount satisfactory to the designated Village Engineer. The subdivider shall additionally file a copy of said certified check or other performance guarantee with the Clerk of the Planning Board.

§ 130-16. General liability insurance.

- A. Filing requirement. The subdivider shall file with the Village Attorney a general liability insurance policy at the same time that the performance guarantee is filed. The Village Board and Village Attorney shall approve the policy as to form. The policy shall be in force during the term of the performance guarantee and shall be extended in conformance with any extension of the performance guarantee. The subdivider shall additionally file a copy of said certified check or other performance guarantee with the Clerk of the Planning Board.
- B. Limits of coverage. The policy shall insure the Village and the subdivider, and shall cover all operations in the development involving existence and maintenance of property and buildings and contracting operations of every nature involving all public improvements. Said policy shall have limits of liability of \$500,000 for bodily injury and/or property damage per occurrence or such higher limit as may be recommended by the Village Engineer and Village Attorney.

§ 130-17. Public franchise utilities.

- A. Service connections. When public franchise utilities are to be installed, the subdivider shall submit to the Planning Board written assurances from each public utility company that such company will make the necessary service installations within a time limit and according to specifications satisfactory to the Planning Board.
- B. Easements or other releases. The final plat shall include statements by the owner granting all necessary easements or other releases where required for the installation of public franchise utilities.
- C. Village engineer fees. The subdivider shall reimburse the Planning Board for any engineering fees paid by the Board in reviewing the application, regardless of whether ultimately approved.

§ 130-18. General requirements and subdivision design standards.

- A. General requirements. Any subdivider who proposes to develop a subdivision in the Village of Philmont shall observe all general requirements for land subdivision as herein provided.
 - (1) Character of land. Land to be subdivided shall be of such character that in the opinion of the Planning Board it can be used safely for building purposes without danger to health or peril from fire, flood or other menace and with a minimum of detrimental affects on the environment.
 - (2) Preservation of any significant existing features. The Planning Board may require through subdivision design and the subsequent dedication of conservation easements the preservation of natural features which add value to residential developments and

to the community, such as large trees or wooded areas, watercourses and falls, beaches, historic spots, and similar irreplaceable assets. In particular, all natural watercourses shall be protected from development encroachment by having the required minimum width or depth for all building lots measured from a point which lies a minimum of 100 feet from the center line of any DEC-classified stream or creek or from the boundary of any DEC-classified freshwater wetland.

- (3) Conformance with Official Map and Master Plan. Subdivision plats and improvements provided shall conform to the Official Map and Chapter 160, Zoning, of the Village of Philmont and shall be in harmony with the Master Plan.
- (4) Minimum lot area. No lot in a subdivision shall have less than the minimum lot area and minimum lot dimensions required by Chapter 160, Zoning, for the district in which it is located, unless otherwise provided in Chapter 160, Zoning, or as provided for residential cluster development.
- (5) Replatting. Replatting of all or part of land covered by an existing plat which has been laid out prior to compulsory subdivision plat review, approval and filing shall comply with these regulations as now required.
- (6) Preservation of topsoil. No topsoil shall be removed from any land in the Village, except that in areas over which heavy equipment will be operated, the topsoil shall be stripped and stockpiled on the property. When final grades have been established and construction activities have been completed, the entire property shall be suitably graded and to the extent practicable, recovered with topsoil, except that portion of the site covered by buildings or included in the roads.
- (7) Watercourses. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by culverts or other permanent drainage structures. Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way, not less than 30 feet in width. All such structures and rights-of-way shall be of design and specification approved by the designated Village Engineer and the Village Highway Superintendent.
- (8) Floodplains. If any portion of the land within the subdivision is subject to periodic inundation or flood hazard caused by stormwater, this portion shall be clearly indicated on any submissions required by these regulations. In cases of doubt, the Planning Board may require the submission of a flood hazard study delineating the limits of the one-hundred-year floodplain. Such study shall be conducted by a licensed professional engineer.
 - (a) Land subject to flooding, and land deemed by the Planning Board to be otherwise uninhabitable, shall not be platted for residential occupancy nor for any such other use that may increase danger to health, life or property, or aggravate the flood hazard.
 - (b) Any subdivision, including all proposed improvements and construction, must comply with all further applicable provisions of the National Flood Insurance Act of 1968, including all amendments thereto.

- B. The subdivider shall additionally conform to all subdivision design standards as herein provided. These standards shall be considered minimum standards and shall be modified, or waived, by the Planning Board only upon a showing of undue hardship.
- (1) Lots.
- (a) Lots to be buildable. The lot arrangement shall be such that in constructing a building, there will be no foreseeable prohibitions to development based upon soils, topography or other natural conditions, including the presence of wetlands or floodplain areas. Lots which are deemed unbuildable shall be so designated on the final subdivision map recorded in the Columbia County Clerk's office.
- (b) Minimum lot size. Except as provided in Chapter 160, Zoning, for cluster development, each lot shall be no smaller than the minimum lot area, lot frontage and lot width required by Chapter 160, Zoning, for the district in which it is located.
- (c) Access from public streets.
- [1] The subdividing of land shall be such as to provide each lot with satisfactory access, either directly or via suitably-improved private streets, as may occur in the case of a cluster subdivision, for routine and emergency purposes from the community's system of public streets and roadways.
- [2] When more than three lots are proposed to be subdivided from a parcel with frontage on a county or state highway, frontage for all such lots shall be on internal streets, not on the county or state highway. Each lot permitted to front on a county or state highway shall provide for an improved on-site turnaround so as to obviate the necessity of any vehicle from backing onto such highway. Similar provision on Village and town highways shall be encouraged.
- [3] Any access shall be constructed with a driveway apron installed wholly to the edge of right-of-way and of the same material specification as the adjoining street.
- [4] All streets shall be constructed with the performance standards set forth in Chapter 127, Streets and Sidewalks, Article V, Road Utility Specifications.
- (d) Access from private streets. Access from privately-owned and -maintained streets, as may be specifically authorized in accordance with Article 6 of the Village Law, shall be deemed acceptable only if such streets are designed and improved in accordance with Chapter 127, Streets and Sidewalks, Article V, Road Utility Specifications, of this Code, and means satisfactory to the Planning Board are provided for the long-term ownership and maintenance of said privately-owned and maintained streets.

ARTICLE IV

Plat Submission Requirements

§ 130-19. Documents to be submitted.

Any subdivider who proposes to develop a subdivision in the Village of Philmont shall submit plats and other documents for approval as provided in §§ 130-20 through 130-23.

§ 130-20. Submission requirements for a minor subdivision plat.

- A. Completed subdivision application form, receipt for payment of required application fee, a reproducible and six copies of the proposed subdivision plat certified by a licensed land surveyor, bearing the Planning Board's assigned case number, including individual stamp/signature blocks for the Village Planning Board and the Columbia County Health Department, and suitable for filing in the office of the County Clerk.
- B. In the case of a minor subdivision only, the subdivision plat application shall include the following information:
 - (1) An area map showing the location of that portion of the tract which is to be subdivided in relation to the entire tract, and showing the distance to the nearest street intersection. The drawing of the entire tract may be by either deed plot or actual survey.
 - (2) An actual field survey of the boundary lines of the tract, or portion thereof, being subdivided, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Planning Board, and shall be referenced and shown on the plat.
 - (3) Information concerning portions of the land within the subdivision subject to periodic inundation by floodwaters or in a wetlands area, whether or not sufficient in size to be designated by the New York State Department of Environmental Conservation.
 - (4) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
 - (5) Documentation regarding all easements, existing or proposed, which either affect, or are intended to affect, any portion of the subdivision plat.
 - (6) For subdivisions not connected to the municipal sewer and water system, all on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the Columbia County Health Department. Evidence of contact with the Health Department shall be presented at the time of application and a specific note regarding this requirement shall be stated on the plat. Written endorsement of the subdivision plat by the Columbia County Health Department must precede final stamping and signature by the Planning Board.
 - (7) For lots required to be hooked up to the municipal sewer and water system, location and size of the supply main from the Village plants and location and size of all distribution mains to each lot must be shown.
 - (8) Proposed subdivision name, Village of Philmont, Columbia County, New York.

- (9) The date, north arrow, map scale, name and address of record owner and subdivider and this chapter.
- (10) Any environmental assessment form (EAF), as required by SEQR regulations.
- (11) Any additional requirements deemed necessary by the Planning Board due to the unique circumstances of the subdivision plat, including the submission of additional data more typically required for a major subdivision plat.

§ 130-21. Sketch plat submission requirements for a major subdivision.

- A. The sketch plat initially submitted to the Planning Board shall be based on tax map information or some similarly accurate base map at a scale of not less than 100 feet to an inch. The entire sketch plat shall be shown on one sheet and shall show the following information:
 - (1) Proposed subdivision name, Village of Philmont, Columbia County, New York.
 - (2) A vicinity or area map showing the location of that portion of the tract which is to be subdivided in relation to the entire tract, and the distance to the nearest street intersection. All streets shall also be shown within 500 feet of the applicant's property.
 - (3) All existing structures, wooded areas, streams and other significant physical features, within the portion to be subdivided and within 200 feet thereof. Topographic contours shall also be indicated at intervals of not more than 10 feet. All elevations are to be referred to USGS datum with location and description of bench mark included.
 - (4) General mapping of soils conditions based on USDA soils data.
 - (5) The name of the owner and of all adjoining property owners as disclosed by the most recent town assessment records. Property owners across street also to be shown.
 - (6) The tax map sheet, block and lot numbers, as available from the Town Assessor's office of the Columbia County Real Property Tax Service.
 - (7) All the utilities available, and all streets, whether public or private, which are either proposed, mapped or built.
 - (8) The proposed pattern and number of lots (including approximate lot areas, widths and depths), street layout, recreation areas, and systems of drainage, sewerage and water supply within the subdivided area.
 - (9) Information regarding all existing restrictions on the use of land, including easements, covenants and location of zoning district boundaries.
 - (10) Delineation of all portions of the land within the subdivision subject to periodic inundation or flooding by stormwater, including wetlands areas, whether or not sufficient in size to be classified as designated freshwater wetlands by NYSDEC.
- B. The applicants shall submit the following with the sketch plat submission:
 - (1) A conceptual engineering report discussing, to the extent applicable, the demands of

the proposed subdivision on water, sewer, drainage, highways and related systems, and discussing the methods through which these demands may be accommodated and the methods through which any potentially adverse impacts may be mitigated, including discussion of alternatives as may be appropriate.

- (2) Identification of all county or state permits required for subdivision plat approval.
- (3) A full environmental assessment form (EAF) in accordance with SEQR regulations.

§ 130-22. Preliminary plat submission requirements for a major subdivision.

- A. Completed subdivision application form, receipt for payment of required application fee, and six copies of the preliminary plat certified to by a licensed land surveyor and/or professional engineer, as required by law, at a scale of not more than 100 but preferably not less than 50 feet to an inch.
- B. The preliminary plat shall include, to the extent applicable, all information identified below:
 - (1) Information on existing site conditions:
 - (a) An actual field survey of the boundary lines of the tract, or portion thereof, to be subdivided, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments of such size and type as approved by the Village Planning Board, and shall be referenced and shown on the plat;
 - (b) Names of all contiguous owners and identification of any contiguous land owned or under option by the applicant;
 - (c) Street rights-of-way on the subdivision and within 200 feet of its boundaries, including name and right-of-way width and location; type, width and elevation of surface; any legally established center line elevations, including those at intersections and other critical points;
 - (d) Location, width, purpose, and restrictions upon any other rights-of-way and easements on the subdivision;
 - (e) Drainage structures on the subdivision and within 200 feet of its boundaries, including type of structure and location, invert elevations, gradients, types and sizes of all pipe and all other drainage structures where applicable, including direction of flow;
 - (f) Location and size or capacity of all other utility structures, such as sewer, water, gas mains and power lines on the subdivision and within 200 feet of its boundaries;
 - (g) Contours should be shown at intervals of not more than two feet or as required by the Planning Board;
 - (h) Designated wetlands, marshes, ponds, streams and all land subject to periodic or

occasional flooding, or similar unstable conditions, on the subdivision or within 200 feet of its boundaries. Indicated shall be location, approximate land area, high water level based on one-hundred-year storm, and maximum depth of water at critical points;

- (i) Location of rock outcrops, wooded areas, isolated preservable trees, structures, stone walls and other significant existing features for the proposed subdivision area and within 200 feet thereof;
 - (j) Tabular data regarding soils characteristics from the USDA Soil Conservation Service soils survey and indication of depth to groundwater throughout the site;
 - (k) Location and layout of municipal sewer and water hookup.
- (2) Information on proposed site development:
- (a) Streets.
 - [1] Name to be checked prior to submission with the Village Clerk to avoid duplication and shall be subject to subsequent approval of the Village Planning Board;
 - [2] The width and location of any streets or public ways or places shown on the Official Village Map, within the area to be subdivided, together with street profiles of all streets or public ways proposed by the developer;
 - [3] Right-of-way width;
 - [4] Tentative center line elevations at intersections and at principal changes in gradient;
 - [5] Tentative center line gradient shown in percent of slope;
 - [6] Computed sight distance at all proposed intersections and other critical points;
 - [7] Plans, profiles and cross-sections, showing, as applicable, the proposed location and type of pedestrian walkways, streetlighting standards, street trees, curbs, water mains, sanitary sewers, and storm drains, and the size and type thereof, the character, width and depth of pavements and subbase, the location of manholes, basins and underground conduits; and
 - [8] Preliminary designs of any bridges which may be required.
 - (b) Lot layout.
 - [1] Lot lines and dimensions scaled to the nearest foot;
 - [2] Proposed location of buildings and driveways in full accordance with zoning and other requirements; and
 - [3] Lot numbers and lot areas measured to the nearest 100 square feet if less than one acre or nearest 0.1 of an acre for parcels greater than one acre.

- (c) Easements, parks, restricted areas and other improvements.
 - [1] Purposes and restrictions;
 - [2] Designation of areas or right-of-way which are to be offered for public dedication or deeded to homeowner's associations or other private corporations with clear indication of proposed changes in grades and landscaping thereon. The Board may require special recreational improvements and planting of trees, shrubs, grass, and other landscaping in all areas to be so dedicated.
 - (d) Preliminary stormwater drainage system plan.
 - [1] Drainage structures shall be shown on the preliminary plat indicating the approximate location and size of proposed lines and culverts and their profiles, including connection to existing storm system or alternate means of disposal; and
 - [2] Outline of watersheds tributary to drainage structures and their approximate area in acres including those which extend beyond the boundaries of the subdivision.
 - (e) Preliminary water supply and sewage treatment systems. The approximate location, size and profiles of all proposed water lines, valves, hydrants and sewer lines, including connection to existing facilities as required and provided in the Public Health Law.
 - (f) Easements. Where the topography is such as to make difficult the inclusion of any of the required facilities and improvements within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under private property.
 - (g) Covenants or deed restrictions. A copy of all covenants or deed restrictions which either presently affect, or are intended to apply to, all or part of the tract.
 - (h) Temporary stakes or markers. The Planning Board may require the location of temporary stakes or markers adequate to enable the Planning Board to locate readily and appraise the basic layout in the field, including markers at the corners of the tract. Unless the subdivision is adjacent to an existing street intersection the distance along a street from one corner of the property to the nearest existing street intersection shall be shown.
- (3) Preliminary engineering report detailing the demands of the proposed subdivision on water, sewer, drainage, highways and related systems, and detailing the methods through which these demands shall be accommodated and the methods, including available alternatives, through which any potentially adverse impacts shall be mitigated.
 - (4) Additional data that may be required to complete SEQR process, as initiated with the submission at the sketch plat phase.
 - (5) Information regarding the status of all applications for county and state permits

required for subdivision plat approval, e.g., a NYSDEC wetlands permit, a DEC stream crossing or stream disturbance permit, or a NYSDOT or Columbia County DPW access permit.

§ 130-23. Final plat submission requirements for a major subdivision.

- A. Completed subdivision application for, receipt for payment of required application fee, a reproducible and eight copies of the final plat certified by both a licensed land surveyor and a professional engineer, as required by law, at a scale of not more than 100 but preferably not less than 50 feet to an inch. The final plat shall bear the Planning Board's assigned case number, include individual stamp/signature blocks for the Village Planning Board and the Columbia County Health Department, and be suitable for filing in the office of the County Clerk.
- B. To the extent applicable, the following information will be submitted for approval and shall constitute a final plat:
 - (1) Lot map of the entire subdivision shall be the same as that required on the preliminary plat with the following additions:
 - (a) Lot layout:
 - [1] Number identification by a suitable system of consecutive numbers circled and related to the town tax maps.
 - [2] Lot lines with accurate dimensions to the nearest hundredth of a foot and bearings to nearest second.
 - [3] Lot areas for each lot measured accurately to the nearest 10 square feet for lots of one acre or less, and to the nearest 1/100 acre for lots greater than one acre.
 - [4] Minimum building setback lines, if imposed beyond zoning requirements through deed restriction, shown and dimensioned.
 - (2) Survey data.
 - (a) Accurate tract boundary lines with bearings and distances.
 - (b) Survey tie-in with accurate bearings and distances to nearest established street monuments or other official monuments, which are within reasonable distance of the property. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the New York State Department of Transportation. They shall be placed as required by the designated Village Engineer and their location noted and referenced upon the plat.
 - (c) Special district boundaries, e.g., water or sewer, as affect the subdivision, referenced to the subdivision survey by accurate bearings and distances.
 - (d) The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street and right-of-way; and accurate dimensions to the nearest hundredth of a

foot.

(e) Monuments and markers:

[1] Accurate location of all monuments (existing, proposed, or to be reset) shall be shown; and

[2] Monuments or other suitable markers shall be of a type approved by the Planning Board and shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as may be required by the Planning Board.

(3) Required improvement plans and profiles.

(a) The amount of all performance guarantees and conduct of all required inspections shall be based on these drawings, the final plat itself, these subdivision regulations and other applicable Village specifications for such required improvements and utilities.

(b) Unless a specific waiver is requested and granted in writing by the Planning Board, the proposed improvements and utilities shall be considered to comply specifically with these subdivision regulations and the other applicable Village specifications for such improvements and utilities.

(c) Basic drawing layout requirements are the same as those required for the preliminary plat and shall also include rights-of-way, gradients, and directional arrows downhill.

(d) Designs for water lines, sewers, street, bridges and drainage structures shall be prepared by a licensed professional engineer.

(e) Complete drainage system for the entire subdivision, with appropriate development staging for each of the final plat sections, shown graphically and related to all existing drainage features.

(f) Utility system requirements.

[1] Water supply and distribution:

[a] The location and size of the supply main from the Village water plant.

[b] Location and size of all distribution mains from the Village water plant.

[c] Location of fire hydrants.

[d] Location of control valves.

[2] Sanitary waste disposal systems:

[a] A location and main size of municipal sewer hookup shall be shown.

- [3] Location of electric, telephone, cable TV, gas, and other energy-related lines.
- [4] Location and description of streetlighting.
- (g) Profile drawing requirements.
 - [1] Drawings shall be prepared with horizontal scale of one inch equals 50 feet and vertical scale of one inch equals 10 feet, unless otherwise approved by the Planning Board.
 - [2] All profiles shall show the existing natural grades, the typical cross-section of existing or proposed roads, the center lines of intersecting roads and a system of survey stations.
 - [3] The center line profile of all proposed roads with dimension on vertical curves, and notations as to gradient and critical elevations.
 - [4] Detailed plans for bridges, culverts or similar structures.
 - [5] The invert profile and location of all storm and sanitary drainage structures (manholes, catch basins, etc.) in street rights-of-way, drainage or other easements.
- (h) Recreation and community improvements.
 - [1] Landscape plans prepared by registered landscape architect, architect or professional engineer indicating proposed changes in existing grades and landscaping, including the following items: play areas, walkways, incidental shelters, lighting, walls, new trees and shrubs size and other required improvements.
- (i) Final engineering report detailing in final form the information prepared in the preliminary engineering report.
- (j) A sedimentation and erosion control plan.
- (4) Certifications.
 - (a) Certification of title showing that the applicant is owner or duly authorized agent of the owner.
 - (b) Written offers of cession of the Village for all proposed public streets, rights-of-way and open spaces shown on the subdivision plan and copies of agreements or other documents showing the manner in which open spaces, title of which is reserved by the subdivider, are to be maintained. All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Village Attorney as to their legal sufficiency and, where applicable, be filed with the New York State Attorney General's Office as required by § 352-e of the General Business Law.
 - (c) A certificate by the designated Village Engineer certifying that the subdivider has complied with one or both of the following alternatives:

- [1] All or part of the improvements have been installed in accordance with the requirements of these regulations and with the action of the Planning Board granting approval of the preliminary plat; or
 - [2] A performance bond or equivalent security approved by the Village Attorney has been posted available to the Village in sufficient amount to assure completion of all required improvements.
- (d) Protective covenants and other appropriate devices in form for recording.
 - (e) Letters directed to the Chairman of the Planning Board and signed by a responsible official or any governmental authority or district which must provide necessary utility service, approving the utility installation design and assuring that adequate service will be available to accommodate the needs of the subdivision. Assurance shall also be provided that the long-term ownership and maintenance of the utilities shall be provided in such manner as directed by the Planning Board.
 - (f) Letter, in appropriate cases, directed to the Chairman of the Planning Board signed by a responsible official of the State Department of Transportation, or the Columbia County Highway Department, approving proposed construction and access on state or county rights-of-way, respectively.
 - (g) Proof of compliance with the Village sewer and water laws, and, where required, approval by the Columbia County Health Department.
 - (h) A memorandum and copies of related documentation establishing specific compliance with each of the conditions stated within the preliminary plat approval resolution, including a copy of all necessary permits from county or state agencies which may have been required due to the particular circumstances of the subdivision and the nature and location of the intended improvements.

ARTICLE V

Modification of Regulations; Penalties; Escrow Fees for Consultants

§ 130-24. Waivers, modifications and review.

- A. Waiver of specific improvements. The Planning Board may waive upon specific request and by specific resolution, subject to appropriate conditions and guarantees, for such period as it may determine, the requirements of these regulations relative to the provision and design of any or all required improvements which in its judgment of the special circumstances of a particular plat or plats are not requisite to the interests of the public health, safety and general welfare of the Village or are not appropriate because of the inadequacy or lack of connecting facilities adjacent to or in the proximity of the proposed subdivision.
- B. Modification of specific requirements. Where the Planning Board finds that compliance with these regulations would cause unusual hardship or extraordinary difficulties because of exceptional and unique conditions of topography, access, location, shape, size, drainage

or other physical features of the site, the minimum requirements of these regulations may be modified upon specific request and by specific resolution of the Planning Board to mitigate the hardship; provided that the public interest is protected and the development is in keeping with the general spirit and intent of these and other Village regulations.

- C. Review of decisions of the Planning Board.
 - (1) Any officer, department, board or bureau of the Village, with the specific approval of the Village Board, or any person or persons, jointly or severally aggrieved by any decision of the Planning Board concerning a plat decision, may bring a proceeding to review such decision in the manner provided by Article 78 of the Civil Practice Law and Rules in a Court of Record on the ground that such decision is illegal in whole or in part. Such proceeding must be commenced within 30 days after the filing of the decision in the Office of the Village Clerk.
 - (2) Commencement of such proceeding shall stay all further proceedings by either the applicant or the Village related to the decision appealed from.
- D. Authority to sign subdivision plats and act on behalf of the Planning Board. The sole officer authorized to sign approved subdivision plats is the Chairman of the Planning Board or in his absence the Vice Chairman. The Clerk of the Planning Board is, however, authorized to carry out any ministerial acts on behalf of the Planning Board or its Chairman that are required by these regulations.
- E. Plat void if revised after approval. No changes, erasures, modifications, or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the said plat is first resubmitted to the Planning Board and such Board approves in writing any such modifications. In the event that any subdivision plat is recorded in the office of the Columbia County Clerk without complying to the rules and regulations set forth in this document, the approval is considered null and void.

§ 130-25. Penalties for offenses. [Added 2-9-2004 by L.L. No. 1-2004]

Any person found guilty of violating any of the provisions of this chapter shall be punishable by a fine not exceeding \$250, imprisonment for not more than 15 days, or both such fine and imprisonment.

§ 130-26. Escrow fees for consultants.

- A. The costs incurred by the Planning Board for consultation fees of a planner, engineer, attorney or other expert review and advice, inclusive of the Village Attorney or Village Engineer, in connection with the review of any proposed construction, development proposal or application for permit or approval shall be charged to the applicant, together with the cost of advertising or noticing any public hearing required.
- B. The costs shall be paid for in advance by the applicant as a condition of further consideration of the application. The Village shall collect funds in an amount in its discretion shall be sufficient to cover the costs of such expense and shall hold such funds in escrow without accumulation of interest. The Village's consultants shall bill or invoice the

Village no less frequently than monthly for services rendered. In the event that the amount in escrow is greater than the total final consulting fees, the difference shall be promptly refunded to the applicant. At the conclusion of the review process, the applicant shall receive a full, itemized explanation of how funds in the escrow account were disbursed.

Chapter 134

TAXATION

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

GENERAL REFERENCES

Assessment — See Ch. 5.

ARTICLE I

Utility Tax

[Adopted 6-28-1974 by L.L. No. 2-1974]

§ 134-1. Tax on the furnishing of utility services.

Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, a tax equal to 1% of its gross income from and after the first day of July 1974, is hereby imposed upon every utility doing business in the Village of Philmont, New York, which is subject to the supervision of the State Department of Public Service, which has a gross income for 12 months ending May 31 in excess of \$500, except motor carriers or brokers subject to such supervision under Article 3-B of the Public Service Law,¹ and a tax equal to 1% of its gross operating income from and after the first day of July 1974, is hereby imposed upon every other utility doing business in the Village of Philmont, New York, which has a gross operating income for the 12 months ending June 30 in excess of \$500, which taxes shall have application only within the territorial limits of the Village of Philmont, New York 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 Philmont, New York, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

§ 134-2. Definitions.

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

GROSS INCOME — Receipts received in or by reason of any sale, conditional or otherwise (except sales hereinafter referred to with respect to which it is provided that the profits from the sale shall be included in gross income) made or service rendered for ultimate consumption or use by the purchaser in the Village of Philmont, New York, 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, and 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

1. Editor's Note: Article 3-B of the Public Service Law was repealed by L. 1970, c. 267, § 5, effective 3-1-1971. See now § 240 et seq. of the Transportation Law.

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 Philmont, New York, 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 profit a from any transaction (except sales for resale and rentals) within the Village of Philmont, New York, whatsoever; provided, however, that the words "gross income" shall include, in the case of a utility engaged in selling telephony or telephone service, only receipts from local exchange service wholly consummated within the Village of Philmont, New York, and in the case of utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated within the Village of Philmont, New York.

GROSS OPERATING INCOME — Receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water, refrigeration, telephony or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigeration, telephone or telegraph service in the Village of Philmont, New York, including cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of used, labor, or services or other costs, interest, or discount paid, or any other exposes whatsoever.

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

UTILITY — Includes every person subject to the supervision of the State Department of Public Service, except persons engaged in the business of operating on the public highways of New York State one or more omnibuses having a seating capacity of more than seven persons, and persons engaged in the business of operating or leasing sleeping and parlor railroad cars or operating railroads other than street surface, rapid transit, subway and elevated railroads, and also includes every person (whether or not such person is subject to such supervision) who sells gas, electricity, steam, water, refrigeration, telephony or telegraphy, delivered through mains, pipes or wires, or 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 streets.

§ 134-3. Records of business.

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

§ 134-4. Filing of return by utility.

Every utility subject to tax hereunder shall file annually on or before the 25th day of February, a return for the previous 12 calendar months ending the 31st day of December or, in the case of the first such return, for all such months during which the tax imposed hereby was effective; provided, however, that in lieu of the annual return required by the foregoing provisions, any utility may file quarterly on or before April 25, July 25, September 25, and January 25, a return for the three calendar months preceding each such return date, and in the case of the first such return, for all preceding calendar months during which the tax imposed hereby was effective. Every return shall state the gross income or gross operating income for the period covered thereby. Returns shall be filed with the Village Treasurer on a form to be furnished by him for such purpose and shall contain such other data, information or matter as he may require to be included therein. The Village Treasurer, in order to insure payment of the tax imposed, may require at any time a further or supplemental return, which shall contain any data that may be specified by him, and he may require any utility doing business in the Village of Philmont, New York 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.

§ 134-5. Payment of tax.

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

§ 134-6. Sufficiency of return.

A. In case any return filed pursuant to this article shall be insufficient or unsatisfactory to the Village Treasurer, and if a corrected or sufficient return is not filed within 20 days after the same is required by notice from him, or if no return is made for any period, the Village Treasurer shall determine the amount of tax due from such information as he is able to obtain, and if necessary, may estimate the tax on the basis of external indices or otherwise. He shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the Village Treasurer for a hearing, or unless the Village Treasurer, of his own motion shall reduce the same. After such hearing, the Village Treasurer shall give notice of his decision to the person liable for the tax. Such decision may be reviewed by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York if application therefor is made within 90 days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the Village Treasurer and an undertaking filed with him, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that, if such proceeding 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 wilfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return, provided, however, that where no return has been filed as required by this article the tax may be assessed at any time.

§ 134-7. Mailing of 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 article, or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this article by the giving of notice shall commence to run from the date of mailing of such notice.

§ 134-8. Failure to file return.

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 5% of the amount of tax due, plus 1% of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed or such tax became due, but the Village Treasurer, for cause shown, may extend the time for filing any return, and if satisfied that the delay was excusable, may remit all or any portion of the penalty fixed by the foregoing provisions of this section.

§ 134-9. Refunds.

If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the Village Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Village Treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be made on the initiative of the Village Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Village Treasurer as hereinbefore provided unless the Village Treasurer, after a hearing as hereinbefore provided, or of his own motion, shall have reduced the tax or penalty or 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 the revision of any tax or penalty complained of and the Village Treasurer may receive additional evidence with respect thereto. After making his determination, the Village Treasurer shall give notice thereof to the person interested, and he shall be entitled to an order to review such determination under said Article 78 of the Civil Practice Law and Rules of the State of New York, subject to the provision hereinbefore contained relating to the granting of such an order.

§ 134-10. Tax to be part of operating costs.

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

§ 134-11. Legal action to enforce payment.

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

§ 134-12. Rules and regulations of Treasurer.

In the administration of this article the Village Treasurer shall have power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his powers and the performance of his duties, and to prescribe the form of blanks, reports and other records relating to the administration and enforcement of the tax, to take testimony and proofs, under oath, with reference to any matter within the line of his official duty under this article, and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

§ 134-13. Disclosure by Treasurer.

A. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Village Treasurer, or any agent, clerk or employee of the Village of Philmont, 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 in any court, except on behalf of the Village of Philmont, New York in an action or proceeding under the provisions of this article, or on behalf of the State Tax Commission in an action or proceeding under the provisions of the Tax Law of the State of New York, or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding, and no more. Nothing herein shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any return filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the publication of delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this article together with any relevant information which in the opinion of the Village Treasurer may assist in the collection of such delinquent taxes; or the inspection by the Village Attorney or other legal representative of the Village of Philmont, New York of

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

- B. Any offense against the foregoing secrecy provisions shall be punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, and if the offender be an officer, agent, clerk or employee of the Village of Philmont, New York he shall be dismissed from office, and shall be incapable of holding any office or employment for the Village of Philmont, New York for a period of five years thereafter.
- C. Notwithstanding any provisions of this article, the Village Treasurer may exchange with the chief fiscal officer of any city or any other village in the State of New York information contained in returns filed under this article, provided such city or other village grants similar privileges to the Village of Philmont, New York and provided such information is to be used for tax purposes only, and the Village Treasurer shall, upon request, furnish the State Tax Commission with any information contained in such returns.

§ 134-14. Disposition of taxes and penalties.

All taxes and penalties received by the Village Treasurer under this article shall be paid into the treasury of the Village of Philmont, New York and shall be credited to and deposited in the general fund of the Village.

§ 134-15. Effective date.

This article shall take effect July 1, 1974.

ARTICLE II

Senior Citizens Exemption

[Adopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 134-16. Exemption granted.

A partial exemption from taxation to the extent of 50% of the assessed valuation of real property which is owned by certain persons with limited income who are 65 years of age or older meeting the requirements set forth in § 467 of the Real Property Tax Law is hereby granted.

§ 134-17. Maximum income level.

The maximum income level for the 50% exemption is established at \$10,500.

Chapter 141

VEHICLES, ABANDONED

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont 6-13-1988 by L.L. No. 1-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 144.

Junk vehicles — See Ch. 147.

§ 141-1. Short title.

This chapter shall be known as Local Law No. 1 of 1988 or the "Abandoned Vehicle Conversion Act."

§ 141-2. Conversion to Village use.

The Village of Philmont may convert, in any calendar year, up to 1% of its unclaimed abandoned vehicles not affected by § 1224(2) of the Vehicle and Traffic Law or two such vehicles, whichever is greater, to its own use.

Chapter 144

VEHICLES AND TRAFFIC

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

GENERAL REFERENCES

Abandoned vehicles — See Ch. 141.

Junk vehicles — See Ch. 147.

ARTICLE I

Parking

[Adopted 2-9-2004 by L.L. No. 1-2004]

§ 144-1. Parking regulations.

- A. Between the first day of December and the first day of April in each year no person shall park any motor vehicle in any street of the Village of Philmont between the hours of 12:00 midnight and 6:00 a.m. In addition to the other penalties provided by § 144-4 hereof, any car so parked in violation of this subsection shall be subject to removal from such street at the expense of the owner.
- B. One-way streets.
 - (1) Block Street is designated a one-way street upon which vehicles shall proceed only in a northerly direction from Main Street toward Church Street.
- C. No parking any time.
 - (1) There shall be no parking at any time on the west side of Summit Street from Main Street to the south corner of Elm Street.
 - (2) There shall be no parking at any time on the east side of Summit Street from Main Street to the point opposite the south corner of Elm Street.
- D. No omnibus, taxicab or other vehicle of any type and description shall, for the purpose of receiving or discharging passengers, be stopped or to stop such vehicle on any portion of the southerly side of Church Street or adjacent thereto from the intersection of Prospect Street and Church Street to the home of Stanford Orsted.

§ 144-2. Use of roads by heavy machinery.

No road-making or farm machinery, nor tractors with cleats or spikes, shall pass over any of the streets of the Village without the permission of the Board of Trustees.

§ 144-3. Street openings.

No opening shall be made in any street or sidewalk without first securing a permit from the Board of Trustees.

§ 144-4. Penalties for offenses.

Any violation of any of the sections of this article shall be punishable for a first conviction by a fine of not more than \$100 or imprisonment for not more than 15 days, or both; for a conviction of a second violation, both of which were committed within a period of 18 months, by a fine of not more than \$200 or imprisonment for not more than 45 days, or both; and upon conviction of a third or subsequent violation, all of which were committed within a period of 18 months, by a fine of not more than \$300 or by imprisonment for not more than 90 days, or both.

**ARTICLE II
Weight Limits
[Adopted 8-13-1973]**

§ 144-5. Vehicle weight limits established.

A. Trucks and vehicles over eight tons are hereby excluded from the following streets within this Village:

Name of Street
Maple Avenue
Maple Terrace
Church Street
Prospect Street
Summit Street

B. The regulations established in this article shall not be construed to prevent the delivery or pickup of merchandise or other property along the streets from which such vehicles and combinations are otherwise excluded.

**ARTICLE III
Stop Intersections
[Adopted 2-24-1970]**

§ 144-6. Stop intersections designated.

A. Main Street is hereby designated as a through highway between its easterly and westerly Village lines, and stop signs shall be erected on the following entrances thereto:

Name of Street	Direction of Travel
Ark Street	From the south
Church Street	From the north
Eagle Street	From the north
Ellsworth Street	From the south
Elm Street	From the south

Maple Avenue	From the north
Martindale Road	From the south
Prospect Street	From the north
Rock Street	From the north
Summit Street	From the south
West Street	From the north

B. Church Street is hereby designated as a through highway where it begins at the westerly Village line and intersects with Main Street and stop signs shall be erected on the following entrances thereto:

Name of Street	Direction of Travel
Garden Street	From the north
Highland Avenue	From the north
Prospect Street	From the north
Prospect Street	From the south

ARTICLE IV
Speed Limits
 [Adopted 1-14-1980 by L.L. No. 1-1980]

§ 144-7. Definitions.

As used herein, "highway" and "vehicle" shall have the same meanings as set forth in §§ 118 and 158, respectively, of the Vehicle and Traffic Law of the State of New York.

§ 144-8. Maximum speed limit established.

Thirty miles per hour is established as the maximum speed at which vehicles may proceed on and along highways, or any portion of a highway, located within the Village of Philmont.

§ 144-9. Exceptions.

State Route 217 through the Village of Philmont is excluded from the provisions of this article.

§ 144-10. Penalties for offenses.

Penalties for violations of this article shall be as set forth in § 1800 of the Vehicle and Traffic Law of the State of New York.

§ 144-11. When effective.

This article shall take effect upon filing as provided by law and upon the posting of speed limit

signs as required by law, except that to the extent this article affects traffic proceeding along, entering, crossing, stopping, standing or parking on state highways maintained by the State of New York, this article shall be effective when approval in writing has been obtained from the New York State Department of Transportation.

ARTICLE V
Parking on Private Property
[Adopted 11-23-1981 by L.L. No. 3-1981]

§ 144-12. Intent.

In order to protect the property of the inhabitants of the Village of Philmont and to preserve peace and good order, the Village of Philmont Board of Trustees, pursuant to Village Law § 4-412(1), deems it necessary to prohibit parking of motor vehicles on private property and to provide for the removal of such vehicles.

§ 144-13. Parking prohibited.

No person shall leave a motor vehicle on, or knowingly allow a motor vehicle owned by him to remain on, private property belonging to another without the permission of the property owner on which such motor vehicle is left.

§ 144-14. Removal of vehicles; responsibility for costs.

Any motor vehicle left on property in violation of § 144-13 above may be removed by the property owner of the property on which such motor vehicle was left, and the reasonable costs of such removal, including storage costs, if any, shall be recoverable against any operator or owner who violates § 144-13 above.

§ 144-15. Additional state penalties.

The remedies provided in this article shall be cumulative with, and not an alternative to, Penal Law § 140.05 (Trespass).

§ 144-16. Conflict with state law.

In the event of any conflict between this article and the Vehicle and Traffic Law of the State of New York, the Vehicle and Traffic Law shall control.

ARTICLE VI
Maple Avenue Parking Restrictions
[Adopted by L.L. No. 1-1996]

§ 144-17. Title.

This article shall be known as "Local Law 1 of 1996" or the "Maple Avenue Parking Restriction."

§ 144-18. Legislative findings.

By the adoption of this article, the Village Board of Trustees declares that it is in the interests of the Village of Philmont to implement fifteen-minute parking regulations on the portions of Maple Avenue in the vicinity of the U.S. Post Office located there to aid in the pickup and delivery of mail by patrons of the office, to apply only during hours of operation of the Philmont Post Office.

§ 144-19. Regulation.

Pursuant to § 1640 of the Vehicle and Traffic Law, the Village exercises the authority delegated therein to implement the following parking regulation:

- A. It shall be unlawful to park a motor vehicle in the Village for a period in excess of 10 consecutive minutes at the following location: beginning at a point located on the easterly side of Maple Avenue, said point of beginning being referenced as north 140 feet from the northeasterly corner of the intersection of Maple Avenue and Route 217 in the Village, thence from said point of beginning along the easterly side of Maple Avenue north a distance of 122 feet.

§ 144-20. Penalties for offenses.

Every person committing a violation of this article shall be guilty of a violation and shall be subject to a fine not to exceed \$50.

§ 144-21. When effective.

This article shall take effect upon passage and filing with the Secretary of State and the Department of Transportation and the posting of conspicuous signs designating the areas of restricted parking.

ARTICLE VII
New Street Regulations
[Adopted 1-14-1998 by L.L. No. 1-1998]

§ 144-22. Title.

This article shall be known as "Local Law 1 of 1998" or the "New Street One-Way Driving Law."

§ 144-23. Legislative findings.

By the adoption of this article, the Village Board of Trustees declares that it is in the interests of the Village of Philmont to impose a one-way traffic regulation on New Street to aid in the movement of motor vehicles within the Village. The adoption of this article is necessary due to the narrow width of New Street.

§ 144-24. One-way restriction.

Pursuant to §§ 1640(a)(4) and 1127(a) of the Vehicle and Traffic Law, the Village exercises the authority delegated therein to implement the following driving regulation:

- A. Vehicular traffic on New Street in the Village of Philmont shall only travel one way from Maple Avenue to Prospect Street and a stop sign shall be erected at the intersection of New Street and Prospect Street ordering vehicles entering Prospect Street from New Street to come to a complete stop before proceeding on to Prospect Street.

§ 144-25. Penalties for offenses.

Every person committing a violation of this article shall be guilty of a traffic violation and shall be subject to a fine not to exceed \$100. Those committing a second offense within 18 months shall be subject to a fine not to exceed \$200. Those committing a third offense within 18 months shall be subject to a fine not to exceed \$300.

§ 144-26. When effective.

This article shall take effect upon passage and filing with the Secretary of State and the Department of Transportation and the posting of conspicuous signs designating the roadway as a one-way street.

ARTICLE VIII
Eagle Street Parking Prohibition
[Adopted by L.L. No. 3-2001]

§ 144-27. Legislative intent.

Pursuant to the New York State Vehicle and Traffic Law, § 1640, the Village of Philmont is enabled to regulate, prohibit, restrict or limit the parking of vehicles upon public highways maintained by the Village within the Village limits. The Village Board of the Village of Philmont has determined that parking of vehicles on Eagle Street in the Village of Philmont is contrary to the safe and efficient movement of persons and vehicles on Eagle Street within the Village of Philmont. Accordingly, the Village Board of the Village of Philmont finds that the prohibition of parking vehicles of any type upon Eagle Street in the Village of Philmont is necessary and appropriate.

§ 144-28. Parking prohibited; exception for local deliveries.

The parking of any type of vehicle on either side of Eagle Street in the Village of Philmont for the entire length of Eagle Street, from its intersection with New York State Route 217 (Main Street) to the boundary line of the Village of Philmont and Town of Ghent, is hereby prohibited, except that parking shall be permitted only for the limited purposes of local deliveries to any property which is adjacent to Eagle Street. Parking for local deliveries shall be done in such a manner so as not to obstruct or interfere with the flow of traffic and persons on Eagle Street and shall be limited to a period of 30 minutes maximum.

§ 144-29. Enforcement.

Any violation of this article shall be enforced in accordance with the provisions of New York State Vehicle and Traffic Law.

§ 144-30. Title.

This article may be referred to as the "Village of Philmont Eagle Street Parking Prohibition."

ARTICLE IX
Summit Street Parking Prohibition
[Adopted by L.L. No. 3-2002]

§ 144-31. Legislative intent.

Pursuant to the New York State Vehicle and Traffic Law, § 1640, the Village of Philmont is enabled to regulate, prohibit, restrict or limit the parking of vehicles upon public highways maintained by the Village within the Village limits. The Village Board of the Village of Philmont has determined that parking of vehicles on certain portions of Summit Street in the Village of Philmont is contrary to the safe and efficient movement of persons and vehicles on such portions of Summit Street within the Village of Philmont. Accordingly, the Village Board of the Village of Philmont finds that the prohibition of parking vehicles of any type on portions of Summit Street in the Village of Philmont is necessary and appropriate.

§ 144-32. Parking prohibited; exception for local deliveries.

The parking of any type of vehicle on either side of Summit Street in the Village of Philmont, from the Summit Street Bridge to the intersection of Summit Street and New York State Route 217, commonly known as "Main Street," is hereby prohibited, except that parking shall be permitted only for the limited purposes of local deliveries to any property which is adjacent to Summit Street. Parking for local deliveries shall be done in such a manner so as not to obstruct or interfere with the flow of traffic and persons on Summit Street and shall be limited to a period of 30 minutes maximum.

§ 144-33. Enforcement.

Any violation of this article shall be enforced in accordance with the provisions of New York State Vehicle and Traffic Law.

§ 144-34. Title.

This article may be referred to as the "Village of Philmont Summit Street Parking Prohibition."

ARTICLE X
Elm Street Parking Prohibition
[Adopted 6-14-2004 by L.L. No. 5-2004; amended in its entirety 11-23-2005 by L.L. No. 2-2005]

§ 144-35. Legislative intent.

Pursuant to the New York State Vehicle and Traffic Law § 1640, the Village of Philmont is enabled to regulate, prohibit, restrict or limit the parking of vehicles upon public highways maintained by the Village within Village limits. The Village Board of the Village of Philmont has determined that the parking of vehicles on certain portions of Elm Street in the Village of Philmont is contrary to the safe and efficient movement of persons and vehicles on such portions of Elm Street within the Village of Philmont. Accordingly, the Village Board of the Village of Philmont finds that the prohibition of parking vehicles of any type on portions of Elm Street in the Village of Philmont is necessary and appropriate.

§ 144-36. Parking prohibited; exception for local deliveries.

The parking of any type of vehicle on Elm Street in the Village of Philmont from the intersection of Elm Street and Summit Street to a distance of 100 feet from the intersection is hereby prohibited, except that parking shall be permitted only for the limited purposes of local deliveries to any property that is adjacent to Elm Street. Parking for local deliveries shall be done in such a manner so as not to obstruct or interfere with the flow of traffic and persons on Elm Street and shall be limited to a period of 30 minutes maximum.

§ 144-37. Enforcement.

Any violation of this article shall be enforced in accordance with the provisions of the New York State Vehicle and Traffic Law.

§ 144-38. Title.

This article may be referred to as the "Village of Philmont Elm Street Parking Prohibition."

ARTICLE XI
Rock Street Parking Prohibition
[Adopted 3-10-2008 by L.L. No. 1-2008]

§ 144-39. Legislative intent.

Pursuant to the New York State Vehicle and Traffic Law § 1640, the Village of Philmont is enabled to regulate, prohibit, restrict or limit the parking of vehicles upon public highways maintained by the Village within Village limits. The Village Board of the Village of Philmont has determined that parking of vehicles on certain portions of Rock Street in the Village of Philmont is contrary to the safe and efficient movement of persons and vehicles on such portions of Rock Street within the Village of Philmont. Accordingly, the Village Board of the Village of Philmont finds that the prohibition of parking vehicles from a distance of 28 feet from the intersection of Rock Street and NYS Route 217 along Rock Street is prohibited, parking then being allowed for the next distance of 33 feet along Rock Street, then parking being prohibited for the next distance of 32 feet along Rock Street, thereafter parking being allowed; said parking prohibitions to be marked by signage installed by the Village of Philmont DPW.

§ 144-40. Enforcement.

Any violation of this article shall be enforced in accordance with the provisions of New York State Vehicle and Traffic Law.

§ 144-41. Title.

This article may be referred to as the "Village of Philmont Rock Street Parking Prohibition."

Chapter 147

VEHICLE STORAGE

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont 11-8-2004 by L.L. No. 6-2004.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Abandoned vehicles — See Ch. 141.
Vehicles and traffic — See Ch. 144.

§ 147-1. Short title.

This chapter shall be known as Local Law No. 6 of 2004 or the "Motor Vehicle Storage Law."

§ 147-2. Legislative findings.

The Village Board of Trustees intends to regulate and control the storage of unused, junk and/or inoperable motor vehicles within the Village of Philmont. It is the finding of the Board that the storage of such motor vehicles can constitute a health, safety and general welfare hazard to residents of the Village of Philmont. Specifically, the motor vehicle can pose environmental hazards through potential chemical contamination and fire hazards, constitute an attractive nuisance to children, and may harbor rats, mice and other vermin. It is the finding of the Village Board of Trustees that regulation and control of such motor vehicles is necessary for the benefit of the health, safety and the general welfare of the residents of the Village.

§ 147-3. Definitions.

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

MOTOR VEHICLE — Every vehicle designed to be operated or driven upon public roads and roadways, which is propelled by any power other than muscular power.

OWNER — The person, persons or entity that has legal title to the motor vehicle.

PROPERTY OWNER — The person, persons or entity on record with the municipality as the real property owner.

§ 147-4. Prohibition.

The storage of a motor vehicle upon property within the Village Limits is prohibited when the applicable state registration and/or inspection certificate is absent or has expired.

§ 147-5. Exclusions.

1. Editor's Note: This local law also repealed former Ch. 147, Vehicle Storage, adopted 6-14-2004 by L.L. No. 4-2004.

Excluded from this prohibition are:

- A. Any motor vehicles enclosed in garages or other structures so they are not visible from public roadways or private property.
- B. Motor vehicles situated upon property owned or operated as a licensed motor vehicle repair facility, provided that said vehicles are not present upon the property for a period in excess of 14 days.
- C. Motor vehicles situated upon property owned or operated as a licensed motor vehicle sales facility, provided that said vehicles are in operable condition.
- D. Motor vehicles situated upon property owned or operated as a licensed motor vehicle wrecking or motor vehicle salvage facility.
- E. Motor vehicles that have a valid vehicle storage permit issued by the Building Inspector/Zoning Enforcement Officer granted upon the following criteria:
 - (1) The owner of the property and the vehicle has submitted an application and paid the application fee as set by the Village Board.
 - (2) The Building Inspector/Zoning Enforcement Officer has reviewed the application and inspected the vehicle and proposed site of storage and made a finding that the condition of the vehicle and site of storage will not pose a risk to the health or safety of the public.
 - (3) The permit may be issued for a period of one year.
 - (4) The permit must be displayed upon the vehicle.

§ 147-6. Penalties for offenses; enforcement.

- A. Where a violation of this chapter is determined to exist, the Zoning Enforcement Officer shall serve a notice of violation by certified mail, return receipt requested, upon the real property owner and/or motor vehicle owner.
- B. Such notice shall require the correction of the violation within 10 days after service of the notice.
- C. If those person or persons notified fail to remove or correct such violation within the ten-day time period, the Zoning Enforcement Officer shall charge them with a violation of this chapter before the appropriate court of law.
- D. Each and every week such violation continues after the ten-day period shall be deemed a separate and distinct violation.
- E. Persons found guilty of this chapter shall be considered guilty of a violation and shall be punishable by a fine not to exceed \$250 or imprisonment for not more than 15 days, or both, for each and every violation.
- F. Nothing contained within this chapter shall prohibit the Village from seeking or obtaining civil relief in the appropriate court of law.

Chapter 152

WATER

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

GENERAL REFERENCES

Waterways — See Ch. 155.

ARTICLE I

Water Meters

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

§ 152-1. Declaration of policy.

The lack of water meters upon premises serviced by the Village of Philmont water system has resulted in the inability of the Village of Philmont to charge water users according to volume of water used, thereby rendering the present system of water charges inequitable. The lack of water meters has also encouraged some water users to waste water, such as by not making routine plumbing repairs and by not shutting off taps. It is hereby declared to be the policy of the Village of Philmont to provide an equitable system of charging for water and to discourage the waste of water by users.

§ 152-2. Definitions. [Amended 7-26-2006 by L.L. No. 3-2006]

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

OWNER — The property owner as identified on the most recent tax roll of the Village of Philmont.

PERSON — Any person, firm, corporation or other entity.

VILLAGE — The Village of Philmont.

VILLAGE BOARD — The Village Board of Trustees.

WATER DEPARTMENT — Shall mean the personnel consisting of the Chief Water/Wastewater Plant Operator and Assistant Water/Wastewater Treatment Plant Operator.

WATER METER or METER — The water meter with all appurtenances necessary for proper installation and functioning, including a readout device.

§ 152-3. Meters required; existing meters.

Except for hydrants and standpipes, any water supplied by the Village shall be measured by a water meter which shall be installed upon the premises wherein the water is consumed at the expense of the owner. Said meter shall be obtained from the Village. In a case where a premises

has an existing water meter, the owner of said premises may apply in writing to the Village Board to retain said existing meter. The Village Board, after receipt of said application and upon giving at least a day's written notice to the applicant, shall hold a public hearing on said application. Should the Village Board determine that the existing meter accurately records the amount of water consumed and is otherwise functioning properly, it shall permit the applicant to retain the existing meter. Any decision on the application must be given in writing to the applicant no more than 10 days after said public hearing.

§ 152-4. Time of installation; notice.

Meters shall be installed on or before a date set by resolution of the Village Board, which date shall be at least 60 days after the adoption of said resolution. At least 45 days before the date by which meters shall be installed, the Village shall mail to each person shown by Village records to be a user of Village water, or otherwise known to the Village to be a user of Village water, notice of the date by which meters shall be installed, together with notice of the dates, times and place(s) meters may be obtained, and notice of the fee for each meter. Said dates, times and place(s), and said fee, shall be determined by resolution of the Village Board.

§ 152-5. Responsibility for installation; ownership.

Installation of meters shall be the responsibility of the owner of the premises using Village water, and shall be in conformance with specifications, approved by resolution of the Village Board, which specifications shall be furnished by the Village with each meter. Within 48 hours after installation, the owner of the premises on which the meter is installed must notify the Village that installation is complete. All meters installed shall be the property of the Village, and shall not be deemed a fixture on the premises installed.

§ 152-6. Inspection of new installation. [Amended 7-26-2006 by L.L. No. 3-2006]

The Village Water Department shall inspect and test each water meter as soon as practical after installation. Should the Water Department find that the installation is defective, the property owner shall remedy any defect, at his sole expense, within 72 hours after notification to do so by the Water Department.

§ 152-7. Inspection of other meters. [Amended 7-26-2006 by L.L. No. 3-2006]

The Village Water Department shall have the authority to inspect any meter at reasonable times. Should the Water Department find that any meter is defective, the owner shall remedy any defect, at his sole expense, within 72 hours after written notification to do so by the Water Department.

§ 152-8. Maintenance. [Amended 7-26-2006 by L.L. No. 3-2006]

The property owner shall maintain the meter in good operating condition after proper installation and passing inspection. The owner shall notify the Village immediately whenever a meter is found to not be in proper operating condition. Should the Water Department find that any meter is defective, the owner shall remedy any defect, at his sole expense, within 72 hours after written notification to do so by the Water Department. Repairs must utilize parts approved or provided

by the Water Department. If such meter is not repaired, the owner is subject to the provisions and charges as provided in § 152-10 below.

§ 152-9. Future water connections.

Premises not currently serviced by the Village water system shall not in the future be so serviced until a water meter is installed in the manner set forth in this article.

§ 152-10. Failure to comply; remedy by Village; reimbursement for costs. [Amended 4-13-1981 by L.L. No. 2-1981; 7-26-2006 by L.L. No. 3-2006]

- A. Whenever an owner fails to obtain and install a meter, or repair a malfunctioning meter, after written notice, the Village Board, by resolution, shall authorize the work to be done to cure such failure and pay the cost thereof out of the water fund. The Village shall be reimbursed for the cost of such work by assessment and levy upon the premises whereon the work was performed, and the cost so assessed shall be a lien on the premises on which it was levied until paid or otherwise satisfied, and after a period of 30 days there shall be added to such cost a penalty of 10%, compounded monthly, until paid or otherwise satisfied. In the event that such a failure to comply is on a premises outside the Village, the Village Board, in addition to any other remedy available to it, may, by resolution and upon giving 30 days' written notice to the owner and the occupant of the premises, terminate water service to said premises.
- B. In lieu of acting in accordance with the preceding subsection of this section, the Village Board, by resolution, may set a water rent for premises in which meters have not been installed or, if installed, which have not been read owing to the failure or refusal of the premises' owners or occupants either to permit the Village to read the meters, to return postcards sent by the Village whereon the meter readings are required to be stated, or to repair a malfunctioning meter. For each period a water reading is not obtained for the above reasons, said water rent shall be equal to 150% of the rent for the immediately preceding billing period for said premises, plus a fee of \$10 per quarter as a service charge.

§ 152-11. Power to act by resolution.

In addition to the specific instances set forth in this article wherein the Village Board is permitted or required to act by resolution, the Village Board may, by resolution, establish and/or amend water rents and/or charges related to meters, and shall establish procedures for reading meters and billing and collecting water rents.

§ 152-12. Penalties for offenses. [Amended 2-9-2004 by L.L. No. 1-2004; 7-26-2006 by L.L. No. 3-2006]

Any person convicted of knowingly violating the provisions of this article, or who refuses to permit inspection by the Water Department, shall be punished by a fine of not more than \$250, imprisonment for not more than 15 days, or both such fine and imprisonment. Each day a violation shall continue or be permitted to continue shall constitute a separate offense.

§ 152-13. Inconsistent provisions.

To the extent this article is inconsistent with any other Village law or ordinance, this article shall control.

ARTICLE II
Water Rates
[Adopted 6-1-1982]

§ 152-14. Rates established. [Amended 2-9-2004 by L.L. No. 1-2004]

Water rates for users shall be as set forth in a fee schedule established and amended as necessary by resolution of the Village Board of Trustees.

§ 152-15. Each living unit deemed a separate user.

As such terms are defined below, each living unit and commercial building shall be deemed a separate user, although each living unit need not be metered so long as the house or apartment house in which such units are contained is metered.

§ 152-16. Termination of water service for absence of functioning meter.

The failure of a house, apartment house or commercial building to have a functioning water meter shall be grounds for the Village to terminate water service thereto upon the giving of at least 10 days' notice thereof to the owner or occupant of each house, apartment house or commercial building.

§ 152-17. Definitions.

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

COMMERCIAL BUILDING — A structure not defined as a "living unit."

LIVING UNIT — An area, comprising all or part of a house or apartment house, containing separate cooking and toilet facilities and an area for sleeping.

§ 152-18. Payment of water rents.

Water rents shall be due and payable at the Village office on July 1, October 1, January 1 and April 1 for the quarters following the respective due dates. Bills for water rents may be estimated and shall be mailed on or about the aforesaid due dates, and payment shall be due when presented. After a period of 30 days from the due date there shall be added to the amount due a penalty of 2% per month compounded monthly, until paid or otherwise satisfied.

§ 152-19. Premises not occupied.

Should any person claim that a living unit is closed permanently, such person, within 10 days of the effective date of this article, shall submit to the Village a written statement that the premises is not occupied.

§ 152-20. Determination of actual water consumption.

As soon as practicable after the end of each calendar year, the Village shall determine the actual metered water consumption and make appropriate adjustments on the bills for the next billing period.

§ 152-21. Pools.

On pools, the Clerk is to be notified to verify meter start gallon/stop gallon, to deduct from sewer.

ARTICLE III
Delinquent Water Bills
[Adopted 4-24-1992 by L.L. No. 2-1992]

§ 152-22. Legislative intent.

The Board finds that delinquent water bills place an unfair burden on those water users who promptly pay their bill and penalizes the Village in their obligation to pay their creditors. It is the finding of the Board of Trustees of the Village of Philmont that the procedure for collection of delinquent bills for use of the Village's water supply must be amended to insure prompt payment. The Board further finds that those water users who allow their pipes to rupture and/or waste and squander large supplies of water place a burden on the system in that they waste a natural resource; impair the water pressure in the water system and create a hazard in case of a fire; and, by the accumulate of large amounts of water in one area, create a public hazard. The Board finds that regulations must be enacted to restrict these actions.

§ 152-23. Maintenance of delinquent water tenant list by Clerk.

The Village Clerk of the Village of Philmont shall maintain a list of all water tenants who are delinquent 90 days or more in their water rent and shall present the same to the Village Board of the Village of Philmont at a regularly scheduled meeting of the Board.

§ 152-24. Actions by the Board of Trustees.

Upon review of the delinquent water tenant list, the Village Board shall by resolution determine whether to commence litigation against the water tenant, commence proceedings to terminate water sources, or both.

§ 152-25. Payment of water and sewer bills.

Partial payment of water and sewer bills delinquent in excess of 90 days shall not be accepted by the Village Clerk. In addition, payment of a delinquent water bill shall not be accepted by the Village Clerk without simultaneous payment of outstanding Village sewer bills.

§ 152-26. Termination of water service.

- A. Upon resolution of the Board, the Village shall commence actions to terminate water services. Twenty or more days in advance the Village Clerk shall notify the water tenant by certified and regular mail of the day and time water services shall be terminated.
- B. In addition, should the Village Board be on notice that the occupant of the premises is on

public assistance, the Columbia County Department of Social Services shall be notified in the manner prescribed in § 152-26A.

- C. Seven days before the scheduled date for termination of water services a notice of termination shall be posted conspicuously on the premises and served upon any occupant of the premises.
- D. Water services shall be terminated Monday through Thursday 8:00 a.m. to 2:00 p.m. only. Simultaneously with the termination of services, notice of termination shall be posted conspicuously on the premises and served upon any occupant on the premises.
- E. Upon payment of delinquent water bills, plus any accrued interest, plus a \$50 reconnection fee, water services shall be reconnected. [Amended 2-9-2004 by L.L. No. 1-2004]

§ 152-27. Amendment of existing water procedure.

Pursuant to § 11-1116 of the Village Law of the State of New York, the Village of Philmont enacts the above as the procedure for collection of water rents and ceases to levy unpaid water bills pursuant to § 11-1118 of the Village Law of the State of New York on the Village Tax Bill.

§ 152-28. Preexisting water bills.

Those water tenants 90 days delinquent in their bills on the date of enactment of this article shall have a thirty-day grace period before water termination proceedings may be commenced against them.

§ 152-29. Mortgage escrow accounts.

Those water tenants that have a mortgage in which the mortgagee requires that the water and sewer bill be escrowed by the mortgagee may present to the Village Board written documentation from their mortgagee that they are required to escrow their water and sewer bills. Those water tenants presenting such proof may not have their water services terminated less than 90 days after the due date for the payment of Village tax from their escrow account. The procedure for termination shall be the same procedure set forth in § 152-26. Water tenants paying in such manner shall be subject to such penalties and late fees that currently are levied on delinquent sewer and water bills in the Village.

§ 152-30. Installation and maintenance of water lines; penalties for offenses. [Amended 2-9-2004 by L.L. No. 1-2004;¹ 7-26-2006 by L.L. No. 3-2006]

- A. All water tenants shall be responsible to promptly repair all water main breaks and pipe ruptures at their premises.
- B. All new water lines installed or existing water lines that are subject to substantial repair or replacement must utilize only Type K copper pipe as and for the supply line from the water main to the water meter serving the parcel or property.

¹ Editor's Note: Former Section 10, Entry upon premises, which immediately followed this section, was repealed 2-9-2004 by L.L. No. 1-2004.

- C. It shall be a violation punishable by a fine of not more than \$250, imprisonment for not more than 15 days, or both, to fail to repair, replace or install water lines as set forth in the proceeding sections.

ARTICLE IV
Water Mains and Connections
[Adopted 10-11-2005 by L.L. No. 1-2005]

§ 152-31. Legislative intent.

The Village of Philmont finds that to prevent unauthorized, improper or otherwise inadequate water main connections, the Village should regulate, control and approve all work that occurs in relation to water connections utilizing the Village of Philmont municipal water supply. The Village further finds that the costs of the review, approval, installation and inspection of said connections should be borne by the persons or entities seeking to make the connection or connections.

§ 152-32. Required permits for connections.

No property owner, person and/or entity shall uncover, make any connections with or opening into, use, alter or disturb any public water main or appurtenance thereof without first obtaining a written permit from the Superintendent of Water for the Village.

§ 152-32.1. Application for permit.

An application for a written permit shall be submitted at least two weeks prior to the anticipated connection date. Any such application shall be in writing to the Superintendent of Water. The permit application shall be supplemented by plans, specifications and a list of anticipated materials. The applicant shall also provide an explanation of the intended use or uses upon the water service, as well as the desired connection date. The applicant may be required to provide any other information considered pertinent in the judgment of the Water Superintendent to review and process the permit application.

§ 152-33. Fees for permit and connection.

- A. A permit fee, as hereinafter established by the Village Board of Trustees upon the recommendation of the Water Superintendent, shall be paid at the time the application is submitted for review.
- B. A fee for the inspection and connection of the water service to the water main, as hereinafter established by the Village Board of Trustees upon the recommendation of the Water Superintendent, shall be paid at the time the permit is granted.

§ 152-34. Connection by authorized personnel.

The actual connection of water services to water mains shall be done only by the Water Superintendent. No service or individual water lines may be installed or covered without prior inspection by the Superintendent, and the Superintendent has the right to require reexcavation before approving the connection of the water service to the water main.

§ 152-35. Penalties for offenses.

It shall be a violation punishable by a fine of not more than \$250, imprisonment for not more than 15 days, or both, for any property owner, person and/or responsible party representing an entity to make any connections with or opening into, use, alter or disturb of any public water main or appurtenance without compliance with the provisions of this article.

Chapter 155

WATERWAYS

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

GENERAL REFERENCES

Freshwater wetlands — See Ch. 84.

ARTICLE I

Protection of Water Supply and Property

[As last revised 3-4-1955; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 155-1. Forest Lake regulations.

- A. No person shall bathe, swim, or go upon Forest Lake in any boat, raft or canoe; provided, however, that between the first days of December and March no person shall fish in said waters unless the ice covering the same shall measure at least four inches in thickness.
- B. No person shall fish within 500 feet from the intake pipe nor take from the said Forest Lake more than 15 pounds of fish per person during any one day of fishing.
- C. No person shall commit any nuisance on the ice or in or on or along any property or shore of Forest Lake.

§ 155-2. Water supply at Columbia Sand and Gravel. [Added 4-13-1970]

No person shall bathe, swim, fish, camp near or go upon the Philmont water supply at Columbia Sand and Gravel in a boat, raft or canoe, nor shall any person trespass on the posted property.

§ 155-3. Penalties for offenses.

Any violation of this article shall be punishable by a fine not to exceed \$250, imprisonment for not more than 15 days, or both.

ARTICLE II

Outboard Motors on Reservoir

[As last revised 3-4-1995]

§ 155-4. Operation of outboard motor boats prohibited.

No person shall operate upon the waters of the reservoir in the Village of Philmont any motor boat or boat or craft powered by outboard motor.

§ 155-5. Penalties for offenses. ¹

Any violation of this article shall be punishable by a fine not to exceed \$250, imprisonment for not more than 15 days, or both.

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

Chapter 160

ZONING

[HISTORY: Adopted by the Board of Trustees of the Village of Philmont by L.L. No. 1-1990; amended in its entirety 9-10-1997 by L.L. No. 1-1997. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 57.

Unsafe buildings — See Ch. 61.

Sewers — See Ch. 118.

Road utility specifications — See Ch. 127, Art. V.

Subdivision of land — See Ch. 130.

Water — See Ch. 152.

ARTICLE I

Title and Purpose

§ 160-1. Title.

This chapter shall be known as "Local Law 1-1990" or "The Zoning Law of the Village of Philmont, New York."

§ 160-2. Enacting clause.

The Village Board of the Village of Philmont in the County of Columbia, pursuant to § 7-700 of the Village Law, hereby ordains, enacts and publishes this chapter.

§ 160-3. Purpose. [Amended 2-9-2004 by L.L. No. 1-2004]

The purpose of this chapter is to promote the general welfare of the people. In accordance with the Village's Comprehensive Plan. Therefore, this chapter is designed to:

- A. Encourage the most appropriate use of Village land with regard to its natural beauty, so as to conserve and enhance the value of its property;
- B. Protect and conserve the aesthetic aspects, character, environment, social and economic stability of the Village;
- C. Provide adequate and suitably located commercial facilities;
- D. Regulate building densities in order to assure access of light and circulation of air, facilitate the prevention and fighting of fires, and prevent undue concentration of population;
- E. Assure privacy for residents and freedom from nuisance and things harmful to the senses;
- F. Protect the community against unsightly, obtrusive and noisy land uses and operations;
- G. Lessen congestion on streets and highways and provide efficient municipal services;

- H. Improve traffic circulation; plan for adequate off-street parking and loading facilities;
- I. Provide adequately for water, sewerage, educational facilities, parks, conservation and recreation areas;
- J. Protect streams and ponds from pollution and avoid hazardous conditions and excessive damage from stormwater runoff and flooding;
- K. Protect the water table and encourage wise use and sound management of natural resources so that they may be preserved;
- L. Assure future preservation of open space and recreation lands as an integral part of future development;
- M. Provide a variety of housing types and environments in order to afford the maximum opportunity for people to find a housing and living style suitable to their needs and desires.

ARTICLE II
Establishment, Designation and Intent of Districts

§ 160-4. Establishment of districts. [Amended 7-26-2006 by L.L. No. 1-2006]

The Village is hereby divided into the following 11 districts:

Table 1
Zoning Districts

Designation	District
R	Rural
RLD	Residential Low Density
H-I	Hamlet I
H-II	Hamlet II
H-III	Hamlet III
RHD	Residential High Density
GB	General Business
C	Conservation
M	Mill District
M-II	Mill District II
RSC	Residence Senior Citizen

§ 160-5. Zoning Map. ¹

Said districts are bounded as shown on the map entitled "Zoning Map of the Village of

1. Editor's Note: A copy of the Village Zoning Map is on file in the Village offices.

Philmont" adopted and certified by the Village Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter. A larger scale map than the one provided is on display at the Village Hall where it may be viewed.

§ 160-6. Interpretation of boundaries.

A. Designation of district boundaries.

- (1) Article VII, entitled "Descriptions of Boundaries of Selected Zoning Districts" shall control whenever applicable;
- (2) Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines of the right-of-way;
- (3) Boundaries indicated as approximately following Village limits shall be construed as following such Village limits;
- (4) Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines;
- (5) Boundaries indicated as following shorelines shall be construed as following such shorelines, and in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, ponds or other bodies of water shall be construed to follow such center lines;
- (6) Boundaries indicated as parallel to or extensions of features indicated in Subsections A(1) through (4) shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- (7) Boundaries shall be construed as following property lines whenever possible.

B. Determination of location of boundaries.

- (1) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections A(1) through (4) above, the Zoning Board of Appeals shall interpret the district boundaries.
- (2) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the majority area of the lot will determine zone designation, except those parcels which are within the Conservation District, which shall retain Conservation District designation for that portion within the district, regardless of the division of the lot.
- (3) For purposes of determining single ownership as defined in Subsection B(2), adjoining parcels owned by the same owner originating out of separate deeds of conveyance shall not be considered a single lot, but shall be considered separate and distinct lots.

§ 160-7. Intent of districts. [Amended 2-9-2004 by L.L. No. 1-2004; 7-26-2006 by L.L. No. 1-2006]

The general intent in the establishment of zoning districts is to help carry out the Village Comprehensive Plan.

- A. The Rural (R) District is a variety of low-density uses: woodlands, agricultural, wetlands and residential uses. The intent is for the character to be maintained.
- B. The Residential Low Density (RLD) District encompasses a transitional area between low density and a traditional village housing area. Lot sizes tend to be one acre in size. This pattern should be maintained.
- C. The Hamlet I (H-I) District encompasses a typical village housing area. Lot sizes tend to be approximately 1/3 acre in size. This pattern should be maintained.
- D. The Hamlet II (H-II) District encompasses a similar typical village housing area where lot sizes tend to be approximately 1/2 acre in size. This pattern should be maintained.
- E. The Residence Senior Citizen (RSC) District encompasses an area suitable for affordable senior citizen housing and shall meet a pressing Village need.
- F. The Residential High Density (RHD) District allows for a variety of housing opportunities, including units that may be smaller and more affordable than the prevailing housing stock, including mobile homes. Lot sizes tend to be 1/4 acre. It is intended that this pattern be maintained.
- G. The Hamlet III (H-III) District is similar to the RHD area and is located within walking distance to the commercial center. Lot sizes tend to be 1/4 acre. It is intended that this pattern be maintained.
- H. The General Business (GB) District is largely developed. Should changes occur, ideally there should be a planned concept with a site plan and architectural style that respects the character of the Village of Philmont.
- I. The Conservation (C) District contains areas of environmental concern that are deemed to be of special quality and protected. Limited use of this area may be allowed.
- J. The Mill (M) District contains areas of unique and historical structural concern that are deemed to be of special quality and protected. Use of this area is aimed at allowing future commercial use of the property consistent with the character of the Village.
- K. The Mill District II (M-II) is a mixed-use commercial and residential area. It contains areas of unique and historical structural concern that are deemed to be of special quality and consistent with the character of the Village. Use of this area is aimed at allowing future low-impact commercial uses of property that respect the residential quality of the area and encourage walkability. Such uses should utilize low-impact lighting, have low impact on traffic and low noise impacts as well as utilize existing structures. Such uses should not pose an unreasonable fire hazard. Businesses that bring artisans of the area to the attention of consumers are especially encouraged.

ARTICLE III
District Regulations

§ 160-8. Application of regulations.

Except as hereinafter otherwise provided:

- A. No building shall be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land or building be designed, used or intended to be used for any purpose or in any manner other than as specified among the uses hereinafter listed as permitted in the district in which such building or land is located.
- B. No building shall be erected, reconstructed, or structurally altered to exceed in height the limit hereinafter designated for the district in which such building is located.
- C. No building shall be erected, no existing buildings shall be altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area and building location regulations hereinafter designated for the district in which such building or open space is located.
- D. Within the R, RLD, H-I, H-II, H-III, RHD, C and RSC Districts, a building, a structure, or a lot shall only be used for one of the uses indicated in Table 2, Permitted Uses and Special Use Permits,² for the specific district in which it is located on the Zoning Map and in accordance with the particular classification of that use in that district. Further, any such building, structure or lot shall only be utilized in conformance with the provisions of Table 3, Bulk Regulations/Coverage Limitations.³ In addition, such use shall also comply with all other applicable provisions of this Code. [Added 7-26-2006 by L.L. No. 1-2006]

§ 160-9. General regulations.

The provisions of this chapter shall be subject to such exceptions, additions or modifications as hereinafter provided by the following general supplementary regulations:

- A. Lot for every building. Every building hereafter erected shall be located on a lot as herein defined, and there shall be not more than one principal building on one lot, except as specifically permitted elsewhere in this chapter. If more than one lot is located on a piece of property, each lot must meet the requirements of this chapter.
- B. Subdivision of a lot. Where a lot is hereafter formed from the part of a lot already occupied by a building, such separation shall be effected in such manner that each lot thus created conforms to all of the requirements of this chapter.
- C. Irregularly shaped lots. Where a question exists as to the proper application of any of the requirements of this chapter to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the Zoning Board of Appeals shall determine how the requirements of this chapter shall be applied.
- D. Lots under water and subject to flooding. Not more than 10% of the minimum area requirement of a lot may be fulfilled by land which is under water; is a designated wetland; or is subject to periodic flooding. All minimum front, side and rear yard requirements must be satisfied by measurement on dry land. For purposes of this subsection, land which is in a stream not exceeding 15 feet in width or 150 square feet in area at mean water level shall

2. Editor's Note: Table 2, Permitted Uses and Special Use Permits, is included at the end of this chapter.

3. Editor's Note: Table 3, Bulk Regulations/Coverage Limitations, is included at the end of this chapter.

not be considered as under water.

E. Accessory buildings.

(1) If any accessory building is attached to a main building, including attachment by means of a breezeway or a roofed passageway, it shall comply, in all respects, to the requirements of this chapter applicable to the main building. No accessory building hereinafter permitted shall be constructed nearer to the front lot line than is permitted for the main building nor nearer to any side or rear lot line than the distance established in the Schedule of Bulk and Coverage Regulations⁴ as the minimum size of such respective side or rear yard for the district in which it is to be constructed.

(2) One-story accessory buildings not exceeding a maximum of 10 feet in height with 144 square feet or less of floor space without utility services and without permanent foundations are permitted regardless of side or rear setback requirements. No building permit is required.

F. Camper or tents. It shall be unlawful for any person or persons to use a tent or camper for living quarters within the limits of the Village of Philmont for a period exceeding 30 days within a calendar year unless a special use permit is issued by the Village Planning Board.

G. Yard for every building. No part of a yard or other open space provided about any building or on any lot for the purpose of complying with the provisions of this chapter shall be included as any part of the yard or open space for any other building or any other lot.

H. Obstructions in yards. No buildings or structure or any projection from buildings or structures shall be permitted in a required yard, except as follows:

(1) A paved terrace shall not be considered in determination of yard size or lot coverage; unless such terrace is unroofed and without walls, parapets or other forms of enclosure. Such terrace, however, may have an open guard railing not over three feet high and which shall not project into any yard to a point closer than five feet to any lot line.

(2) No porches or balconies may project into any required yard area.

(3) Architectural features, such as window sills, door frames, chimneys, eaves or cantilevered roofs, may project up to three feet into any required yard.

(4) The yard requirements of this chapter shall not be deemed to prohibit any accessory retaining wall nor to prohibit any fence or wall, provided that walls or fences in required yard areas shall not exceed six feet in height above the adjoining grade.

I. Yard requirements on corner lots. On a corner lot, there shall be provided a side yard on a side street equal in depth to the required front yard. A rear yard shall be provided on each corner lot and the property owner shall elect which yard is the rear yard.

J. Fire escapes. Open fire escapes may extend into any required yard not more than six feet; provided, however, that such fire escapes shall not be closer than four feet, at any point, to

4. Editor's Note: The Table of Bulk and Coverage Requirements is included at the end of this chapter.

any lot line.

- K. Projecting features above roof level. The maximum building height limitations of this chapter shall not apply to church spires and belfries, in any case, nor to flagpoles, domes, silos, chimneys, ventilators, skylights, water tanks or television antennas or to similar features and such necessary mechanical appurtenances not used for human occupancy, provided that:
 - (1) They shall not extend more than 20 feet above the roof.
 - (2) The total area covered by such features shall not exceed 10% of the area of the roof upon which they are located.
 - (3) Parapets and cornices, used for ornamentation and without windows, shall not extend more than five feet above the roof.
- L. Exterior lighting. All exterior lighting in connection with all buildings, signs or other uses shall be directed away from adjoining streets and properties and shall not cause any objectionable glare observable from such streets or properties. Hours of lighting may be limited by the Planning Board in acting on any site development plan. No use shall produce glare so as to cause illumination beyond the property on which it is located in excess of 0.5 footcandle.
- M. Visibility at intersections. On a corner lot, no fence, wall, hedge or other structure or planting more than three feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are 30 feet distant from the point of intersection in R, RLD, H-I, H-II Zones and 10 feet distant from the point of intersection in all other zones, measured along said street right-of-way line. The height of three feet shall be measured above the road surface at the nearest edge of the road travelled-way. This subsection shall not apply to existing trees, provided that no branches are closer than six feet to the ground.
- N. Industrial or commercial trailers. It shall be unlawful for any person or persons to park or store for more than seven days an industrial or commercial trailer in any district within the limits of the Village, except for the necessary use on construction projects. Residential occupation of the trailer is not permitted. Such use shall require a special permit, which shall be issued for one year or part thereof and renewed for one additional year only. Such special permits shall be in accordance with this chapter and the applicable sections following this chapter.

§ 160-10. Schedule of Permitted Uses. ⁵

- A. The Schedule of Permitted Uses lists permitted uses for each district category. Symbols used are annotated on the schedule.
- B. Any use not specifically listed herein is deemed excluded.

5. Editor's Note: The Schedule of Permitted Uses is included at the end of this chapter.

§ 160-11. Schedule of Bulk Regulations/Coverage Limitations.

- A. The Schedule of Bulk Regulations/Coverage Limitations (Table 3) is included at the end of this chapter.
- B. Minimum front yard frontage.
 - (1) For new construction on a lot where more than one building exists within 200 feet of each property line, the minimum front yard dimension of the lot shall be the lesser of the average of the front yard dimensions of the adjacent lots containing buildings or the front yard dimension set forth in Table 3. In no case shall a lot have a lot frontage less than 10 feet.
 - (2) For new construction on a lot where only one building exists within 200 feet of a property line, the minimum front yard dimension of the lot shall be the lesser of the front yard dimension of the adjacent lot containing a building or the front yard dimension set forth in Table 3. In no case shall a lot have a frontage less than 10 feet.

ARTICLE IV
Supplementary Regulations

§ 160-12. Prevention of nuisances.

No land use shall be established or maintained unless it complies with the performance standards in this section.

- A. Noise.
 - (1) Sound levels shall be determined at the property line of the lot from which the noise is emitted. Sound measurements shall be accomplished through the sound-level meter having an A-weighted filter constructed in accordance with specifications of the American National Standards Institute.
 - (2) The following uses and activities shall be exempt from these noise regulations:
 - (a) Temporary construction noises between the hours of 7:00 a.m. and 8:00 p.m.
 - (b) Transient noises from moving sources, such as automobiles and trucks.
 - (c) Noises from safety signals, warning devices and emergency pressure relief valves.
 - (d) The sound of bells or chimes from a church.
 - (3) No person, firm or corporation shall allow the emission of sound in air which, as measured at the property lines, has a sound level in excess of 60 decibels on the A-weighted scale between the hours of 7:00 a.m. and 8:00 p.m. and in excess of 50 decibels on the A-weighted scale between the hours of 8:00 p.m. and 7:00 a.m.
- B. Smoke. The density of smoke and other atmospheric pollutants shall be measured by the Ringelmann Chart as published by the United States Bureau of Mines. No person, firm or corporation shall permit the emission of smoke or any other atmospheric pollutant, from any source whatever, for a period or periods aggregating more than four minutes in any one

hour which exceeds the density or equivalent opacity of No. 1 on the Ringelmann Chart as measured at the point of emission. The emission of smoke or any other atmospheric pollutant shall not be permitted, regardless of quantity, if it is in any way detrimental to the public health or safety or is a source of damage to property.

- C. Particulate matter. No person, firm or corporation shall permit the emission of any particulate matter, from any source whatever, to exceed one pound per hour per acre of lot area. The emission from all sources within any lot area of particulate matter containing more than 10% of particles having a diameter larger than 44 microns is prohibited.
- D. Odor. No person, firm or corporation, excluding farms and farm operations, shall permit the emission of any offensive odor at the property line of the lot from which the odor is emitted.
- E. Fire and explosion. The storage, use or manufacture of detonable material, shall meet the State Fire Code.
- F. Electromagnetic interference. No land use or operation shall be allowed which produces any perceptible electromagnetic interference with normal radio or television reception outside the boundaries of the lot on which such use or operation takes place.
- G. Toxic or noxious matter. No land use or operation shall be permitted which allows or causes the escape of any toxic or noxious fumes, gases or other matter outside the building in which the use is conducted.
- H. Radiation. No emission or discharge of radioactive gases, liquids or solids shall be permitted.
- I. Glare. No person, firm or corporation shall permit any high-intensity light to cross the boundary line of the lot on which this light source is situated.
- J. Vibration. No activity shall cause or create a steady state or impact vibration discernible at any lot line.
- K. Lights. All exterior lighting in connection with all buildings, signs or other uses shall be directed away from adjoining streets and properties and shall not cause any objectionable glare observable from such streets or properties. Hours of lighting may be limited by the Planning Board in acting on any site development plan. No use shall produce glare so as to cause illumination beyond the property on which it is located in excess of 0.5 footcandle.
- L. Outside storage. All outside storage areas shall be neatly kept, and screened from any existing or proposed road or any adjoining residential district.
- M. Procedure.
 - (1) In the case of any application for the establishment of a use subject to the above performance standards, the Planning Board may require the applicant, at his own expense, to provide such evidence as it deems necessary to determine whether the proposed use will conform to said standards.
 - (2) If the Planning Board deems it necessary, expert advice may be obtained, with the cost of such advice paid for in advance by the applicant as a condition of further

consideration of the application. The report of any expert consultants shall be promptly furnished to the applicant.

- (3) During the course of site plan review, the Planning Board will determine if the applicant's proposal will conform to the performance standards.

N. Enforcement. If, in the judgment of the Zoning Enforcement Officer, there is a violation of the performance standards:

- (1) The Zoning Enforcement Officer shall give written notice, by registered or certified mail, to the owner and tenants of the property upon which the alleged violation occurs, describing the particulars of the alleged violation and shall require an answer or correction of the alleged violation to the satisfaction of the Zoning Enforcement Officer within a reasonable time limit set by said Officer.
- (2) If, within the time limit set, there is no reply but the alleged violation is corrected to the satisfaction of the Zoning Enforcement Officer, s/he shall note "Violation Corrected" on the copy of the notice that is retained among the official records.
- (3) If there is no reply within the time limit set and the alleged violation is not corrected to the satisfaction of the Zoning Enforcement Officer within the time limit set, s/he shall proceed to enforcement actions, including but not limited to: revoking a building permit, nullifying a variance, revoking a certificate of occupancy, or imposing a fine.

§ 160-13. Off-street parking and loading.

A. General provisions. [Amended 7-26-2006 by L.L. No. 1-2006]

- (1) All structures and land uses hereafter erected, enlarged, moved, created, changed in intensity or substantially altered shall be provided with the amount of off-street parking and loading required by the terms of this chapter to meet the needs of persons using or occupying such structures or land.
- (2) All structures and land uses that are located in the General Business, Mill and Mill II Districts, with the exception of public assembly uses and residential uses, are exempt from the off-street parking and loading required by the terms of this chapter if, and only if, such use or uses are to utilize a preexisting structure or facility. Loading areas for uses located in these districts shall be sufficient so as to prevent the loading and unloading upon the main thoroughfares of the Village, such as Main Street. In the case of a newly proposed use that contemplates demolition or physical expansion of said structure or facility, full compliance with the off-street parking and loading, as set forth by the terms of this chapter, will be required.
- (3) The plans for any new building or any expansion of an existing building, when submitted for a site plan approval, shall show specifically the location, size and type of improvements of the off-street parking and loading space required to comply with this chapter and the means of access to such space from the public streets or highways. Except for a one-family residence, no building permit shall be issued until such parking and loading space and access to it are approved by the Planning Board, which shall determine that traffic access, traffic circulation and general layout of the

parking facility are in compliance with this section. No certificate of occupancy shall be issued for any building or land use until the required off-street parking space has been established in accordance with the site plan approval of the Planning Board. For a one-family residence, no certificate of occupancy shall be issued until the required off-street parking spaces have been demonstrated to the Building Inspector.

- (4) Required off-street parking facilities that, after development, are later dedicated to and accepted by the Village shall be deemed for the purposes of this section to constitute the required off-street parking for the structure, despite their dedication to the public.
- B. Existing structures and uses. Structures and land uses in existence or for which building permits have been approved at the time of the adoption of this chapter shall not be subject to the parking or loading space requirements of this chapter, provided that any parking and loading facilities then existing to serve such structures or uses shall not, in the future, be reduced except where they exceed such requirements, in which case they shall not be reduced below such requirements. Required parking and loading facilities shall, however, be provided as a condition for the issuance of any building permit for any enlargement of such structures or uses in the future. The reduction or elimination of existing parking and loading areas shall not be permitted unless they are in excess of the requirements.
 - C. Location. Required parking and loading spaces shall be provided upon the same lot as the use or structure to which they are accessory, except that off-street parking spaces required for structures of land uses on two or more adjacent lots may be provided in a single common facility on one or more of said lots, provided that a legal instrument satisfactory to the Village assures the continued existence of the parking facility to serve said structures or land uses as long as they may exist. Such agreements shall also guarantee that, upon the termination of such joint use, each subsequent use of the premises will provide off-street parking facilities for its own use in accordance with all requirements of this chapter. Also, the Planning Board may permit all or part of the required off-street parking spaces to be located on any lot within 500 feet of the building if the Board determines it is impractical to provide parking on the same lot with the building, provided that a legal instrument satisfactory to the Village assures the continued existence of the facility. In no event shall such parking and loading spaces for a nonresidential use be located in any residence district. In any residential district, no required off-street parking shall be developed within the required front yard, nor shall it be developed within 15 feet of a side or rear lot line. Notwithstanding any provision to the contrary, parking and loading spaces for a nonresidential use in the Mill District may be on any adjoining parcel regardless of whether or not it is within a residential district.
 - D. Size of parking spaces.
 - (1) Each parking space shall be at least nine feet wide and 20 feet long if unenclosed and at least 10 feet wide and 20 feet long if bordered by walls or columns on two or more sides. Where parking spaces are defined by curbs providing spaces for overhang of vehicles, such spaces may be reduced in depth to 18 feet. Back-up and maneuvering aisles between rows of parking spaces shall be at least 25 feet wide, except where the approving authority approves a lesser dimension as adequate to serve parking spaces arranged at less than a ninety-degree angle. The front or rear overhang shall not

encroach on any sidewalk or landscaped area.

- (2) The Planning Board may consider, in the site plan approval process and upon the request of the applicant, a reduction in the size of the parking spaces for up to 15% of the total number of parking spaces. In no event shall any parking space be less than eight feet wide and 18 feet long.
- E. Landscaping. Except for parking spaces accessory to a one-family dwelling, all off-street parking areas shall be curbed and appropriately landscaped, to provide for a safe, convenient and attractive parking facility. There shall be no obstruction to driver's vision upon exit onto a public thoroughfare.
- F. Grades, drainage, paving and marking. All required parking facilities shall be graded, surfaced, drained and maintained throughout the duration of their use to the extent necessary to avoid nuisances of dust, erosion or excessive water flow across public ways or adjacent lands. The maximum slope within a parking area shall not exceed 5%. In multifamily residential developments and in nonresidential developments, the Planning Board shall require the provision of suitable markings to indicate individual parking spaces, maneuvering area, entrances and exits.
- G. Traffic circulation.
- (1) The Planning Board, in considering an application, shall consider existing traffic patterns and may require modification of parking lots if it is determined that ingress and egress shall impede traffic flow.
 - (2) In order to encourage safe and convenient traffic circulation, the Planning Board may require the interconnection of parking areas via access drives within and between adjacent lots. The Board shall require written assurance and/or deed restrictions, binding the owner, the owner's heirs and assignees to permit and maintain such internal access and circulation and inter-use of parking facilities.
 - (3) Adequate access to buildings by use of fire lanes shall be provided and maintained in all off-street parking and loading zones.
- H. Waiver of improvement. Where the Planning Board, in approving a site plan or special permit application, determines that less than the required number of parking spaces will satisfy the intent of this chapter, said Board may waive the requirement in part, but not in excess of 50% of the number required according to this section. In all cases, it shall be expressly demonstrated on the site plan that sufficient space remains for the provision of the total amount of off-street parking required, and the site plan shall bear such designation. All such undeveloped parking space shall be used and maintained as additional landscaped grounds until required for parking. Written guarantees shall be submitted by the applicant for the eventual implementation of any such spaces which may have been waived, should the Planning Board decide that such spaces have become necessary and must be constructed.
- I. Operation and maintenance of off-street parking facilities. Required off-street parking facilities shall be maintained as long as the use of the structure exists which the facilities are designed to serve. Required parking areas developed for specific structures and uses

shall be reserved at all times to those persons who are employed at or make use of such structures and land uses, except when dedicated to and accepted by the Village as public parking areas.

J. Off-street parking requirements.

- (1) Off-street motor vehicle parking facilities shall be provided as follows, except as may be modified in other provisions of this section or where additional parking requirements may be made as a condition of the issuance of a special permit, in which case provisions of the appropriate section shall apply.

Table 4: Parking Requirements

Use	Minimum Off-Street Parking Spaces
Dwellings: 1- and 2-family	2 for each dwelling unit
Dwellings: multifamily	2 for each dwelling unit (may be reduced to 1 1/2 for elderly housing)
Home office/occupation with clients or customers in a residential district	3 in addition to spaces required for the residential use
Bed-and-breakfast establishments	1 for each guest sleeping room, plus 2 for each residential unit
Theater, auditorium, athletic field other places of assembly	1 for each 4 seats or, in places without seats; 1 for each 100 square feet of floor space used for public assembly (a pew space shall be 20 inches wide); 1 per 3 theater seats
Residential health-care facilities, adult homes and group homes	1 for each 3 resident beds and 1 for each employee, including medical, nursing management and service staff
Clubhouses	1 for each 2 memberships
Centers of public amusement	1 per 100 square feet of floor space used for public amusement
Retail or service business	1 for each 200 square feet of gross floor area, plus one for each employee
Restaurant and bar	1 for each 3 seats or 1 for each 100 square feet of gross floor area, whichever is greater
Office for business or professional use (other than accessory to residential use)	1 for each 500 square feet of gross floor area
Banking office	8, plus 1 for each employee, plus 4 additional for each person in excess of 2 acting as tellers, including waiting spaces for drive-in window
Inn	1 for each guest sleeping room, plus 1 for each 2 employees

Funeral home	1 per employee, plus 1 per 25 square feet of gross floor space in assembly rooms
Motor vehicle sales and service	1 per employee, plus 1 per 150 square feet of gross floor space
Preschool	1 for every 8 students and 1 for each employee, including teaching, management and auxiliary staff
Medical office building and medical office, including veterinary office	1 per 150 square feet of gross floor area
Senior citizen's housing	1 1/2 spaces for each unit

- (2) Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed above shall be determined in each case by the Planning Board, which shall consider all factors entering into the parking needs of each such use, as part of its site plan review process.
- (3) Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot, except that the Planning Board may approve the joint use of parking space by two or more establishments on the same or on contiguous lots, the total capacity of which space is less than the sum of the spaces required for each, provided that said Board finds that the capacity to be provided will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments, and provided that such approval of such joint use shall be automatically terminated upon the termination of the operation of any such establishments.

K. Off-street loading requirements. Off-street loading and unloading facilities shall be located on the same site with the use to be served and shall be provided as follows:

- (1) Size. Each off-street loading space shall be at least 15 feet in width, at least 40 feet in length and at least 14 feet in height, exclusive of access and turning areas, except that adjacent loading spaces may be each 12 feet in width, except where delivery service will be by tractor trailer, in which case the minimum length shall be 60 feet, and the minimum width shall be 14 feet.
- (2) Required number of spaces. The number of spaces shall be determined on a case-by-case basis.
- (3) Any loading dock facing a road frontage shall be sufficiently far back from the road to permit the largest permitted tractor-trailer to maneuver into said loading dock without encroaching on the required front yard. Any such dock shall be screened so it is not visible from the road.
- (4) The Planning Board may waive certain loading requirements, provided there is a finding that the intent of this chapter can be otherwise maintained.

L. Driveways.

- (1) For reasons of traffic and pedestrian safety, both on and off the street, as well as to provide for possible future widening or other improvements, all new driveways and sidewalk crossings entering onto any street shall comply with all requirements of this chapter and shall be subject to the approval of the Planning Board. Where such are part of a use subject to special permit or site development plan approval, they shall be subject to Planning Board approval.
- (2) No driveway center line shall intersect a street line in such a manner as to create a hazard to traffic flow.
- (3) Driveway grades.
 - (a) The maximum grade for any new driveway accessory to a single-family dwelling and connecting its off-street parking area to a street shall be 10%, except where it can be demonstrated to the satisfaction of the Planning Board that, because of practical difficulty or unreasonable hardship affecting a particular property, the construction of a driveway grade is the minimum increase required; provided, however, that in no case shall such driveway grade be permitted to exceed 15%.
 - (b) The maximum grade for new driveways accessory to uses other than single-family dwellings and connecting the required off-street parking area to the street shall not exceed 7%, except that the approving authority shall have the same power to permit increased grades here as above, provided that such grades shall in no case exceed 10%.
 - (c) Notwithstanding the maximum permitted grades specified above, no driveway serving a use other than a single-family dwelling shall have a grade in excess of 3% within 50 feet of the center line of the traveled way of the street, or within 25 feet of the property line of the street, whichever distance is greater. The Planning Board may require increased platform areas of this type in situations where, because of the nature of the proposed use, substantial traffic volumes are anticipated.
 - (d) Clear visibility shall be provided in both directions at all exit points so that the driver of an automobile stopped on the platform portion of any new driveway will have an unobstructed view of the highway for a reasonable distance (commensurate with the speed and volume of traffic on such highway) and so that there is a similar view of the automobile in the driveway.

§ 160-14. Sign regulations.

A. The following types of signs are permitted:

- (1) Nameplates and identification signs not to exceed two square feet in area.
- (2) Sale or rental signs not to exceed eight square feet in area.
- (3) Institutional signs not to exceed 20 square feet in area.

- (4) Business signs affixed to and parallel with the building wall not to exceed two square feet for every horizontal foot of building wall; a maximum width of 75% of the building wall's horizontal measurement, except that, where such horizontal measurement is 20 feet or less, the maximum width may be 90% of such measurement; a maximum projection of 12 inches from the face of the building wall to which the sign is attached. The maximum size for any business sign shall be 100 square feet.
- (5) Projecting signs attached to the building and projecting over the public right-of-way maintained by the Village will be permitted, provided:
 - (a) The sign projects no more than four feet from the face of the building to which it is attached.
 - (b) The sign has 10 feet of clearance from the ground.
 - (c) Projecting signs may not exceed a maximum of 12 square feet nor a horizontal dimension of four feet nor a maximum vertical dimension of four feet.
- (6) Other signs not to exceed six square feet in area.
- (7) Temporary development signs during construction repairs or alterations not to exceed two signs, each not to exceed six square feet in area.

B. General regulations.

- (1) Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity and pleasing hue, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination to be directed or beamed upon the public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a nuisance or a traffic hazard. Signs with moving parts are not permitted.
- (2) No signs shall be placed on the roof of any building.
- (3) No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices. Said devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention when not part of a sign.
- (4) No sign erected or maintained in the window of a building, visible from any public or private street or highway, shall occupy more than 30% of the area of said window.

C. Accessory signs on premises.

- (1) Two accessory signs are permitted for each business on the premises.
- (2) Attached accessory signs shall not cover more than 10% of the front surface of a building.
- (3) Detached accessory signs may not exceed 30 square feet in area. Lettering may not occupy more than 70% of the face of a detached sign.

- D. Any sign existing on or after January 1, 1991, which no longer advertises an existing business conducted, or product sold, on the premises, shall be removed by the owner of the premises upon which the sign is located, after written notice is provided for removal within 30 days from the date of such notice.

§ 160-15. Satellite dish antennas larger than 28 inches in diameter.

A special permit may be granted for the establishment of a satellite dish antenna larger than 28 inches in diameter, subject to the following conditions:

- A. Not more than one satellite dish antenna shall be allowed on any lot.
- B. All satellite dish antennas shall be properly anchored as determined by the Zoning Enforcement Officer.
- C. The construction and installation of satellite dish antennas shall conform to all applicable building codes and other regulations and requirements.
- D. Satellite dish antennas shall be adequately grounded.
- E. Subject to the provisions contained herein, satellite dish antennas shall be located only in the rear yard of any lot. If a usable satellite signal cannot be obtained from such rear yard, the antenna may be located on the side or front yard of the property, subject to the setback requirements contained in this chapter. In the event that a usable satellite signal cannot be obtained by locating the antenna on the rear, side or front yard of the property, such antenna may be placed on the roof of the dwelling structure.
- F. Satellite dish antennas shall be designed and located to minimize visual impact on adjacent property and roadways.
- G. A satellite dish antenna shall not be located less than 10 feet from any property line or easement, nor exceed a grade height of 16 feet.
- H. Roof-mounted satellite dish antennas shall not be mounted on chimneys, towers, spires or trees. Where practical, the antenna should be placed below the ridgepole of the roof.

§ 160-16. Satellite dish antennas of twenty-eight-inch diameter or less.

No special permit is required for satellite dish antennas 28 inches or less, subject to the following conditions:

- A. Not more than one satellite dish antenna shall be allowed on any lot.
- B. All satellite dish antennas shall be properly anchored as determined by the Zoning Enforcement Officer.
- C. The construction and installation of satellite dish antennas shall conform to all applicable building codes and other regulations and requirements.
- D. Satellite dish antennas shall be adequately grounded.

§ 160-17. Stripping of topsoil.

No person, firm or corporation shall strip, excavate or otherwise remove topsoil for sale or for use other than on the premises from which it shall be taken except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto.

§ 160-18. Accessory structures.

A. Minimum yard regulations.

- (1) Unattached accessory structures in residential districts. Accessory structures which are not attached to a principal structure may be erected in accordance with the following requirements:
 - (a) An accessory building not exceeding 20 feet in height at the eaves may occupy not more than 30% of a required rear yard.
 - (b) No accessory structure shall be located within 10 feet of side or rear lot lines.
 - (c) No accessory structure shall be located closer to the street than the front yard setback required for a principal structure in the district in which such accessory structure may be located.
 - (d) For corner lots, the setback from the side street shall be the same for accessory buildings as for the principal buildings.
- (2) Attached accessory structures in all districts. When an accessory structure is attached to the principal building, it shall comply in all respects with the yard requirements of this chapter applicable to the principal building.
- (3) Small accessory structures in residential districts. One-story accessory buildings not exceeding a maximum of 10 feet in height and with 144 square feet or less of floor space without utility services and without permanent foundations are permitted regardless of side or rear setback requirements. No building permit is required.

§ 160-19. Cluster subdivisions.

A. Legislative findings. It is the finding of the Village of Philmont's Board of Trustees that significant agricultural and open spaces and scenic vistas exist in the portion of the Village designated "rural." It is the purpose of this section to continue the rural, natural and scenic qualities by maintaining and preserving open spaces and farmland while allowing landowners a reasonable return on their holdings.

B. Definitions. For the purposes of this section the following are defined:

AGRICULTURAL USES — As defined in Article VIII.

CONSERVATION USES — Uses for the promotion of the environment and protection and perpetuation of wildlife habitat and wild areas.

OPEN SPACE LAND — Land upon which no man-made structures are situated and which contains aesthetically pleasing views and vistas.

- C. Special use permit. All cluster subdivisions shall require special use permits.
- (1) In addition to the special use permit requirements set forth in Article VI, an applicant shall submit the following:
 - (a) A written statement, in duplicate, describing the open space purposes to be accomplished.
 - (b) The proposed method of preservation and disposition of the open space land.
 - (c) Proof that the subdivision shall meet the criteria set forth in Subsection D.
 - (d) A subdivision plan suitable for recording in the Columbia County Clerk's office designating the open space land and indicating that the land is not to be used for building lots or development and is permanently reserved for noncommercial, recreational, conservation and agricultural purposes. The plans submitted shall further show the existence of any residual farmland or open spaces adjacent to the property and previously dedicated under this subsection. The Planning Board, in considering the location of the residual farmland or open spaces sites for the premises, shall consider the impact of the plan upon existing dedicated residual farmland and open spaces and shall take such steps to protect these existing uses.
 - (e) Proof of dedication of open spaces required by the Planning Board, if site plan approval is conditioned on such dedication prior to approval.
 - (2) Within two weeks of the applicant's initial appearance before the Board, the applicant shall meet with the Planning Board during daylight hours on the property for inspection and viewing of the premises.
- D. Criteria for approval. Applications for special permits for cluster subdivisions shall meet all of the following criteria:
- (1) The minimum area of land for special permit cluster development shall be 10 acres. The total number of dwelling units shall be determined at the rate of one unit per 1 1/4 acres of land, excluding land situated in road beds or easements, but including land dedicated to residual farmland and open spaces.
 - (2) The dwelling units in the development must be either one- or two-family houses. The minimum building lot area for one-family homes shall be 1/2 acre, excluding land situated in road beds or easements. The minimum building lot area for two-family homes shall be 3/4 acre, excluding land situated in road beds or easements. Lands dedicated to residual farmland or open space shall be excluded from the building lot.
 - (3) All proposed building lots must be connected to the Village of Philmont municipal water and sewage system.
 - (4) The total area dedicated to residual farmland or open space within the subdivision shall constitute at least 50% of the land in the proposed development, excluding land situated in road beds or easements.
 - (5) All residual farmland and open spaces shall be dedicated for perpetual use for

conservation or agricultural, noncommercial recreational purposes only. The use of residual farmland or open spaces shall be subject to the approval of the Planning Board.

- E. Disposition of open spaces and residual farmland. The method of residual farmland or open space preservation shall be subject to the approval of the Planning Board. The method used must include labeling the plot map to restrict division and use of the land and recording the map in the Columbia County Clerk's office at least one of the following:
- (1) Offer and transfer of the land development rights thereof or a conservation easement thereof to the Village of Philmont, subject to agreement of the Village to accept the land.
 - (2) Owned jointly by all owners of the building lots and subject to the easement that the residual farmland or open spaces shall be perpetually used for conservation or agricultural, noncommercial recreational uses.
 - (3) Subject to the approval of the Planning Board, transfer of the land, a conservation easement thereto or the development rights thereof to a not-for-profit corporation dedicated to the preservation of open spaces, agricultural land or promotion of conservation.
 - (4) Establishment of a homeowners' association to own and maintain the land for open space purposes.
 - (5) Mandatory establishment of deed restrictions, approved and enforceable by the Planning Board.
- F. Use of residual farmland and open spaces. All further subdivision of residual farmland or open spaces is prohibited. All structures, buildings and accessories needed for conservation, agricultural and noncommercial recreation uses shall be permitted, subject to the site plan approval of the Planning Board. No other structures and buildings shall be permitted in the residual farmland or open spaces. All uses of said residual farmland and open spaces are precluded except for agricultural uses, conservation uses and noncommercial recreational uses and uses appurtenant thereto.
- G. Maintenance of open spaces. The residual farmland or open spaces left unbuilt after development shall be appropriately maintained. Landowners receiving special permit approval for cluster subdivisions shall provide copies of deed covenants and/or conservation easements to prospective purchasers of lots.
- H. Road specifications of subdivision. All roads set forth in the subdivision shall meet Village of Philmont building standards set forth in Ch. 127, Streets and Sidewalks, Article V, Road Utility Specifications.
- I. Setback requirements and lot dimensions. All subdivision lots having road frontage created by the subdivision shall have at least 125 feet of road frontage for two-family houses and 100 feet for one-family houses. All other minimum lot dimensions, minimum yard dimensions, maximum height of buildings, setback requirements and maximum lot coverage for two-family dwelling units shall be the same as those designated for lots in Zoning District Residential Low Density, and, for one-family dwelling units, shall be the

same as those designated for lots in Zoning District Hamlet II.⁶

§ 160-20. Conservation District.

- A. Legislative findings. The Philmont Village Board of Trustees finds that the body of water known as the "Philmont Reservoir" is an environmentally critical area, the protection of which is of key importance to the Village. The Board further finds that the reservoir constitutes a secondary source of water for the municipal water system, the use of which may be required in the future, and that steps should be taken to protect its water supply; that the reservoir is the home and breeding ground of many wild fowl and other wild animals; that the Village, as proprietor of the dam and spillway of the reservoir, is responsible for their maintenance and repair; that allowing silt into the body of water may damage these structures and force the Village to spend additional sums to repair them; that the reservoir and the surrounding vegetation constitutes a special aesthetic resource that contributes to the rural appearance of the Village and increases the value of Village property. The Board further finds that the reservoir is endangered by pollution, silt and development, and that removal of additional vegetation from the banks of the reservoir will exacerbate these problems and that steps should be taken to protect this valuable ecological asset, while allowing property owners a reasonable return on their property. The Board adopts the findings of Professor Randall Arndent of the University of Massachusetts that a one-hundred-twenty-five-foot buffer zone of vegetation surrounding the waterway is necessary to protect it from silt and pollution. The Board further finds that development now exists on the reservoir that makes complete compliance with this "buffer zone protection" impossible and that such modifications must be made to allow owners a reasonable return on their property.
- B. Use of reservoir. Chapter 155, Waterways, Article II, Outboard Motors on Reservoir, prohibiting the use of outboard gasoline motors on the reservoir, is hereby continued.
- C. Prohibited activities.
- (1) No construction or removal of vegetation other than allowed herein is permitted within a distance of 125 feet of the high-water mark of the reservoir from the inlet of said reservoir continuing clockwise to the outlet of said reservoir and within the reservoir itself. In the event of any discrepancy, this description governs over the Zoning Map of the Village of Philmont. [Amended 6-23-2010 by L.L. No. 1-2010]
 - (2) No construction or removal of vegetation other than allowed herein is permitted within a distance of 15 feet of the high-water mark of the reservoir from the outlet of said reservoir clockwise through and including Tax Map Lot 113.09-03-73 thence a distance of 50 feet from the high-water mark from the southeast corner of Tax Map Lot 113.09-03-73 to the inlet of said reservoir and within the reservoir itself. In the event of any discrepancy, this description governs over the Zoning Map of the Village of Philmont. [Amended 6-23-2010 by L.L. No. 1-2010]
 - (3) Timbering. Logging and timbering operations within the buffer zone are permitted, subject to special permit approval of the Zoning Board of Appeals, provided that no

6. Editor's Note: See the lot and coverage requirements in Table 3, included at the end of this chapter.

more than 25% of the number of trees on the lot four inches D.B.H. (diameter 4 1/2 feet above the ground) or larger shall be cut in any ten-year period. No substantial accumulation of slash shall be left within 50 feet of the high-water mark of the reservoir. An equal number of replacement trees shall be replanted within the next growing season.

- (4) Agriculture. Nonanimal agricultural operations within the buffer zone are permitted, subject to special permit approval of the Zoning Board of Appeals, provided that soil shall not be tilled within 50 feet of the normal high-water mark of the reservoir.
 - (5) Outdoor conservation activities are permitted.
- D. Permitted Village activities. That activities of the Village of Philmont deemed necessary for the public benefit are excluded from this prohibition. Among those activities of the Village specifically excluded from these regulations are the repair and maintenance of public roadways, repair and maintenance of dams and spillways, operations of parks, beaches and playgrounds, and dredging of the reservoir.
- E. Removal of vegetation. "Removal of vegetation" shall be defined as such acts that will destroy or are likely to destroy the existing vegetation, regardless of whether substitute vegetation will be planted. The mowing, cutting, clipping or trimming of vegetation is permitted, provided that it is not calculated to lead to the destruction of the vegetation.
- F. Transfer of development rights. The Conservation District consists of natural, scenic, recreational sites and open lands of special historical, cultural, aesthetic and economic value to the Village, which need to be protected. To allow this special area to be protected and still allow the owners of property situated in the Conservation District a reasonable return on property contained in the district, a transfer of development rights is authorized pursuant to § 7-701 of the Village Law, subject to the terms and conditions set forth herein.
- (1) Sending district. The Conservation District shall be the sole area within the Village in which development rights may be designated to a receiving district.
 - (2) "Receiving district" shall mean the districts or areas of land to which development rights generated from a sending district may be transferred and in which increased development is permitted to occur by reason of such transfer. The sole receiving district within the Village shall be the Rural (R) District.
 - (3) "Transfer of development rights" shall mean the process by which development rights are transferred from one lot, parcel or area of land in the sending district to another parcel, lot or area of land in the receiving districts.
 - (4) Rights transferable. Notwithstanding the prohibition against construction of one-family homes in the Conservation District, each and every owner of land containing in excess of 2.0 acres of land within the Conservation District shall be entitled to a transferable development right, which may be sold, assigned, or conveyed. The development right may be transferred only to land contained within the Rural District. The sole and exclusive right transferable will be to construct a one-family house in the Rural District per each 2.0 acres of land contained in the Conservation District.

- (5) Restrictions on transfers. Notwithstanding the regulations contained herein, no one-family home shall be constructed in the rural residential area under the terms of this transfer having a lot size or land of less than 1.0 acre of land. The parcel must meet all other area requirements and zoning regulations for the Rural District, including minimum yard dimensions, maximum lot coverage and the maximum height of buildings.
- (6) Procedure for transfer. All property owners seeking a transfer of development rights shall pay an application fee set by the Village Board, shall submit to the Village Planning Board an application for a special use permit to transfer development rights, a survey prepared by a land surveyor licensed to practice in the State of New York, of the property within the Conservation District from which the development rights are to be transferred, showing the total area of the parcel, a survey prepared by a land surveyor licensed to practice in the State of New York, showing the total area of the recipient parcel in the Rural District, and the proposed instrument to execute the transfer. Following approval, the Village shall issue to the transferee a certificate of development rights in form suitable for recording in the Columbia County Clerk's office. The transfer shall be deemed completed following the recording of the transfer instruments and the certificate of development rights in the County Clerk's office and the mailing to the Village Planning Board of a copy of the executed transfer instrument and the recording receipt received from the County Clerk.
- (7) Form of instrument. All transfers of development rights shall be in the form of a conservation easement, as defined in Title 3 of Article 49 of the Environmental Conservation Law, and suitable for recording in the County Clerk's office.
- (8) Tax assessments. Within one year after development rights are transferred, the assessed valuation placed on the affected properties for real estate tax purposes shall be adjusted to reflect the transfer.
- (9) Receiving land shall not be part of a cluster subdivision.

§ 160-21. Mobile homes and mobile home parks.

- A. Mobile homes are permitted on individual lots as per zoning district regulations, and are covered by all sections herein that apply to lot use.
- B. Mobile home parks are not permitted in the Village of Philmont.

§ 160-22. Accessory apartments.

- A. A special permit is required to create a single apartment within a one-family dwelling, subject to the following provisions:
 - (1) Only one apartment is allowed, and it shall be clearly subordinate to the one-family dwelling.
 - (2) The number of bedrooms in the apartment shall not be more than one.
 - (3) The floor area of the apartment shall be greater than 400 square feet.

- (4) The floor area devoted to the apartment shall not exceed 35% of the entire floor area of the one-family dwelling.
 - (5) The apartment and one-family dwelling must have separate, safe, clearly identified and proper means of entrance.
 - (6) The structure must be connected to the municipal water and sewage system.
 - (7) Stairways leading to any floor or story above the first floor shall be located within the walls of the building, wherever practicable. Stairways and fire escapes shall be located on the rear wall in preference to either side wall. In no instance shall an exterior stairway or fire escape be located on any wall fronting on a street.
 - (8) Off-street parking shall be in accordance with § 160-13 and shall be on the parcel on which the accessory apartment is located.
 - (9) Owner occupancy required. The owner(s) of the one-family lot upon which the accessory apartment is located shall occupy at least one of the dwelling units on the premises.
 - (10) Continued compliance with all of these regulations is required. Failure to do so will result in a revocation of the special permit.
- B. A special permit is required to create an apartment which requires an addition to a one-family dwelling. If an addition is requested, it must comply with provisions in the Subsection A(1) through (10) as well as the following:
- (1) All bulk regulations and coverage limitations Table 3, Bulk and Coverage Requirements,⁷ must be met.
 - (2) Design and construction of the addition must be compatible with the parent structure.
- C. A special permit is required to create an apartment in a detached accessory structure in gatehouses, garages, barns or similar accessory structures. In addition to the regulations in Subsection A(1) through (10) and Subsection B(1) and (2), the following must be met:
- (1) No new construction shall be permitted to enlarge existing accessory buildings in order to accommodate apartments unless it conforms to zoning density requirements.
 - (2) Construction associated with adaptation of buildings should be performed in a way that retains the character of the structure. The design and construction of the adaptation of the building must be compatible with the parent structure.
 - (3) The number of dwelling units permitted on the lot shall not exceed that which is normally permitted in the zone except for structures which are in existence at the time of the adoption of this section.

§ 160-23. Home occupations.

- A. The provisions of this section are to help provide peace, quiet, safety and domestic

7. Editor's Note: Table 3 is included at the end of this chapter.

tranquility within all residential neighborhoods while recognizing that limited home occupational activity can be useful to the general community as well as the resident-proprietor.

B. Permitted home occupations with on-site clients or customers operated in any dwelling unit may be operated only if they comply with all of the following conditions:

- (1) A home occupation must be incidental to the use of a dwelling unit for residential purposes.
- (2) The business must be operated by the occupant of the building.
- (3) No more than 500 square feet of floor area of the dwelling unit or 30% of the total floor area of the dwelling unit may be used in connection with a home occupation, whichever is less. Floor area requirements refer only to heated and habitable rooms within the dwelling unit.
- (4) Sale of produce and consumer goods shall be prohibited except for the sales of products or goods produced or fabricated on the premises as a result of the home occupation.
- (5) Only the person or persons who occupy the dwelling and one additional person shall be employed in the home occupation.
- (6) There shall be no outside evidence of the home occupation, except that one unanimated, nonilluminated, flat or window sign having an area of not more than two square feet shall be permitted on the street front of the lot on which the building is located.
- (7) In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. or later than 9:00 p.m.
- (8) There shall be no exterior storage of materials to be used in conjunction with a home occupation.
- (9) No alteration of the residential appearance of the premises to accommodate the home occupation is allowed.
- (10) An existing accessory structure can be used for a home occupation, provided that there are no exterior modifications and that the use will not change the residential or agricultural character of the area.
- (11) The total number of home occupations conducted within a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted within the dwelling unit or on the premises shall not exceed the impact of a single, full-time home occupation.
- (12) Electrical or mechanical equipment that creates visible or audible interference in radio or television receivers or causes fluctuations in line voltage outside the dwelling unit or that creates noise not normally associated with residential uses is prohibited.
- (13) A special use permit is required for a home occupation.

C. Permitted home occupations without on-site clients or customers operated in any dwelling unit may be operated only if they comply with all of the following conditions:

- (1) A home occupation must be incidental to the use of a dwelling unit for residential purposes.
- (2) The business must be operated by the occupant of the building.
- (3) No more than 500 square feet of floor area of the dwelling unit or 30% of the total floor area of the dwelling unit may be used in connection with a home occupation, whichever is less. Floor area requirements refer only to heated and habitable rooms within the dwelling unit.
- (4) Sale of produce and consumer goods shall be prohibited.
- (5) Only the person or persons who occupy the dwelling and one additional person shall be employed in the home occupation.
- (6) There shall be no exterior storage of materials to be used in conjunction with a home occupation.
- (7) No alteration of the residential appearance of the premises to accommodate the home occupation is allowed.
- (8) An existing accessory structure can be used for a home occupation, provided that there are no exterior modifications and that the use will not change the residential or agricultural character of the area.
- (9) The total number of home occupations conducted within a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted within the dwelling unit or on the premises shall not exceed the impact of a single, full-time home occupation.
- (10) Electrical or mechanical equipment that creates visible or audible interference in radio or television receivers or causes fluctuations in line voltage outside the dwelling unit or that creates noise not normally associated with residential uses is prohibited.
- (11) No signs are permitted.
- (12) The Building Inspector shall issue a permit for such use at no fee.

§ 160-24. Storage of flammable liquids.

The commercial storage for resale of alcohol, gasoline, crude oil, liquefied petroleum gas or any other highly flammable liquid in aboveground tanks, in any amount, shall be prohibited in all districts except the General Business District.

§ 160-25. Nonconforming uses and buildings.

Except as otherwise provided in this section, the lawfully permitted use of land or buildings existing at the time of the adoption of this chapter may be continued, although such use does not conform to the standards specified by this chapter for the zone in which such land or building is

located. Said uses shall be deemed nonconforming uses.

A. Nonconforming use of land. Where no building is involved, the nonconforming use of land may be continued; provided, however, that:

- (1) Such nonconforming use shall not be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this chapter, unless specifically allowed by other provisions in this section.
- (2) No such nonconforming use shall be moved, in whole or in part, to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this section.
- (3) If such nonconforming use of land or any portion thereof ceases for any reasons for any continuous period of more than one year or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this section.
- (4) A nonconforming use of land may be changed only to a conforming use of land, with a special use permit, as determined by the Zoning Board of Appeals.

B. Nonconforming use of buildings.

- (1) A building or structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged or extended unless the use therein is changed to a conforming use.
- (2) Such nonconforming building shall not be structurally expanded, unless such alterations are required by law. However, such maintenance and repair as are required to keep a nonconforming building or structure in sound condition shall be permitted. Also, such nonconforming use may be extended throughout any parts of the building which were arranged or designed for such use at the time of the adoption of this section.
- (3) If any nonconforming use of a building ceases for any reason for a continuous period of more than one year, or if any nonconforming use of a building is changed to a conforming use, or if the building in which or on which such use is conducted or maintained is moved for any distance whatsoever, for any reason, then any future use of such building shall be in conformity with the standards specified by this chapter for the district in which such building is located.
- (4) A nonconforming use of a building may be changed only to a conforming use.
- (5) If any building in which any nonconforming use is conducted or maintained is hereafter removed, then the subsequent use of the land on which such building was located, and the subsequent use of any building thereon, shall be in conformity with the standards specified by this chapter for the district in which such land or building is located.

C. Restoration of damaged buildings. If any legally nonconforming use shall be destroyed more than 60% of its fair market value by any means, the owner shall be entitled to rebuild an identical size structure for the same nonconforming use, provided that a building permit

application is submitted to the Village Building Inspector within six months of the date of destruction of the nonconforming use and a certificate of occupancy is issued by the Building Inspector within one year from the date of destruction. Those nonconforming uses for which a building permit and/or certificate of occupancy are not timely obtained shall be precluded from being rebuilt. No reconstructed use shall expand the size or use of the prior nonconforming use, nor shall it be used for a different nonconforming use.

- D. Nonconforming uses subject to additional requirements. To bring about the gradual conformance of various incompatible uses to the requirements of this chapter, any building, the construction of which has been started before the effective date of this chapter and completed within one year after the adoption of this chapter, may be completed in accordance with plans on file with the Zoning Enforcement Officer.
- E. Nonconforming buildings.
 - (1) Additions. A nonconforming building may be added to or enlarged so long as the addition does not make the building any more nonconforming.

§ 160-26. Residence Senior Citizen District.

Residence Senior Citizen District uses and special restrictions and regulations that apply thereto shall be as follows:

- A. In a Residence Senior Citizen District, no building, premises or part thereof shall be used, erected, altered or occupied, except for dwelling units especially designed for senior citizens.
- B. Occupancy within a Residence Senior Citizen District is limited to elderly families or handicapped families, as defined and discussed below:
 - (1) An "elderly family" means:
 - (a) Families of two persons, the head of which (or his or her spouse) is 62 years of age or over.
 - (b) The surviving member or members of any family described in Subsection B(1)(a) above, living in a Residence Senior Citizen District with the deceased member of the family at the time of his or her death.
 - (c) A single person who is 62 years of age or over.
 - (d) Two elderly persons living together, or one such person living with another person who provides essential care to said elderly person based upon a certification of such by a licensed physician provided by the tenant family or prospective tenant family.
 - (2) A "handicapped family" means:
 - (a) Families of two persons, the head of which (or his or her spouse) is handicapped as hereinafter defined.
 - (b) "Handicapped person" shall have the same meaning set forth in the eligibility

requirements stated in the United States Department of Agriculture, Farmers Home Administration under Section 515 of Title V of the Housing Act of 1949, as amended, or by the United States Department of Housing and Urban Development under Section 202 of the Housing and Community Development Act of 1959, as amended.

- (3) Buildings, accessory buildings or portions thereof shall meet the current New York State Building and Fire Codes and American National Standards Institute regulations for the handicapped.
- (4) The following special restrictions and regulations apply only to Residence Senior Citizen Districts and shall provide an additional basis for site plan review:
 - (a) The minimum required plot area for a Residence Senior Citizen District shall be two acres.
 - (b) The total building area, including accessory buildings, shall not occupy more than 40% of the total lot area. Accessory buildings shall not occupy more than 5% of the total lot area.
 - (c) The maximum density shall be two people per unit and 30 people per acre.
 - (d) The minimum habitable space shall be 500 square feet for apartment units. Each dwelling unit shall contain only one bedroom, and no dwelling unit shall contain two bedrooms.
 - (e) Driveway and interior roadways shall no be closer than 10 feet to property lines, except for entrances and exits.
 - (f) Parking areas will conform to § 160-13 of this chapter.
 - (g) A minimum of 10% of the parking area should be landscaped with trees, grass, shrubs or other planting material. A complete landscaping plan indicating all proposed planting shall be part of the applications.
 - (h) All utilities to the building or portions thereof or for accessory buildings shall be below grade.
 - (i) No business or commercial establishments shall be permitted, except coin-operated vending machines and/or coin-operated service machines, which shall be located in another area not to exceed 400 square feet.
 - (j) Additional site development programs may be directed by the Village Planning Board for any specific site restrictions.
 - (k) The Village Planning Board may require any additional conditions which it deems necessary to protect the value of adjacent properties or to prevent any hindering of the appropriate use of adjacent land.
 - (l) The Village Planning Board shall refer any such project under its review to the Village Board for a determination of the sufficiency of all access roads, sidewalks, etc.

ARTICLE V
Administration and Enforcement

§ 160-27. Village Planning Board.

- A. Creation, appointment and organization. There shall be a Village Planning Board of five members, appointed pursuant to the provisions of Village Law § 7-718. The terms of the first appointed members shall be set so that the term of one member shall expire on March 1, 1991, one member's term shall expire on March 1, 1992, one member's term shall expire on March 1, 1993, one member's term shall expire on March 1, 1994, and another member's term shall expire on March 1, 1995. Thereafter, each appointment shall be for a term of five years. The Chairperson and Vice-Chairperson shall be appointed by the Village Mayor, subject to the approval of the Board of Trustees, from among the members of the Planning Board. ⁸
- B. Powers and duties. The Planning Board shall have all of the powers and duties prescribed by Law and this ordinance, which shall include but not be limited to, the following:
- (1) Authority to prepare amendments to the Village Comprehensive Plan, subject to adoption by the Board of Trustees. ⁹
 - (2) Review and approval of subdivision plans.
 - (3) Review and approval of special use permits and site plan approval.
 - (4) Preparation, review and approval of amendments to the Village's Official Map.
 - (5) Review of any proposed amendment to the Village Zoning Local Law.
- C. Procedure.
- (1) Procedure for the application for a special use permit, and site plan approval are as set forth in Article VI.
 - (2) Procedure for the application of subdivision approval are as set forth in Chapter 130, Subdivision of Land, Article II.

§ 160-28. Zoning Board of Appeals.

- A. Creation, appointment and organization. There shall be a Village Zoning Board of Appeals of five members appointed pursuant to the provisions of Village Law § 7-712. Each appointment shall be for a term of five years. Appointments after May 1, 1995, shall be staggered so that each position shall expire in a successive year. The Chairperson and Vice Chairperson shall be appointed by the Mayor, subject to the approval of the Village Board of Trustees. [Amended 2-9-2004 by L.L. No. 1-2004]
- B. Powers and duties. The Zoning Board of Appeals shall have all of the powers and duties prescribed by law and this chapter, which shall include, but not be limited to, the following:

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

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

- (1) Interpretation. On appeal from an order, requirement, decision or determination made by an administrative official, or on request by any official, board, or agency of the Village, to decide the following questions:
 - (a) The meaning of any portion of the text of this chapter, or of any condition or requirement specified under the provisions of this chapter.
 - (b) The exact location of any district boundary shown on the Zoning Map.
 - (2) Appellate review. The Zoning Board of Appeals shall be the appellate body deciding on appeal any administrative decision of the Village Building Inspector, including, but not limited to, the existence of a prior nonconforming use, the refusal of the Building Inspector to issue building permits and/or certificates of occupancy.
 - (3) Variances: to authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, there are unnecessary hardships in the way of carrying out the strict letter of this chapter, subject to terms and conditions to be fixed by the Zoning Board of Appeals and in conjunction with the criteria set forth in Village Law § 7-712b. [Amended 2-9-2004 by L.L. No. 1-2004]
 - (a) The needs or desires of a particular owner or tenant, or of a particular prospective owner or tenant, shall not, either alone or in conjunction with other factors, afford any basis for the granting of a variance. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded, or in disrepair, or the fact that the property is then unimproved, shall not be deemed to make the plight of the property unique or to contribute thereto.
 - (b) Where said Board finds the zoning classification of a particular property to be conducive to the deprivation of the reasonable use of the land or buildings, and where said Board finds the same condition to apply generally to other land or buildings in the same neighborhood or zoning district, the Board shall call this condition to the attention of the Village Board.
 - (c) In all cases where the Board of Appeals grants a variance from the strict application of the requirements of this chapter, it shall be the duty of such Board to attach such conditions and safeguards as may be required in order that the result of its action may be as nearly as possible in accordance with the spirit and intent of this chapter.
- C. Procedure. The powers and duties of the Zoning Board of Appeals shall be exercised in accordance with the following procedure:
- (1) The Board of Appeals shall not decide upon any appeal for a variance or interpretation of this chapter without first holding a public hearing, notice of which hearing, including the substance of the appeal or application, shall be given by publication in the official newspaper of the Village at least five days before the date of such hearing. In addition to such published notice, the Board of Appeals shall cause such notice to be mailed at least five days before the hearing to all owners of properties within 300 feet of the boundary of the property affected by the proposed

application and to such other owners as the Board of Appeals may deem advisable. The applicant shall erect a white-with-black-lettering sign or signs measuring not less than two feet high and one foot wide, which shall be prominently displayed on the premises facing each public street on which the property abuts, giving notice that an application for an appeal is pending and the date, time, and place where the public hearing will be held. The sign shall not be set back more than 10 feet from the property or street line and shall be not less than two nor more than six feet above the grade at the property line. The sign shall be displayed for a period of not less than 10 days immediately preceding the public hearing date or any adjournment date. The names of said owners shall be taken as they appear on the last completed tax roll of the Village. Provided that due notice shall have been published and that there shall have been substantial compliance with the remaining provisions of this section, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Board of Appeals in connection with the granting of any appeal or variance. [Amended 2-9-2004 by L.L. No. 1-2004; 7-26-2006 by L.L. No. 1-2006]

- (2) All appeals and applications made to the Board of Appeals shall be in writing, and shall be accompanied by the required fee payable to the Village. The fee filed in connection with applications shall not be returnable regardless of disposition of the case by the Board.
- (3) Each appeal or application shall fully set forth the circumstances of the case, shall refer to the specific provision of the ordinance involved and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the variance that is applied for, and the grounds on which it is claimed that the same should be granted.
- (4) Prior to the date of any public hearing, the secretary of the Zoning Board of Appeals shall transmit to the secretary of the Planning Board a copy of any appeal or application, together with a copy of the notice of such hearing. The Planning Board may submit to the Board of Appeals an advisory opinion on said appeal or application at any time prior to the rendering of a decision by the Board of Appeals.
- (5) Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board, shall fully set forth the circumstances of the case, shall contain a full record of the findings on which the decision is based, and, if such decision is not in accordance with the recommendation of the Planning Board, the reasons therefor. Every decision of said Board shall be by resolution and each such resolution shall be filed in the office of the Village Clerk by case number, under one of the following headings: "Interpretation," or "Variances," together with all documents pertaining thereto. Regarding their decision in each case, the Board of Appeals shall notify the Building Inspector, Village ZBA Board and Village Planning Board.
- (6) The secretary shall keep minutes of the Board's proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The secretary shall keep records of the Board's examinations and official actions, all of which shall be immediately filed in the office of the Village Clerk and shall be a public record.

- (7) All decisions shall be made within 62 days of the final hearing.
- (8) All provisions of this chapter relating to the Zoning Board of Appeals shall be strictly construed. Said Board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this chapter and in compliance with all limitations contained therein.
- (9) Unless construction is commenced and diligently pursued within six months of the date of the granting of a variance, such variance shall become null and void, unless renewed upon application to the Board of Appeals.

§ 160-29. Fees.

- A. All fees shall be set by the Village Board.
- B. All fees shall be paid with the application.
- C. Fees shall include any expenses incurred by the Village in considering the application.

ARTICLE VI

Special Use Permits, Site Plans and Environmental Impact Statements

§ 160-30. Standards for special permits.

- A. All uses listed in the Schedule of Permitted Uses¹⁰ as special uses are declared to possess characteristics of such unique and distinct form that each specific use shall be considered as an individual case, and they shall conform to, but not be limited to, the following general requirements as well as the pertinent supplementary regulations. All special uses are subject to the requirements of § 160-31, Site plan approval.
- B. General provision. The special uses for which conformance to additional standards is required by this chapter shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth therein in addition to all other requirements of this chapter.
- C. Preapplication meeting. Applicants are encouraged to meet with the Planning Board prior to submitting a formal application. The preapplication interview can be useful to discuss concepts, clarify procedures and coordinate all applicable zoning requirements as they appear throughout this chapter.
- D. Application and referral. Application for a special permit shall be made, in writing, to the Planning Board. The Planning Board shall fix a time within 62 days from the day an application for special permit is accepted for a public hearing on the application. Public notice shall be given by publication in the newspaper of such hearing at least five days prior to the date of the public hearing. The Secretary of the Planning Board will record in the minutes of the hearing the names of any of the property owners who qualify under terms of Subsection F below who object to the granting of the special permit and the reasons why, such information to be given consideration in arriving at a permit decision.

10. Editor's Note: Said schedule is included at the end of this chapter.

Within 62 days of said hearing, the Planning Board shall approve, approve with modifications or disapprove the special permit. The decision of the Planning Board shall be filed in the office of the Village Clerk. No building permit shall be issued for special uses until the provisions of this section have been met. [Amended 2-9-2004 by L.L. No. 1-2004; 7-26-2006 by L.L. No. 1-2006]

- E. Coordination of special permits and site plan review. All land uses granted by special permit will require completion of site plan review requirements. Applicants shall submit special permit and site plan applications simultaneously. Site plan review requirements are enumerated in § 160-31 of this article.
- F. Notice to abutting property owners. At the time of the application to the Planning Board, the Planning Board shall cause a notice of the application to be mailed to all owners of properties within 300 feet of the boundary of the property affected by the proposed application. [Amended 7-26-2006 by L.L. No. 1-2006]
- G. Required plan. A plan for the proposed development of a site for a special use shall be submitted to the Planning Board with an application for a special permit. The plan shall be drawn to a scale of 20 feet to an inch or larger and shall show:
 - (1) The location, proposed use, design and height of all buildings and structures.
 - (2) The location and size of all parking and truck loading areas with access and egress drives thereto.
 - (3) The location of outdoor storage, if any.
 - (4) The location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
 - (5) A description of the method of hooking up to the Village water and sewage system.
 - (6) The location, height and size of all signs.
 - (7) The location and proposed development of buffer areas.
 - (8) The location and design of lighting, power and communication facilities.
 - (9) The amount of building area proposed for retail sale uses, if any.
 - (10) Any proposed division of buildings into units of separate occupancy.
 - (11) Explanation of noise production, emanation of fumes; implications of equipment causing vibrations and/or electromagnetic radiation; and other anticipated installations that may impact upon neighbors or affect the total interest of the Village.
- H. Planning Board report, considerations and scope. The Planning Board, after public notice and hearing in the same manner as required under law for the consideration of variances, may approve the issuance of a permit, provided that it shall find that all of the following conditions and standards have been met:
 - (1) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location

of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

- (2) The location, nature and height of buildings, walls and fences and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
 - (3) Operations in connection with any special use will not be offensive, potentially dangerous, destructive of property values and basic environmental characteristics or detrimental to the total interest of the Village and not be more objectionable to nearby properties by reason of noise, fumes, vibration, electromagnetic radiation, flashing of lights and similar nuisance conditions than would be the operations of any permitted use not requiring a special permit.
 - (4) Parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.
 - (5) The use conforms in all respects to all the regulations of this chapter and particularly to the specific supplementary regulations that may apply to such use. All special use permits shall meet the requirements of landscaping listed in § 160-31.
 - (6) The Planning Board shall require additional conditions and safeguards to the special permit as are necessary to assure continual conformance to all applicable standards and requirements.
 - (7) The use will be connected to the Village sewer and water system.
- I. If the Planning Board indicates that all applicable requirements have been met and approves the special use it shall issue the permit for which application has been made, including such conditions and safeguards to the permit as have been required. The Building Inspector shall not issue the permit for which the application has been made until receipt of a written permit approval from the Planning Board. ¹¹
 - J. Expiration of special permits. A special permit shall be void if construction is not started within one year and completed within two years of the date of the final special permit approval, except that such special permit approval may be renewed by the Planning Board at its discretion.
 - K. Revocation of special permits. Special permits may be revoked in the event of substantial deviation from the approved special permit.
 - L. Existing violations. No permit shall be issued for a special use for a property upon which there is an existing violation of the Village Zoning Law.
 - M. Referral. The Planning Board shall comply with the provisions of Article 12-B, §§ 239-l and 239-m of the General Municipal Law, as amended, and refer to the Columbia County Department of Planning such special permit applications as are within its jurisdiction.

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

§ 160-31. Site plan approval.

- A. Purpose. The purpose of this article is to insure that the site plan, architectural plans and location and dimension of buildings shall be of such character as to harmonize with the neighborhood, to accomplish a transition in character between areas of unlike character, to protect property values and to preserve and enhance the appearance and beauty of the community and to avoid an adverse impact on adjacent land uses.
- B. Applicability.
- (1) No building permit may be issued without conformance to this section. Prior to issuing a building permit or certificate of occupancy for any building or structure or use, other than a single- or two-family dwelling or their accessory buildings or structures, the Building Inspector shall require the preparation of a site plan for review and approval by the Planning Board. Additionally, site plan review is required in the Conservation District for any and all uses, and in the instance of nonconforming uses, a site plan is required for all applications for changes or modifications in nonconformity in any district. [Amended 7-26-2006 by L.L. No. 1-2006]
 - (2) Where site plan approval is required by this chapter, no building permit, and in the case of a change of use, no certificate of occupancy, shall be issued by the Building Inspector until such a plan shall have been approved by the Planning Board. No certificate of occupancy shall be issued for such premises until all of the requirements of the Planning Board's approval, including any conditions attached thereto, shall have been met. [Amended 2-9-2004 by L.L. No. 1-2004]
 - (3) Continued conformance with such plan and requirements, including the maintenance of all improvements, shall be a condition of the continued validity of the certificate of occupancy.
 - (4) Revisions of such plans shall be subject to the same approval requirements. One customary retail use can be substituted for another, without additional review, provided that it does not constitute an intensification of use or changes to the original site plan.
 - (5) The Planning Board may, subject to final approval by the Village Board, and subsequent to a public hearing, adopt such rules and regulations as it deems necessary to properly exercise this power of site plan review.
- C. Application procedures.
- (1) In the case of a use conversion which does not require additional construction or site modifications, or in the case of minor changes requiring a building permit, the Planning Board may determine that the site plan application procedures outlined herein are not applicable. This determination shall be made by the Planning Board in writing after receipt of a recommendation from the Building Inspector. [Amended 2-9-2004 by L.L. No. 1-2004]
 - (2) In all other cases covered by the provisions of this chapter, applications for site plan approval shall be presented to the Planning Board 10 days prior to a scheduled public

meeting and shall be made prior to the application for a building permit.

- (3) The application shall be complete and in a form acceptable to the Planning Board and be accompanied by a detailed site plan prepared by a qualified individual or firm, including but not limited to a registered architect, professional engineer, licensed land surveyor or landscape architect and shall contain at least the following information:
 - (a) A location map, at a convenient scale, showing the applicant's entire property and all easements and streets within 500 feet of the applicant's property.
 - (b) The proposed location, size, use and architectural design of all buildings and structures.
 - (c) Any proposed division of buildings into units of separate occupancy.
 - (d) Existing topography and proposed grade elevations at a contour interval of not more than five feet, unless otherwise specified by the Planning Board; soil types; designated wetlands; fifty-year floodplain areas; terrain with slopes in excess of 10%; and the location of all trees with a diameter greater than eight inches (diameter breast high-[DBH]).
 - (e) The location and capacity or number of all existing and proposed roads, parking and truck loading areas, including access and egress drives.
 - (f) The location of outdoor storage, if any.
 - (g) The location, description and design of all existing and proposed site improvements, including pavement, walks, curbing, drains, culverts, retaining walls and fences, parks, open space and recreation facilities.
 - (h) A description of the method of sewage disposal and location of such facilities.
 - (i) A description and the location of all water supply facilities, including mains, hydrants and storage tanks.
 - (j) The location, height, design and size of all signs.
 - (k) Identification of proposed landscaping and buffer screening areas.
 - (l) The location and design of lighting and communication facilities.
 - (m) The location, type and design of all waste handling facilities.
 - (n) The character and location of all power distribution and transmission lines.
 - (o) The location and description of all subsurface site improvements and facilities.
 - (p) Landscaping: grading and landscaping plan.
 - (q) Cut and fill: extent and amount of cut and fill for all disturbed areas, including before-and-after profiles of typical development areas, parking lots and roads.
 - (r) Stormwater retention. Adequate provisions for the handling of stormwater runoff shall be made: methods to include retention, piping or channeling to

existing drainage systems (all subject to Columbia County Department of Health approval) during and after construction.

- (s) A signature block for Planning Board endorsement of approval, the applicant's name and address, North arrow, scale and date.
 - (t) Additional information. At the request of the Planning Board, any other pertinent information as may be necessary to determine and provide for the proper enforcement of specific provisions of this chapter shall also be provided.
 - (u) SEQR. No application shall be deemed complete without compliance with State Environmental Quality Review (SEQR), including an environmental assessment form (EAF) and, where necessary, a lead agency determination, a negative or positive declaration and the submission of an acceptable draft environmental impact statement (DEIS).
 - (v) Exceptions. For minor site development plans, or in other appropriate circumstances, the Planning Board may waive the provision of any items of information listed in this section.
- (4) Appeals. Denial of any waiver or any disagreement with the Planning Board's interpretation of any provision of this chapter may be appealed to the Zoning Board of Appeals.

D. Public hearing and action by Planning Board.

- (1) The Planning Board shall hold a public hearing, notice of which hearing, including the substance of the appeal or application, shall be given by publication in the official newspaper of the Village at least five days before the date of such hearing. In addition to such published notice, the Planning Board shall cause such notice to be mailed at least five days before the hearing to all owners of properties within 300 feet of the boundary of the property affected by the proposed application and to such other owners as the Planning Board may deem advisable. The names of said owners shall be taken as they appear on the last completed tax roll of the Village. [Amended 7-26-2006 by L.L. No. 1-2006]
- (2) Within 62 days of the date of adjournment of public meeting, the Planning Board shall act to approve, approve with modifications or disapprove the proposed site plan. A copy of the Board's decision shall be filed in the offices of the Village Clerk, the Building Inspector and a copy thereof mailed to the applicant. [Amended 2-9-2004 by L.L. No. 1-2004]
- (3) Within 60 days of the date of approval or approval with modifications, the applicant shall present to the Planning Board a corrected final site plan in reproducible form, including any modification required by the Planning Board as a condition of its approval. Upon verification by the Planning Board that the plan complies with the requirements of the Board, the plan shall be endorsed by the Planning Board Chairperson and properly filed with the Building Inspector, the Planning Board and the Village Clerk. [Amended 2-9-2004 by L.L. No. 1-2004]

E. Planning Board standards for site plan approval.

- (1) In preparing its decision concerning any site plan application, the Planning Board shall consider the nature, arrangement and appearance of all buildings and uses of the lot, including their potential impact on adjacent properties, architectural features and land uses, so that:
 - (a) They will have a harmonious relationship with the existing and planned development of contiguous lands and adjacent neighborhoods.
 - (b) They will have no material adverse effect upon the desirability of such neighborhoods for the uses contemplated by this chapter.
 - (c) They will be properly related to the proposals of the Village Comprehensive Plan.
 - (d) Pedestrian and vehicular access, traffic circulation and the general layout of the site are properly planned with regard to the safety of cars and pedestrians using the site, as well as those on neighboring properties and streets.
 - (e) The site plan shall reflect an awareness of and sensitivity to the views, terrain, soils, plant life and other unique qualities of the site and shall, to the maximum extent possible, preserve and enlarge upon these assets for recreation, scenic or conservation purposes.
 - (f) In the case of a multifamily or nonresidential use abutting or directly across a local street from a one- or two-family residence district, a buffer strip of landscaping shall be required along all such property lines. Such buffer strips shall comply with at least the following minimum standards:
 - [1] It shall be evergreen planting of such type, height, spacing and arrangement as will effectively screen the activity of the lot from the neighboring residential area. Non-evergreen planting may be included to supplement evergreen planting, but not to take its place.
 - [2] It shall be at least 20 feet in width.
 - [3] A wall or fence of approved location, height, design and materials may be substituted for part of the required buffer area.
 - [4] Where the existing topography and/or landscaping provides adequate screening, the Planning Board may modify the planting and/or buffer area requirements.
 - (g) The proposed use, buildings and other structures, including outside storage areas, recreational areas, site development, landscaping and off-street parking and loading, shall conform to all of the requirements of this chapter, Subdivision of Land,¹² the Highway Specifications and all other applicable Village laws.
 - [1] Refuse storage. All outside trash receptacles shall be so designed and

12. Editor's Note: See Ch. 130, Subdivision of Land.

constructed as to allow no view of the trash storage from the street or adjacent properties and shall be located within an enclosed structure and shall be at least as high as the trash receptacles.

- [2] Lighting. Exterior lighting proposed for use on the site shall be planned, erected and maintained so the light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way. The light source shall not be higher than 20 feet and shall not be visible from adjacent properties or public rights-of-way.

(h) The site must be connected to the Village sewer and water system.

- (2) In acting to approve, whether with or without modifications, a site plan application, the Planning Board shall attach such conditions and safeguards as it deems necessary to assure that the purpose and intent of these regulations will be complied with.
- (3) A site plan shall be void if construction is not started within one year and completed within two years of the date of final site plan approval, except that such site plan approval may be renewed by the Planning Board at its discretion.
- (4) Performance bonds. The applicant may be required to post performance bonds pursuant to local law in sufficient amounts and duration to assure that all streets or other public places shown on the site plan shall be suitably graded and paved and that street signs, sidewalks, street lighting standards, curbs, gutters, street trees, water mains, fire alarm signal devices, including necessary ducts and cable or other connecting facilities, sanitary sewers and storm drains or combined sewers, shall all be installed in accordance with standards, specifications and procedures acceptable to the appropriate Village departments.

F. Referral. The Planning Board shall comply with the provisions of Article 12-B, §§ 239-1 and 239-m of the General Municipal Law, as amended, and refer to the Columbia County Department of Planning all site plan applications that are within its jurisdiction.

§ 160-32. Environmental impact statements.

If a major impact is identified in the State Environmental Quality Review (SEQR) procedure, the Planning Board reserves the right to request a long environmental assessment form. In addition to state requirements, this statement shall apply to all commercial, office and industrial developments on sites of five acres or more and to all multifamily residential developments. The Planning Board may require the applicant, at his or her own expense, to furnish the basic components of an environmental assessment form.

ARTICLE VII

Conversion from Business to Residential Use; Descriptions of Boundaries of Selected Zoning Districts

§ 160-33. Conversion of business uses to residential uses; boundary descriptions.

A. Notwithstanding anything else contained herein, within the General Business, Mill and Mill II Districts, the storefront and frontage area of a building or structure shall not be

reduced and converted to residential use where such area had previously served as store, storefront or retail business space. [Added 7-26-2006 by L.L. No. 1-2006¹³]

- B. All lot numbers referenced herein are the tax lot number for the parcel as shown on the Village of Philmont 1989 tax maps filed in the Columbia County Assessor's office, Columbia County Courthouse, Hudson, New York.
- C. Descriptions contained herein are for purposes of reference and amplification of the boundaries set forth in the Zoning Map of the Village of Philmont. In case of discrepancies between these descriptions and the descriptions set forth on said map, the map descriptions shall control.
- D. The boundaries of all districts and parcels not described herein follow property lines as shown in the 1989 tax maps.
 - (1) Conservation District: all land within a distance of 125 feet of the high-water mark of the reservoir from the inlet of said reservoir continuing clockwise to the outlet of said reservoir, thence a distance of 15 feet of the high-water mark of the reservoir from the outlet of said reservoir clockwise through and including Tax Map Lot 113.09-03-73 thence a distance of 50 feet from the high-water mark from the southeast corner of Tax Map Lot 113.09-03-73 to the inlet of said reservoir and within the reservoir itself. In the event of any discrepancy, this description governs over the Zoning Map of the Village of Philmont. [Amended 6-23-2010 by L.L. No. 1-2010]
 - (2) Tax Map Parcel 113.10-01-09: All that portion of this parcel west of a point beginning at the eastern corner of Tax Map Parcel 113.09-03-35 and ending at the eastern corner of Tax Map Parcel 113.10-01-08 shall be in the Hamlet I District; all remaining portions of the lot shall be in the Rural District.
 - (3) Tax Map Parcel 112.12-01-64: All that portion of this parcel within 171.34 feet of Route 217 shall be within the Commercial District. All the remaining portion of the parcel shall be in the H-I District.
 - (4) Rural Low Density: All parcels fronting on the east side of Summit Street from the south boundary of 113.13-01-13 to the south boundary of 113.13-02-37.000, except Parcel 113.13-02-33 shall be in the RLD District in their entirety. The front 200 feet of all parcels on the east side of Summit Street south of 113.13-02-37.000 to the Village limits shall be in the RLD District; also, the front 200 feet of all parcels fronting on the on the west side of Summit Street, south of the Agawamuck Creek to the Village limits.
 - (5) Mill District: Tax Map Parcel 113.13-01-54.000.
 - (6) The RSC District: all that portion of property of the Homestead Tree Farm Inc., situated on Route 217 and containing a width of 402 feet on Route 217 and a depth of 300 feet from the road, all as shown on a site plan prepared by Robert C. Kurzon Architects; containing 2.00 acres of land.

13. Editor's Note: Pursuant to L.L. No. 1-2006, former Subsections A, B and C were redesignated as Subsections B, C and D, respectively.

- (7) Those portions of the former Penn Central Railroad bed shall have the same zoning as the adjoining parcel owned by the same owner on June 30, 1997. Those parcels not owned by an individual with adjoining land shall be in the Hamlet-II (H-II) Zone.

ARTICLE VIII
Definitions

§ 160-34. Word usage.

- A. Unless the context clearly indicates the contrary, words used in the present tense include the future, the singular number includes the plural, and the plural the singular.
- B. The word "person" includes a profit or nonprofit corporation, company, partnership or individual.
- C. The words "shall" and "must" are mandatory and not discretionary; the word "may" is permissive.
- D. The word "lot" includes the word "plot" and the word "land."
- E. The word "structure" includes the word "building."
- F. The word "use" refers to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use; and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use, or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention or design of using the same.
- G. The word "used" or "occupied," as applied to any land or building, or part thereof, shall be construed to include the words "intended, arranged or designed to be used or occupied."

§ 160-35. Terms defined.

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

ACCESSORY USE, BUILDING OR STRUCTURE — A subordinate use, building or structure customarily incidental to and located on the same lot occupied by the main use, building or structure. The term "accessory building" may be, but is not limited to, a private garage, garden shed, a private playhouse and a private greenhouse. 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.

AGRICULTURE — The raising of crops, animals and animal products; forestry; other commonly accepted agricultural operations for commercial purposes, including the sale of products grown on the premises.

ALTERATION — As applied to a building or structure, a change or rearrangement of the walls, roof, ceiling, floors, supporting beams, columns, or other structural parts; the exterior architectural features; or of the exit facilities of a structure; or the enlargement, whether by extending on a side or by increasing in height; or the moving of a building from one location to another.

APARTMENT-HOTEL — A building or portion thereof arranged, intended or designed for or containing both dwelling units and individual guest rooms or suites of rooms, not primarily for transients.

AQUIFER — An underground bed or stratum of earth, gravel or porous stone that contains water.

AREA

A. **LOT AREA** — The total area contained within the property lines of an individual parcel of land, excluding any area within an existing street right-of-way.

B. **BUILDING AREA** — The total of areas taken on a horizontal plane at the main grade level of the principal building and of all accessory buildings, exclusive of steps and ramps.

C. **CROSS FLOOR AREA** — That measure from the outside of the perimeter walls, on all levels, inclusive.

AUTOMOBILE OR TRAILER SALES AREA — An open area, other than a street or public place, used for the display, barter, purchase, sale or rental of new or used motor vehicles or trailers, and where no repair work is done except minor incidental repair of vehicles to be displayed, sold or rented on the premises.

BAR — A structure or part of a structure primarily for the sale or distribution of liquor by the drink.

BASEMENT — The space of a building partly underground but having less than 1/2 of its clear height below finished grade.

BED-AND-BREAKFAST — An owner-occupied dwelling unit that contains facilities for not more than 10 persons with no more than five sleeping rooms where lodging, with or without meals, is provided for compensation. [Amended 7-26-2006 by L.L. No. 1-2006]

BILLBOARD — A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed or only incidentally sold, offered or existing upon such lot.

BUFFER STRIP — Land area used to visibly separate one use from another or to shield or block lights, noise or other nuisances.

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

BUILDING INSPECTOR — The official Building Inspector of the Village.

CAMPGROUND or CAMPSITE — A property providing four or more sites for the parking of occupied travel trailers, the erection of tents or other shelters serving as temporary residences, as defined by Part 7 of the New York State Sanitary Code, and all buildings and facilities pertaining thereto.

CELLAR — The space of a building partly underground and having 1/2 or more of its clear height below finished grade.

CLUB — Any organization catering exclusively to members and their guests.

CLUBHOUSE — Premises and buildings for recreational, sport, athletic, professional or other similar purposes, which are not conducted primarily for gain, provided there are not any vending stands, merchandising or commercial activities except as required for the membership and purposes of such club; said premises are not adjunctive to, or operated by, or in connection with a public tavern, cafe or other public place. This shall not be construed as preventing the utilization of a club building for benefits or performance for a recognized charity; nor for the meeting of other organizations, nor for educational and cultural purposes.

COMPREHENSIVE PLAN — The materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the Village.¹⁴

CONDOMINIUM — A multiple-family dwelling/apartment house or houses, the units of which are individually owned, each owner receiving a deed enabling the sale, mortgage or exchange of the dwelling unit independent of the owners of the other units in the building or buildings.

COVERAGE — That percentage of the lot area covered by the combined area of all buildings or structures on the lot.

DAY-CARE CENTER — A facility duly permitted by the New York State Department of Social Welfare for the care of six or more children for less than 24 hours each day.

DECIBEL (db) — A unit of sound pressure level. The noise level in an average residence is about 50 decibels.

DISTRICT — A part, zone or geographic area within the Village to which certain zoning or development regulations apply.

DWELLING — A building designed or used exclusively as living quarters of one or more persons; the term shall not be deemed to include an automobile court, motel, boarding or rooming house, mobile home trailer, tourist home or tent.

- A. **DETACHED DWELLING** — A dwelling having no party wall in common with another building.
- B. **MULTIPLE-FAMILY DWELLING (APARTMENT HOUSE)** — A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other.
- C. **ONE-FAMILY DWELLING** — A building containing one dwelling unit and designed or used exclusively for occupancy by one family.
- D. **ROW DWELLING** — A row of attached or semi-detached, one-family dwellings or two-family dwellings, containing a total of three or more dwelling units; or a building in such a row.
- E. **TWO-FAMILY DWELLING** — A building designed for and occupied exclusively as a

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

home or residence for two families.

- F. DWELLING UNIT — One or more rooms, including cooking facilities and sanitary facilities in a dwelling structure, designed as a unit for occupancy by not more than one family for living and sleeping purposes; may be known as an "apartment" or "auxiliary apartment."

ESSENTIAL SERVICES — The erection, construction, alteration or maintenance by public utilities or the Village or other governmental agencies of underground, surface or overhead electrical, gas or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories, in connection with the reasonably necessary furnishing of adequate service by such public utilities or Village or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

FAMILY — One or more persons living together as a single, nonprofit housekeeping unit or household.

FARM — Any parcel of land which is used for agriculture.

FENCE — A structure designed either to limit access to a land area or to screen such area from view, or both.

FILLING STATION — A building or lot or part thereof supplying or selling gasoline or other fuel for motor vehicles at retail direct from pumps and storage tanks. A filling station may include accessory facilities for rendering service for motor vehicles, such as lubrication, washing and minor repairs.

FOUNDATION — A wall or pier extending at least four feet below grade or an equivalent load-bearing structure certified by a licensed professional engineer, having a fixed location on the ground and capable of serving as a support for a structure or structural part of a building, such as a wall, pier or column. All foundations shall meet the relevant criteria set forth in the New York State Uniform Fire Prevention and Building Code applicable to general building construction.¹⁵

FUNERAL HOME — A dwelling or other structure used and/or occupied by a professional licensed mortician for burial preparation and funeral services.

GARAGE — A building used for storage of motor vehicles, boats and trailers.

- A. COMMERCIAL GARAGE — A building designed or used for the rental of more than two interior parking spaces or used for the maintenance, repair or other commercial activity in relation to automotive vehicles.
- B. PRIVATE GARAGE — A building, accessory to dwellings, used exclusively for the parking or temporary storage of motor vehicles, boats, trailers and small motor machines such as, but not limited to, mowers, snow blowers, and tillers for noncommercial use.

ESTABLISHED GRADE — The elevation of the center line of the street as officially

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

established by the Village.

FINISHED GRADE — The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

GROSS FLOOR AREA — The sum of gross horizontal areas of the several floors of a building measured from the interior faces of interior walls, exclusive of roof areas.

GROUP HOME — A dwelling that houses no more than eight unrelated individuals who live as a single housekeeping unit under a common housekeeping nonprofit management, under a plan based on an intentionally structured relationship providing organization and stability. This is also known as a "community residence."

HABITABLE SPACE — Space used for living, sleeping, eating or cooking purposes; excluding kitchenettes, bathrooms, toilet rooms, storage spaces and enclosures for equipment installations.

HEIGHT OF STRUCTURE — The vertical distance measured from the average elevation of the finished grade along the side of the structure fronting on the nearest street to the highest point of such structure.

HOME OCCUPATION — An accessory use of a service character customarily conducted entirely within a dwelling or an accessory building by the residents thereof; except that no more than one person, not a resident of the dwelling, may be employed. This use is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small nameplate.

INN — A single structure affording accommodation such as lodging, food and entertainment according to the terms of this chapter.

INSTITUTIONAL USE — Unless specifically defined elsewhere, includes hospitals, nursing homes, sanatoriums, correctional institutions or other institutions of a similar public or semi-public nature.

JUNKYARD — Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery, or two or more unregistered, inoperable motor vehicles or other types of junk.

LAUNDRY — A business premises equipped with individual clothes-washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use.

LOT — A parcel of land, not divided by streets, devoted or to be devoted to a particular use or occupied or to be occupied by a building and its accessory buildings, together with such open space as required under the provisions of this chapter, and having its principal frontage on a street or on such other means of access as may be deemed in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for building/s or structure/s on such land.

A. **LOT, CORNER** — A lot abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135°. The point of intersection of the street lot lines is the "corner."

- B. LOT DEPTH — The horizontal distance between the front and rear lot lines measured along the medians between two side lot lines.
- C. LOT LINES — The property lines bounding the lot.
 - (1) LOT LINE, FRONT — The line separating the lot from the street.
 - (2) LOT LINE, REAR — The lot line opposite and most distant from the front lot line.
 - (3) LOT LINE, SIDE — Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a "side street lot line."
 - (4) LOT LINE, STREET — A lot line separating the lot from a street.
- D. LOT WIDTH — The distance between the two side lot lines measured at the required setback line.
- E. LOT, INTERIOR — A lot other than a corner lot.

LOT, NONCONFORMING — Any district lot where the owner/s of said lot does not own any adjoining property, the subdivision of which would create one or more conforming lots, which does not conform with the minimum width, depth and area dimensions specified for the district in which said lot is located.

MOBILE HOME — A dwelling unit manufactured in one or more sections, designed for a long-term occupancy; containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connection provided for attachment to outside systems (which conforms with the Mobile Home Manufacturers Association "Mobile Home Standards for Plumbing, Heating and Electrical Systems"); and designed to be transported after fabrication on its own wheels or on a flatbed or other trailers; arriving at the site where it is to be occupied as a dwelling complete. The term does not include recreational vehicles or travel trailers limited in use to their intended purposes.

MODULAR HOME — A dwelling that is a factory-fabricated transportable building unit designed to be permanently located or used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential purposes.

NEIGHBORHOOD PARKING AREA — An area on one or more building lots devoted to car parking for occupants of adjoining or nearby dwellings and their guests.

NONCONFORMING STRUCTURE — A structure lawfully existing at the effective date of this chapter or any amendment thereto affecting such structure, which does not conform to the Table of Bulk and Coverage Regulations¹⁶ of this chapter for the district in which it is situated, irrespective of the use to which such structure is put.

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

NON-NUISANCE INDUSTRY — An industry which is not detrimental to the environment in

16. Editor's Note: The Table of Bulk Regulations/Coverage Limitations is included at the end of this chapter.

which it is located by reason of the emission of smoke, noise, odor, dust, vibration or excessive light beyond the limits of its lot, or by reason of generating excessive traffic with attendant hazards, and which does not include any outdoor processing of materials or open accessory storage yard unless completely enclosed by a solid wall or fence not less than six feet in height. [Added 7-26-2006 by L.L. No. 1-2006]

NUISANCE — An interference with the enjoyment and use of property.

PARKING AREA — A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money and/or other consideration which is held to be an area as prescribed in § 160-13.

PARKING SPACE — A stall or berth which is arranged and intended for parking of one motor vehicle in a garage or parking area.

PERMITTED USE — A specific main use of a building, structure, lot or land, or part thereof, which this chapter provides for in a particular district as a matter of right; any use which is not listed as a permitted or special use shall be considered prohibited use.¹⁷

PERSONAL SERVICE SHOP/STORE — Including, but not limited to barber shop, beauty parlor, professional studio and travel agency. [Added 6-23-2010 by L.L. No. 1-2010]

PRESCHOOL (also NURSERY SCHOOL) — A building or structure, together with its lot and its accessory uses, building or structure, used as an instructional facility for two or more enrolled children from two to five years of age, inclusive, other than the children of the resident family, and operated on a regular basis with a New York State license.

PROHIBITED USE — A use of a building, structure, lot or land, or part thereof, which is not listed as a permitted, special or accessory use.¹⁸

PUBLIC ASSEMBLY — Use or occupancy of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civil, social or religious functions, recreation, food or drink consumption or awaiting transportation. [Added 7-26-2006 by L.L. No. 1-2006]

RESIDENTIAL DISTRICTS — Defined in this chapter as Rural (R), Residential Low Density (RLD), Hamlet I (H-I), Hamlet II (H-II), Hamlet III (H-III) and Residential High Density (RHD).

RETAIL ESTABLISHMENTS — Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RESTAURANT — An establishment where food and drink is prepared, served and consumed primarily within the principal building.

RIDING SCHOOL — An establishment where horses are boarded and cared for and where instruction in riding, jumping and showing is offered and the general public may, for a fee, hire horses for riding.

17. Editor's Note: The Table of Permitted Uses and Special Use Permits is included at the end of this chapter.

18. Editor's Note: The Table of Permitted Uses and Special Use Permits is included at the end of this chapter.

SATELLITE DISH — An antenna, normally mounted on the ground, that attracts television signals which are beamed from satellites.

SIGN — A name, identification, description, display, or illustration or any other visual display which is affixed to, or painted, or represented directly or indirectly upon a building, structure or piece of land which directs attention to an object, product, place, activity, person, institution, organization or business, including any text, symbol, light, marks, letters or figures painted thereon or incorporated in the composition of an exterior surface of a building or structure.

- A. **SIGN, ADVERTISING** — A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises where the sign is located.
- B. **SIGN, PROFESSIONAL** — A temporary or permanent sign which directs attention to a resident's home, a home occupation, a home professional office, or a public or semi-public building.

SITE PLAN — The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, marshes and waterways, open spaces, walkways, means of ingress and egress, utility services, landscaping, structures and signs, lighting and screening devices; any other information that reasonably may be required in order that an informed decision can be made by the approving authority.

SLASH — An open place in a forest, cluttered with branches, chips or other debris, as from cutting of timber; a low, swampy area usually covered with brush.

SPECIAL PERMIT — Required for a use which, because of its unique characteristics, needs individual consideration in each case by the Planning Board before it may be permitted in the district enumerated in this chapter.

STREET — Any federal, state, county or municipal highway or road, or any street shown upon a subdivision plan filed in the County Clerk's office.

STRUCTURE — Anything constructed or erected on or under the ground or upon another structure or building; a combination of materials assembled at a fixed location to give support or shelter, including, but not limited to, a building, bridge, trestle, tower, frame reviewing stand, platform, bin, fence, sign, flagpole, stationary and portable carports, swimming pools, or the like.

SUBDIVISION — The division of a lot, tract or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale, development or lease.

SWIMMING POOL — Any body of water or receptacle for water having a depth at any point greater than two feet, used or intended to be used for swimming or bathing, and constructed, installed, or maintained in or above the ground inside or outside any building. Such pools are subject to safety regulations under New York State Health Department codes.

USE — Refers to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use, and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use, or erected, reconstructed, altered,

enlarged, moved or rebuilt with the intention or design of using the same. [Added 7-26-2006 by L.L. No. 1-2006]

VARIANCE — A modification of the regulations of this chapter, granted on grounds of practical difficulties or unnecessary hardship, not self-imposed, pursuant to the provisions of Article V of this chapter.

VETERINARY CLINIC — An office designed for the care and treatment of animals which also provides for the boarding of animals.

VETERINARY OFFICE — An office designed for the care and treatment of animals but which does not provide overnight accommodations.¹⁹

YARD — Any open space which lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as herein permitted.

- A. **YARD, FRONT** — An open space which lies between the principal building or group of buildings and the front lot line, unoccupied and unobstructed from the ground upward.
- B. **YARD, REAR** — An open space extending the full width of the lot between a principal building and the rear lot line, unoccupied and unobstructed from the ground upward.
- C. **YARD, SIDE** — An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied and unobstructed from the ground upward.

ZONING BOARD OF APPEALS — The municipal Zoning Board of Appeals; an officially constituted body whose principal duties are to grant variances from the strict application of the zoning law. [Amended 2-9-2004 by L.L. No. 1-2004]

ZONING ENFORCEMENT OFFICER — The administrative officer charged with the duty of enforcing the building code and the provisions of this chapter. This person may be the same individual holding the position of Building Inspector.

ARTICLE IX
Rules of Code Enforcement Officer
[Amended 12-11-2006 by L.L. No. 4-2006]

§ 160-36. Definitions.

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

BUILDING PERMIT — A permit issued pursuant to § 160-38 of this article. The term "building permit" shall also include a building permit which is renewed, amended or extended.

CERTIFICATE OF OCCUPANCY — A certificate issued pursuant to § 160-41.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer or officers appointed pursuant to § 160-37.

¹⁹ Editor's Note: The definition of "Village Attorney," which immediately followed this definition was deleted 2-9-2004 by L.L. No. 1-2004.

CODE ENFORCEMENT PERSONNEL — Includes the Code Enforcement Officer and all inspectors.

COMPLIANCE ORDER — An order issued by the Code Enforcement Officer pursuant to § 160-49.

ENERGY CODE — The State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

INSPECTOR — An inspector appointed pursuant to § 160-37 of this article.

OPERATING PERMIT — A permit issued pursuant to § 160-44 of this article. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this article.

PERMIT HOLDER — The person to whom a building permit has been issued.

PERSON — Includes an individual, corporation, limited-liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

STOP-WORK ORDER — An order issued pursuant to § 160-40 of this article.

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 160-41 of this article.

VILLAGE — The Village of Philmont.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

ZONING LAW — The Zoning Law of the Village of Philmont as adopted and amended.

§ 160-37. Code Enforcement Officer and inspectors.

- A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and the provisions of the Village of Philmont Zoning Law. The Code Enforcement Officer shall have the following powers and duties:
- (1) To receive, review, approve, disapprove or refer to either the Planning Board or the Zoning Board of Appeals in accordance with the Zoning Law, applications for building permits, certificates of occupancy, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
 - (2) Upon approval of such applications, to issue building permits, certificates of occupancy, temporary certificates and operating permits, and to include in building permits, certificates of occupancy, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
 - (3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy, temporary certificates and operating permits, firesafety and

property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this article;

- (4) To issue stop-work orders;
 - (5) To review and investigate complaints;
 - (6) To issue orders pursuant to Subsection A of § 160-49, Violations, of this article;
 - (7) To maintain records;
 - (8) To collect fees as set by the Village of Philmont;
 - (9) To pursue administrative enforcement actions and proceedings;
 - (10) In consultation with the Village Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this article, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this article; and
 - (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this article.
- B. The Code Enforcement Officer shall be appointed by the Village Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Village Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this article.
- D. One or more inspectors may be appointed by the Village Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this article. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the Village Board.

§ 160-38. Building permits.

- A. Building permits required. Except as otherwise provided in Subsection B of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Code Enforcement Officer.
- B. Exemptions. No building permit shall be required for work in any of the following categories:
- (1) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (2) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely aboveground;
 - (3) Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
 - (4) Construction of temporary motion-picture, television and theater stage sets and scenery;
 - (5) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (6) Installation of partitions or movable cases less than five feet nine inches in height;
 - (7) Painting, wallpapering, tiling, carpeting, or other similar finish work;
 - (8) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
 - (9) Replacement of any equipment, provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
 - (10) Repairs, provided that such repairs do not involve:
 - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
 - (b) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
 - (c) The enlargement, alteration, replacement or relocation of any building system; or
 - (d) The removal from service of all or part of a fire protection system for any period of time.

- C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.
- D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
- (1) A description of the proposed work;
 - (2) The value of the proposed work;
 - (3) The tax map number and the street address of the premises where the work is to be performed;
 - (4) The occupancy classification of any affected building or structure;
 - (5) A statement of the use or occupancy of all parts of the land and the proposed building or structure;
 - (6) A statement that the applicant consents to permit the code officer to enter upon the premises for purposes of inspection, monitoring, issuing orders or notices;
 - (7) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
 - (8) At least two sets of construction documents (drawings and/or specifications) which:
 - (a) Define the scope of the proposed work;
 - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
 - (c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
 - (e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Subsection D(8) of this section. Construction documents which are accepted as part of the

application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.

- F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.
- G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.
- I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this Subsection may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code, the Energy Code or the Zoning Law of the Village of Philmont, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that:
 - (1) All work then completed is in compliance with all applicable provisions of the Uniform Code, the Energy Code and the Zoning Law of the Village of Philmont; and
 - (2) All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code, the Energy Code and the Zoning Law of the Village of Philmont.
- K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 160-50, Fees, of this article must be paid at the time of submission of an application for a

building permit, for an amended building permit, or for renewal of a building permit.

§ 160-39. Construction inspections.

- A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection B of this section is ready for inspection.
- B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:
 - (1) Work site prior to the issuance of a building permit;
 - (2) Footing and foundation;
 - (3) Preparation for concrete slab;
 - (4) Framing;
 - (5) Building systems, including underground and rough-in;
 - (6) Fire-resistant construction;
 - (7) Fire-resistant penetrations;
 - (8) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
 - (9) Energy Code compliance; and
 - (10) A final inspection after all work authorized by the building permit has been completed.
- C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code, Energy Code and/or Village of Philmont Zoning Law. Work not in compliance with any applicable provision of the Uniform Code, Energy Code and Zoning Law shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code, Energy Code, and Zoning Law, reinspected, and found satisfactory as completed.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 160-50, Fees, of this article must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 160-40. Stop-work orders.

- A. Authority to issue. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:
 - (1) Any work that is determined by the Code Enforcement Officer to be contrary to any

applicable provision of the Uniform Code, Energy Code or Zoning Law, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or

- (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
 - (3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.
- B. Content of stop-work orders. Stop-work orders shall be in writing, be dated and signed by the Code Enforcement Officer, state the reason or reasons for issuance, and, if applicable, state the conditions which must be satisfied before work will be permitted to resume.
- C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by USPS certified mail, return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order personally or by USPS certified mail, return receipt requested; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.
- D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order.
- E. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subsection A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 160-49, Violations, of this article or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

§ 160-41. Certificates of occupancy.

- A. Certificates of occupancy required. A certificate of occupancy shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy.

- B. Issuance of certificates of occupancy. The Code Enforcement Officer shall issue a certificate of occupancy if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code, Energy Code and the Zoning Law and, if applicable, the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code, Energy Code and the Zoning Law. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a certificate of occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy:
- (1) A written statement of structural observations and/or a final report of special inspections; and
 - (2) Flood hazard certifications.
- C. Contents of certificates of occupancy. A certificate of occupancy shall contain the following information:
- (1) The building permit number, if any;
 - (2) The date of issuance of the building permit, if any;
 - (3) The name, address and tax map number of the property;
 - (4) If the certificate of occupancy is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy is issued;
 - (5) The use and occupancy classification of the structure;
 - (6) The type of construction of the structure;
 - (7) The assembly occupant load of the structure, if any;
 - (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
 - (9) Any special conditions imposed in connection with the issuance of the building permit; and
 - (10) The signature of the Code Enforcement Officer issuing the certificate of occupancy and the date of issuance.
- D. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines: 1) that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely; 2) that any

fire- and smoke-detecting or fire protection equipment which has been installed is operational; and 3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

- E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 160-50, Fees, of this article must be paid at the time of submission of an application for a certificate of occupancy or for a temporary certificate.

§ 160-42. Notification regarding fire or explosion.

The chief of any fire department providing fire-fighting services for a property within this Village shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.

§ 160-43. Unsafe building and structures.

Unsafe structures and equipment in the Village of Philmont shall be identified and addressed in accordance with the procedures established by the Village Board by local law as enacted or amended from time to time.²⁰

§ 160-44. Operating permits.

- A. Operating permits required.
 - (1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:
 - (a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State," and incorporated by reference in 19 NYCRR § 1225.1;
 - (b) Hazardous processes and activities, including but not limited to commercial and

²⁰. Editor's Note: See Ch. 61, Buildings, Unsafe.

industrial operations which produce combustible dust as a by-product, fruit and crop ripening, and waste handling;

- (c) Use of pyrotechnic devices in assembly occupancies;
 - (d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
 - (e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the Code Enforcement Officer.
- (2) Any person who proposes to undertake any activity or to operate any type of building listed in Subsection A(1) shall be required to obtain an operating permit prior to commencing such activity or operation.
- B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.
- D. Multiple activities. In any circumstance in which more than one activity listed in Subsection A(1) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.
- E. Duration of operating permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.
- F. Revocation or suspension of operating permits. If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.
- G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 160-50, Fees, of this article must be paid at the time of submission of an application for an

operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

§ 160-45. Firesafety and property maintenance inspections.

- A. Inspections required. Firesafety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at the following intervals:
- (1) Firesafety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.
 - (2) Firesafety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.
 - (3) Firesafety and property maintenance inspections of all multiple dwellings not included in Subsection A(1) or (2) of this subsection, and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) or (2) of this subsection, shall be performed at least once every 24 months.
- B. Inspections permitted. In addition to the inspections required by Subsection A of this section, a firesafety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon: 1) the request of the owner of the property to be inspected or an authorized agent of such owner; 2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or 3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

§ 160-46. Complaints.

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, the Zoning Law or any other local law or regulation adopted for administration and enforcement of the Uniform Code, the Energy Code or the Zoning Law. All complaints shall be in writing. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 160-49, Violations, of this article;

- C. If appropriate, issuing a stop-work order;
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

§ 160-47. Recordkeeping.

The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all code enforcement personnel, including records of:

- A. All applications received, reviewed and approved or denied;
- B. All plans, specifications and construction documents approved;
- C. All building permits, certificates of occupancy, temporary certificates, stop-work orders, and operating permits issued;
- D. All inspections and tests performed;
- E. All statements and reports issued;
- F. All complaints received;
- G. All investigations conducted;
- H. All other features and activities specified in or contemplated by §§ 160-38 through 160-46, inclusive, of this article; and
- I. All fees charged and collected.
- J. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

§ 160-48. Program review and reporting.

- A. The Code Enforcement Officer shall monthly submit to Village Board a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 160-47, Recordkeeping, of this article and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of Village of Philmont, on a form prescribed by the Secretary of State, a report of the activities of the Village relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials the Village is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Village in connection with administration and enforcement of the Uniform Code.

§ 160-49. Violations; penalties for offenses.

- A. Compliance orders. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, Zoning Law or this article. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order. The compliance order shall: 1) be in writing; 2) be dated and signed by the Code Enforcement Officer; 3) specify the condition or activity that violates the Uniform Code, the Energy Code, Zoning Law or this article; 4) specify the provision or provisions of the Uniform Code, the Energy Code, or Zoning Law which is/are violated by the specified condition or activity; 5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; 6) direct that compliance be achieved within the specified period of time; and 7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by USPS certified mail, return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the compliance order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by USPS certified mail, return receipt requested; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.
- B. Appearance tickets. The Code Enforcement Officer and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code and/or Zoning Law.
- C. Penalties. In addition to those penalties prescribed by state law, or local law not inconsistent herewith, any person who violates any provision of the Uniform Code, the Energy Code, Zoning Law or this article, or any term or condition of any building permit, certificate of occupancy, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article, shall be liable to a civil penalty of not more than \$250 for each day or part thereof during which such violation continues.
- D. Injunctive relief. An action or proceeding may be instituted in the name of the Village of Philmont, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, the Zoning Law or this article, or any term or condition of any building permit, certificate of occupancy, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this article, or any stop-work order, compliance order or other order obtained under the Uniform Code, the Energy Code or this article, an action or proceeding may be commenced in the name of the Village of Philmont, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be

commenced without the appropriate authorization from the Village Board of the Village of Philmont.

- E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 160-40, Stop-work orders, of this article, in any other section of this article, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 160-40, Stop-work orders, of this article, in any other section of this article, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of § 381 of the Executive Law.

§ 160-50. Fees.

A fee schedule shall be established by the Village Board of the Village of Philmont. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy, temporary certificates, operating permits, firesafety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this article.²¹

21. Editor's Note: Former Art. X, Violations, Penalties and Remedies, as amended, was repealed 12-11-2006 by L.L. No. 4-2006. See now Art. IX, Rules of the Code Enforcement Officer.

ZONING

160 Attachment 1

Village of Philmont Table 2

Permitted Uses and Special Use Permits [Amended 7-26-2006 by L.L. No. 1-2006; 6-23-2010 by L.L. No. 1-2010]

Use	R	RLD	H-I	H-II	H-III	RHD	M	M-II	GB	C	RSC
Accessory apartment	SP	SP	SP	SP	X	X	P	P	P	X	X
Accessory structure	P	P	P	P	P	P	P	P	P	X	X
Adult homes	X	SP	SP	SP	X	X	SP	X	SP	X	X
Agriculture and animals	P	X	X	X	X	X	X	X	X	SP	X
Agriculture no animals	P	P	X	X	X	X	X	X	X	SP	X
Bar	X	X	X	X	X	X	X	X	P	X	X
Bed-and-breakfast	SP	SP	SP	SP	SP	SP	SP	SP	SP	X	X
Betting parlor (OTB)	X	X	X	X	X	X	X	X	SP	X	X
Boarding stables	P	X	X	X	X	X	X	X	X	X	X
Churches	SP	SP	SP	SP	SP	SP	SP	X	SP	X	X
Clubhouse	SP	X	X	X	X	X	SP	SP	SP	X	X
Commercial self-storage units	X	X	X	X	X	X	X	X	X	X	X
Community buildings	SP	SP	SP	SP	X	X	SP	SP	SP	X	X
Essential services	P	P	P	P	P	P	P	P	P	X	X
Funeral home	X	X	X	X	X	X	SP	SP	SP	X	X
Gas stations/auto repairs	X	X	X	X	X	X	X	X	SP	X	X
Group homes	X	SP	SP	SP	X	X	SP	X	SP	X	X
Home occupation/office	SP	SP	SP	SP	SP	SP	SP	SP	SP	X	X
Indoor theater	X	X	X	X	X	X	P	SP	P	X	X
Inn	SP	X	X	X	X	X	X	SP	SP	X	X
Laundry	X	X	X	X	X	X	X	X	SP	X	X
Manufacture of goods on premises	X	X	X	X	X	X	SP	X	X	X	X
Medical building with office	X	X	X	X	X	X	SP	SP	SP	X	X
Mobile home park	X	X	X	X	X	X	X	X	X	X	X
Non-nuisance industry	X	X	X	X	X	X	X	SP	SP	X	X
Office for business or professional use	X	X	X	X	X	X	P	SP	P	X	X
Outdoor recreation	P	P	P	P	P	P	P	P	P	P	X
Personal service shop/store	X	X	X	X	X	X	SP	SP	SP	X	X
Places of public assembly	SP	SP	SP	SP	X	X	SP	SP	SP	X	X

PHILMONT CODE

Use	R	RLD	H-I	H-II	H-III	RHD	M	M-II	GB	C	RSC
Preschools	SP	SP	SP	SP	X	X	SP	X	X	X	X
Residences:											
Single-family	P	P	P	P	P	P	P	P	P	X	X
Two-family	SP	SP	P	P	X	X	P	P	P	X	X
Multifamily	X	X	X	X	X	X	P	X	P	X	X
Mobile home	X	X	X	X	X	P	X	X	X	X	X
Restaurants	X	X	X	X	X	X	SP	SP	SP	X	X
Retail establishments:											
Less than three	X	X	X	X	X	X	P	P	P	X	X
Three or more	X	X	X	X	X	X	SP	X	SP	X	X
Riding school	P	X	X	X	X	X	X	X	X	X	X
Senior citizen housing	X	X	X	X	X	X	X	X	X	X	SP
Veterinary offices	X	X	X	X	X	X	X	X	SP	X	X

NOTES:

- X = Not permitted
- SP = Special use permit required
- P = Permitted

ZONING

160 Attachment 2

Village of Philmont

Table 3
Bulk Regulations/Coverage Limitations
[Amended 5-14-2007 by L.L. No. 3-2007]

Use	R	RLD	H-I	H-II	RHD	H-III	GB	M	C	RSC	M-II
Minimum Lot Dimensions:											
Area (acres)	2	1	1/3	1/2	1/4	1/4	4,000 sq. ft.	4,000 sq. ft.	2	2	1/3
Width (feet)	200	100	75	75	50	50	40	40	200	200	75
Depth (feet)	150	125	150	150	75	75	100	100	150	200	150
Minimum Yard Dimensions:											
Front (feet)	75*	35*	25*	25*	25*	25*	10*	10*	75	35	25*
Each side (feet)	40	25	10	10	10	10	—	25	25	10	10
Rear (feet)	30	30	30	30	30	30	15	10	30	30	30
Maximum Height of Buildings:											
Feet	35	35	35	35	35	35	35	35	NP	35	35
Stories	2.5	2.5	2.5	2.5	2.5	2.5	2.5	3	NP	2.5	2.5
Maximum Lot Coverage:											
Percentage	30	30	30	30	30	30	85	85	NP	50	30

NOTES:

NP = Not Permitted

* or consistent with all buildings within 200 feet on either side (See § 160-11B.)

Chapter DL

DISPOSITION LIST

The following is a chronological listing of legislation of the Village of Philmont adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Village Clerk. The last legislation reviewed for the original publication of the Code was L.L. No. 3-2002.

§ DL-1. Disposition of legislation.

Local Law No.	Adoption Date	Subject	Disposition
1-2003	5-12-2003	Moratorium on mobile homes	NCM
1-2004	2-9-2004	Adoption of Code	Ch. 1, Art. I
2-2004	5-10-2004	Delinquent water bills amendment	Ch. 152, Art. III
3-2004	5-10-2004	Subdivision of land amendment	Ch. 130
4-2004	6-14-2004	Vehicle storage	Repealed by L.L. No. 6-2004
5-2004	6-14-2004	Elm Street parking prohibition	Ch. 144, Art. X
6-2004	11-8-2004	Vehicle storage	Ch. 147
1-2005	10-11-2005	Water mains and connections	Ch. 152, Art. IV
2-2005	11-23-2005	Elm Street parking prohibition amendment	Ch. 144, Art. X
1-2006	7-26-2006	Zoning amendment	Ch. 160
2-2006	7-26-2006	Dogs amendment	Ch. 50, Art. II
3-2006	7-26-2006	Water meters amendment	Ch. 152, Art. I
4-2006	12-11-2006	Zoning amendment	Ch. 160
1-2007	1-24-2007	Moratorium	NCM
2-2007	4-25-2007	Moratorium	NCM
3-2007	5-14-2007	Zoning amendment	Ch. 160
4-2007	7-9-2007	Moratorium	NCM
5-2007	10-24-2007	Moratorium	NCM
1-2008	3-10-2008	Rock Street parking prohibition	Ch. 144, Art. XI
2-2008	3-10-2008	Moratorium	NCM

3-2008	7-14-2008	Juvenile curfew amendment	Ch. 66, Art. III
1-2010	6-23-2010	Zoning amendment	Ch. 160
1-2011	8-8-2011	Keeping of cattle, swine, fowl and bees amendment	Ch. 50, Art. I
1-2012	3-12-2012	Code of Ethics	Ch. 13

PREFACE

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

Contents of Code

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Board of Trustees of the Village of Philmont.

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, contains all Village legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other Village legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Table of Contents and Grouping of Legislation

The Table of Contents details the arrangement of material alphabetically by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, the use of article designations has preserved the identity of the individual enactments, and the titles of the articles are listed beneath the chapter title in order to facilitate location of the individual enactments.

Reserved Chapters

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new enactments. In this manner, new subject matter can be included alphabetically.

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Pagination

A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 would begin on page 6:1. By use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

Numbering of Sections

A chapter-related section-numbering system is employed in which the section number indicates the number of the chapter and the location of the section within that chapter. Thus, the first section of Chapter 30 would be § 30-1, while the sixth section of Chapter 57 would be § 57-6.

Scheme

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

Histories

At the end of the Scheme (list of section titles) in each chapter is located the legislative history for that chapter. This history indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing parts or articles derived from more than one item of legislation, the source of each part or article is indicated in the text, under its title. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

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

PREFACE

Disposition List

The Disposition List is a chronological listing of legislation, indicating its inclusion in the publication or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

Index

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

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or additions, should be adopted as amendments to the Code. In doing so, existing material that is not being substantively altered should not be renumbered.

Adding new sections. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 65-5 and 65-6 should be designated § 65-5.1).

Adding new chapters. New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the Table of Contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the Table of Contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 166 and 167 should be designated Chapter 166A).

Adding new articles. New articles may be inserted between existing articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" articles (e.g., a new article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 166-30 and Article XVII begins with § 166-31, Article XVIA should contain §§ 166-30.1 through 166-30.6).

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as pos-

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sible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

The assistance of the Village officials is gratefully acknowledged by the editor. The codification of the legislation of the Village of Philmont 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 that this publication 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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DISPOSITION LIST

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