

**Code  
of the  
Village of  
Leicester**

COUNTY OF LIVINGSTON

STATE OF NEW YORK

SERIAL NO. **3** .....

GENERAL CODE PUBLISHERS CORP.  
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# **PREFACE**

The Village of Leicester 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 Leicester, including revisions or amendments to existing legislation deemed necessary by the Board of Trustees in the course of the codification.

## **Division of Code**

The Code is divided into parts. Part I, Administrative Legislation, contains all 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.

## **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

## LEICESTER CODE

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.

### **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

## PREFACE

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).

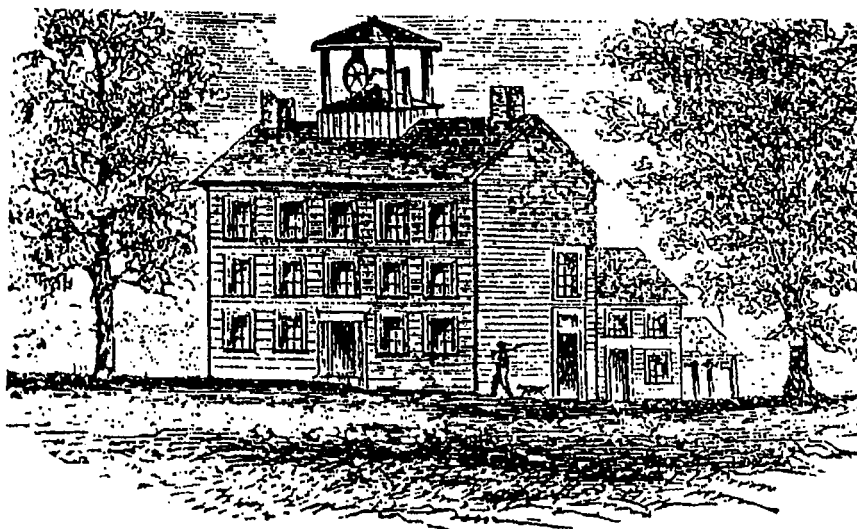
### Supplementation

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 possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

## LEICESTER CODE

### History

- 1802 Town of Lester formed  
Located in Genesee County
- 1805 Name of Town changed to Leicester
- 1821 Leicester becomes a Town in newly  
formed Livingston County
- 1814 Village of Moscow founded
- 1907 Village incorporated
- 1917 Name of Village changed to Leicester



# TABLE OF CONTENTS

**Tools for Finding Information** – In addition to the municipality’s legislation, this publication contains tools to help locate information: table of contents, index, chapter outlines (schemes), and a disposition list.

**Chapters** – Chapters are generally discrete pieces of legislation, but can also be made up of several individual pieces on a related topic. In that case, the individual pieces are arranged into articles or parts within the chapter. The article or part titles can be found in the chapter scheme or by subject in the index. If you are familiar with a former number or title, look for it chronologically in the disposition list.

**Reserved Chapters** – In the numbering of chapters, space has been provided for the convenient insertion, alphabetically, of later enactments. Help in selecting an appropriate number for a new chapter is available from the editor. See also the “Instructions for Amending the Code” in the Preface.

**Section Numbering** – A chapter-related section-numbering system is employed. Each section of every item of legislation is assigned a number, which indicates both the number of the chapter in which the item of legislation is located and the location of the section within that chapter. Thus, the fourth section of Chapter 6 is § 6-4.

**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.

**Page Numbers** – 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 begins on page 6:1. By the 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.

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**PART I**

**ADMINISTRATIVE  
LEGISLATION**



## **Chapter 1**

### **GENERAL PROVISIONS**

**[A local law adopting the Code of the Village of Leicester and making certain substantive changes to existing legislation of the Village is presently proposed before the Board of Trustees. Upon final adoption, it will be included here as Article I of this chapter.]**

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## Chapter 5

### ASSESSMENTS

#### ARTICLE I Abolition of Status as Assessing Unit

##### § 5-1. Legislative intent.

##### § 5-2. Termination of status.

##### § 5-3. Abolition of Assessor.

##### § 5-4. Abolition of Board of Assessment Review.

##### § 5-5. Assessment of future taxes.

##### § 5-6. Filing with Town Assessor and state.

**[HISTORY: Adopted by the Board of Trustees of the Village of Leicester as indicated in article histories.]**

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#### ARTICLE I Abolition of Status as Assessing Unit [Adopted 5-2-1989 by L.L. 1-1989]

##### § 5-1. Legislative intent.

The intent of the Board of Trustees of the Village of Leicester 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 article to abolish the position of Assessor 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 Leicester.

##### § 5-2. Termination of status.

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

##### § 5-3. Abolition of Assessor.

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

##### § 5-4. Abolition of Board of Assessment Review.

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

##### § 5-5. Assessment of future taxes.

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

**§ 5-6. Filing with Town Assessor and state.**

Within five days of the effective date of this article, the Board of Trustees of the Village of Leicester shall file a copy of such article with the Clerk and Assessor of the Town of Leicester and with the State Board of Equalization and Assessment.

## Chapter 12

### DEFENSE AND INDEMNIFICATION

§ 12-1. Title.

§ 12-2. Definitions.

§ 12-3. Defense authorized;  
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§ 12-4. Conditions on providing defense.

§ 12-5. Indemnification in amount of  
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§ 12-6. Applicability.

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§ 12-8. Preexisting immunity, right to  
defense and indemnification.

§ 12-9. Applicability determined by date  
of commencement of action.

[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 2-18-1986 by L.L. No. 1-1986. Amendments noted where applicable.]

#### GENERAL REFERENCES

Code of Ethics — See Ch. 19.

Terms of office — See Ch. 63.

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§ 12-1. Title.

This chapter shall be entitled “A Local Law Providing for the Defense and Indemnification of Officers and Employees of the Village of Leicester.”

§ 12-2. Definitions.

As used in this chapter, unless the context requires otherwise, the following terms shall have the meanings indicated:

EMPLOYEES — Any person holding a position by election, appointment or employment in the service of the Village, but shall not include an independent contractor. The term “employee” shall include a former employee, his or her estate or his or her judicially appointed personal representative.

VILLAGE — The Village of Leicester.

§ 12-3. Defense authorized; representation by Village Attorney; procedure.

A. Upon compliance by the employee with the provisions of this chapter, the Village shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting in good faith purporting to act within the scope of his or her public employment or duties, or which is brought to enforce a provision of § 1981 or 1983 of Title 42 of the U.S. Code. Such defense shall

not be provided where such civil action is brought by or on behalf of the Village pursuant to authorization of the Village Board of Trustees.

- B. Subject to the conditions set forth in this chapter, the employees shall be represented by the attorney for the Village or an attorney employed or retained by the Village for the defense of the employee. Reasonable attorney's fees and litigation expenses shall be paid by the Village to such attorney employed or retained from time to time, during pendency of the civil action or proceeding, subject to certification by the Village Board of Trustees that the employee is entitled to representation under the terms and conditions of this chapter. Payment of such fees and expenses shall be made in the same manner as payment of other claims and expenses of the Village. Any dispute with respect to representation of multiple employees by the attorney for the Village or by an attorney employed or retained for such purposes or with respect to the amount of the fees or expenses shall be resolved by the court.
- C. Where the employee delivers process and a request for the defense to the Village Clerk required by § 12-3 of this chapter, the Village Clerk shall deliver the process and request for a defense to the Village Board of Trustees, which shall take the necessary steps, including the retention of an attorney under the terms and conditions provided in Subsection B of this section, on behalf of the employee to avoid entry of a default judgment, pending resolution of any question relating to the obligation of the Village to provide a defense.

#### **§ 12-4. Conditions on providing defense.**

The duties to defend and indemnify and save harmless provided in this chapter shall be contingent upon:

- A. Delivery to the Village Clerk of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after the employee is served with such document. Such delivery shall be deemed a request by the employee that the Village provide for his or her defense pursuant to this chapter, unless the employee shall state in writing that a defense is not requested, and
- B. The full cooperation of the employee in the defense of such action or proceeding and defense of any action or proceeding against the Village based upon the same act or omission, and in the prosecution of any appeal.

#### **§ 12-5. Indemnification in amount of judgment.**

- A. The Village shall indemnify and save harmless any employee whose defense was provided pursuant to this chapter, in the amount of any judgment obtained against such employee or in the amount of any settlement or compromise approved by the Village Board of Trustees. The Village shall not indemnify and save harmless the employee:
  - (1) Where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee;
  - (2) For any punitive or exemplary damages, fines or penalties; or

- (3) For money recovered from the employee pursuant to § 51 of the General Municipal Law.
- B. The claim or compromise settlement which may be subject to indemnification by the Village shall not be paid unless it is presented to and approved by the Village Board of Trustees.
- C. Upon entry of final judgment against the employee, or upon settlement or compromise of a claim as approved by the Village Board of Trustees, the employee shall cause to be served upon the Village Clerk a copy of such judgment or settlement, personally or by certified or registered mail within 10 days of the date of entry or settlement. Such judgment or settlement shall be processed and paid in the same manner as other judgments or settlements of claims are paid by the Village.

**§ 12-6. Applicability.**

The benefits of this chapter will inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party, nor shall any provision of this chapter be construed to affect, alter or repeal any provisions of the Workman's Compensation Law.

**§ 12-7. Obligations of insurers.**

The provision of this chapter shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

**§ 12-8. Preexisting immunity, right to defense and indemnification.**

The provisions of this chapter shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the Village or any right to defense and indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

**§ 12-9. Applicability determined by date of commencement of action.**

The provisions of this chapter shall apply to all actions and proceedings specified herein which have been commenced, instituted or brought on or after the effective date of this chapter.

## Chapter 19

### ETHICS, CODE OF

**§ 19-1. Purpose.**

**§ 19-2. Definitions.**

**§ 19-3. Standards of conduct.**

**§ 19-4. Filing of claims and suits.**

**§ 19-5. Distribution of Code of Ethics.**

**§ 19-6. Penalties for offenses.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 2-2-1971 by L.L. No. 1-1971. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Defense and indemnification — See Ch. 12.

Terms of office — See Ch. 63.

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#### **§ 19-1. Purpose.**

Pursuant to the provisions of § 806 of the General Municipal Law, the Board of Trustees of the Village of Leicester, New York, recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Village of Leicester, New York. These rules shall serve as a guide for official conduct of the officers and employees of the Village of Leicester, New York. The rules of ethical conduct of this chapter as adopted shall not conflict with, but shall be in addition to, any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

#### **§ 19-2. Definitions.**

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

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

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

#### **§ 19-3. Standards of conduct.**

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

- A. Gifts. He shall not directly or indirectly, solicit any gift having a value of \$75 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.<sup>1</sup>
- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- C. Representation before one's own agency. He shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. He shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Board of Trustees and any officer or employee of the Village of Leicester, New York, whether paid or unpaid, who participates in the discussion or gives official opinion to the Board of Trustees on any legislation before the Board of Trustees shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.
- F. Investments in conflict with official duties. He shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with his official duties.
- G. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- H. Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Village of Leicester, New York, in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

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



**§ 19-4. Filing of claims and suits.**

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

**§ 19-5. Distribution of Code of Ethics. <sup>2</sup>**

The Mayor of the Village of Leicester, New York, shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Village within 30 days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code, nor the enforcement of provisions thereof.

**§ 19-6. Penalties for offenses.**

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

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

## Chapter 28

### INVESTMENT POLICY

§ 28-1. Findings.

§ 28-2. Authorized depositories.

§ 28-3. Authorized investments.

§ 28-4. Authority to make investment decisions; procedure for making and monitoring investments; documentation.

§ 28-5. Purpose.

**[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 4-10-2003. Amendments noted where applicable.]**

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**§ 28-1. Findings.**

- A. The Village Board of Trustees desires to establish an investment policy in order to insure that funds not needed for the immediate payment of bills will be invested to earn a safe return as provided under the Village Law, the General Municipal Law and the Local Finance Law.
- B. The Village Board desires to designate certain banks for the placing of investments.
- C. The Village Board desires to authorize the Village Clerk/Treasurer as the fiscal officer to make such investments.

**§ 28-2. Authorized depositories.<sup>1</sup>**

The Board of Trustees authorizes the use of the following commercial banks or trust companies authorized to do business in New York State for placing investments: Wyoming County Bank and the Bank of Castile.

**§ 28-3. Authorized investments.**

- A. The Board of Trustees authorizes the use of the following types of investment.
- B. Instruments for investing Village monies:
  - (1) Savings account.
  - (2) N.O.W accounts.
  - (3) Money market deposit accounts.
  - (4) Super N.O.W accounts.
  - (5) Seven- to thirty-one-day accounts.

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

- (6) Certificates of deposit.
- (7) Repurchase agreements.
- (8) Purchase of United States Treasury bonds, bills, and notes.
- (9) Other investment instruments as may be approved by the office of the State Comptroller from time to time.

**§ 28-4. Authority to make investment decisions; procedure for making and monitoring investments; documentation.**

The Board of Trustees specifically delegates the authority to make the day-to-day investment decision within the guidelines and limitations of this policy resolution to the Village Clerk/Treasurer, as Chief Fiscal Officer.

- A. The above-named officer is authorized to utilize the advisory services of municipal consulting firms in planning the timing, amount, maturity, bidding, placement and reporting on any investments made hereunder.
- B. The Board of Trustees specifically authorizes the designated official to use electronic transfer of funds; among the approved banking institutions, to assist in obtaining "federal funds" enhanced interest rates. Each such transfer shall be specifically identified in the original journal entry as a "wire transfer" and subsequently supported by the bank confirmation notice to provide an audit trail.
- C. The Board of Trustees authorizes the designated official the authority to turn over the physical custody of certificates of deposit and other evidences of investments for safekeeping possession to the winning bank, as provided in § 11(3) of the General Municipal Law, to facilitate access to funds at maturity and to eliminate having live certificates in the Village office.
- D. All investments shall be documented in written reports to the Village Board, outlining the details of the investment and the bids received thereon. When investments are placed, these reports should be presented no less than monthly.

**§ 28-5. Purpose.**

The primary objective of this policy is to enhance the safety and availability of any Village monies invested. Safety is enhanced by F.D.I.C Insurance limits as presently set or subsequently revised, and are to be insured by a pledging of appropriate collateral with the institution winning the bid for the investment. Where appropriate, all investments must be bid specifying "with collateral."

**Chapter 40**  
**OFFICERS AND EMPLOYEES**

ARTICLE I  
**Standard Workday**

**§ 40-1. Standard workday established;  
affected officers and employees.**

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

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ARTICLE I  
**Standard Workday**  
**[Adopted 11-21-2002]**

**§ 40-1. Standard workday established; affected officers and employees.**

- A. The Village Board be hereby establishes the following as a standard workday, for elected and appointed officials, for the purpose of determining days worked reportable to the New York State and Local Employees' Retirement System: five-day work week, six-hour day.
- B. This standard shall apply to the following elected and appointed officials:
- (1) All elected officials.
    - (a) Mayor.
    - (b) Trustees.
  - (2) Appointed officials.
    - (a) Members of Zoning/Planning Board.
    - (b) Meter Reader.<sup>1</sup>
    - (c) Assistant Dog Control Officer.<sup>2</sup>

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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).

- (d) Water Maintenance Worker.
- (e) Clerk/Treasurer.
- (f) Deputy Clerk.
- (g) Zoning Officer.
- (h) Custodial Worker.

## Chapter 46

### PROCUREMENT POLICY

**§ 46-1. Determination of purchase or public works contract; competitive bidding.**

**§ 46-2. Requests for proposals and quotes; exceptions.**

**§ 46-3. Methods of purchase.**

**§ 46-4. Documentation required.**

**§ 46-5. Contracts not awarded to lowest bidder.**

**§ 46-6. Exceptions to competitive bidding.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 4-10-2003. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Code of Ethics — See Ch. 19.

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**§ 46-1. Determination of purchase or public works contract; competitive bidding.**

- A. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good-faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year. The following items are not subject to competitive bidding pursuant to § 103 of the General Municipal Law: purchase contracts under \$10,000 and public works contracts under \$20,000; emergency purchases; certain municipal hospital purchases; goods purchased from agencies for the blind or severely handicapped; goods purchased from correctional institutions; purchases under state and county contracts; and surplus and secondhand purchases from another government entity.
- B. The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

**§ 46-2. Requests for proposals and quotes; exceptions. <sup>1</sup>**

All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances:

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

purchase contracts over \$10,000 and public works contracts over \$20,000; goods purchased from agencies for the blind or severely handicapped pursuant; goods purchased from correctional institutions pursuant to § 186 of the Correction Law; purchases under state contracts pursuant to § 104 of the General Municipal Law; purchases under county contracts pursuant to § 103 of the General Municipal Law; or purchases pursuant to § 46-6 of this policy.

**§ 46-3. Methods of purchase.**

A. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

- (1) Purchase contracts.

**Estimated Amount of Purchase Contract**

\$500 to \$2,999

\$3,000 to \$9,999

**Method of Purchase**

2 verbal quotations

3 written/fax quotations or written requests for proposal

- (2) Public works contracts.

**Estimated Amount of Public Works Contract**

\$500 to \$2,999

\$3,000 to \$4,999

\$5,000 to \$19,999

**Method of Purchase**

2 verbal quotations

2 written/fax quotations

3 written/fax quotations or written requests for proposal

B. 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 will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

**§ 46-4. Documentation required.**

Documentation is required of each action taken in connection with each procurement.

**§ 46-5. Contracts not awarded to lowest bidder.**

Documentation and an explanation are required whenever a contract is awarded to anyone other than the lowest responsible offeror. This documentation will include an explanation of how the award will achieve savings or how the offeror was not responsible. A determination

that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

**§ 46-6. Exceptions to competitive bidding.**

Pursuant to General Municipal Law § 104-b(2)(f), the procurement policy may contain circumstances when, or types of procurements for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality. In the following circumstances it may not be in the best interests of the Village of Leicester to solicit quotations or document the basis for not accepting the lowest proposal:

- A. Professional services or services requiring special or technical skill, training or expertise. The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity, and moral worth. These qualifications are not necessarily found in the individual or company that readily lend themselves to competitive procurement procedures.
- (1) In determining whether a service fits into this category the Village Board of Trustees shall take into consideration the following guidelines:
    - (a) Whether the services are subject to state licensing or testing requirements;
    - (b) Whether substantial formal education or training is a necessary prerequisite to the performance of the services; and
    - (c) Whether the services require a personal relationship between the individual and municipal officials.
  - (2) Professional or technical services shall include but not be limited to the following: services of an attorney; technical services of an engineer or architect engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of municipally owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing or pre-packaged software.
- B. Emergency purchases pursuant to § 103(4) of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the residents. This section does not preclude alternate proposals if time permits.
- C. Purchases of surplus and secondhand goods from any source or goods purchased at auction. If alternate proposals are required, the Village is precluded from purchasing surplus and secondhand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.



- D. Goods or services under \$500. The time and documentation required to purchase through this policy may be more costly than the item itself and would therefore not be in the best interest of the taxpayer. In addition, it is not likely that such contracts would be awarded based on favoritism.
- E. Services contracts entered into through the New York State Office of General Services. In these instances, the state has already investigated and secured the lowest possible price for the municipality.

## Chapter 51

### RECORDS

**§ 51-1. Retention schedule adopted.**

**Notice of Intention to Examine  
Public Records**

**§ 51-2. Records Management Officer;  
disposal of records.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 1-17-2002;  
amended 8-15-2002. Amendments noted where applicable.]**

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**§ 51-1. Retention schedule adopted.**

The Records Retention and Disposition Schedule MU-1 issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for municipal government records, is hereby adopted for use by all Village officers in disposing of municipal government records listed therein.

**§ 51-2. Records Management Officer; disposal of records.**

In accordance with Article 57-A:

- A. The Village Clerk is hereby designated as the Village's Records Management Officer (RMO) and shall direct the Village's records management program.
- B. Only those records will be disposed of that are described in Records Retention and Disposition Schedule MU-1 after they have met the minimum retention period prescribed therein.
- C. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established time periods.

RECORDS

Village of Leicester  
52 South Parkway P.O. Box 203  
Leicester, NY 14481

**NOTICE OF INTENTION TO EXAMINE PUBLIC RECORDS**

Subject Matter List:

1. Statements or policy and interpretations which have been adopted by the Village and any documents, data or other materials constituting statistical or factual tabulations, including audits.
2. Minutes of meetings of the Board of Trustees, Board of Appeals or public hearings held by these boards.
3. Payroll records.
4. Any other files, records, papers or documents required by provision of law to be made available to public inspection and copying.

I, \_\_\_\_\_, (Address) \_\_\_\_\_,  
(Phone) \_\_\_\_\_, intend to examine and/or obtain a copy of the particular records within five business days of the receipt of my written request (during business hours and subject to the rules of the Village), and I understand a fee of \$0.25 per photo copy will be charged.

Subject matter you are requesting:

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Copies needed? \_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Please return completed form to: Village of Leicester  
52 South Parkway, P.O. Box 203  
Leicester, NY 14481

Approved: \_\_\_\_\_ Disapproved: \_\_\_\_\_

## Chapter 63

### TERMS OF OFFICE

**§ 63-1. Statutory authority.**

**§ 63-2. Legislative intent.**

**§ 63-3. Extension of terms of office of Mayor, Trustees and Clerk/Treasurer.**

**§ 63-4. Applicability.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 10-17-2002 by L.L. No. 2-2002. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Defense and indemnification — See Ch. 12.

Code of Ethics — See Ch. 19.

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**§ 63-1. Statutory authority.**

This chapter is adopted pursuant to §§ 3-302(5)(a) and 3-302(6) of the Village Law of the State of New York.

**§ 63-2. Legislative intent.**

It is the intent and purpose of this chapter to lengthen the term of office of the Mayor and those of each member of the Village Board of Trustees from two years to four years, and likewise to increase the term of appointment of the Village's Clerk/Treasurer to four years to coincide with the term of the Mayor. By reducing the initial term of the Mayor and the Trustees to be elected in 2003 to three years, the Village will stagger the terms of office to provide for the election of two Trustees every two years.

**§ 63-3. Extension of terms of office of Mayor, Trustees and Clerk/Treasurer.**

The terms of office for the Mayor, the elected Village Trustees and the appointed Clerk/Treasurer shall be, and are hereby extended to, four years, to be implemented as follows:

- A. In the election to be held in March of 2003, the Mayor and two Trustees shall run for terms of three years each.
- B. The next term of appointment of the Clerk/Treasurer (commencing in 2003) shall be for a period of three years.
- C. In the election to be held in 2004, two Trustees shall run for terms of four years each.
- D. In the election to be held in 2006, the Mayor and two Trustees shall run for terms of four years each. The Clerk/Treasurer's term of appointment in 2006 shall be four years, to coincide with the Mayor's term.

**§ 63-4. Applicability.**

This chapter shall apply only to those persons elected to the office of Mayor or Village Trustee or appointed to the office of Clerk/Treasurer in 2003 and thereafter.

**PART II**

**GENERAL  
LEGISLATION**

## Chapter 70

### ALARMS

**§ 70-1. Purpose.**

**§ 70-2. Applicability.**

**§ 70-3. Definitions.**

**§ 70-4. Permits and fines.**

**§ 70-5. Penalties for offenses.**

**§ 70-6. Deactivation of local alarms.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 11-4-1999 by L.L. No. 1-1999. Amendments noted where applicable.]**

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**§ 70-1. Purpose.**

It is the purpose of this chapter to protect and promote the public health, safety, and general welfare by eliminating avoidable false fire and burglar alarms and thereby ensuring that fire and law enforcement facilities and personnel will be available for actual emergencies. False alarms unnecessarily drain resources and require emergency responses which contribute to increased accident rates and which delay responses to real emergencies.

**§ 70-2. Applicability.**

This chapter applies to all installed fire and burglar alarms which are directly connected to a law enforcement or fire agency, or to a private agency which, in turn, makes a connection to a law enforcement or fire agency, or to no agency but merely sounds an alarm on the premises, each installed alarm having the purpose of notifying police and/or fire agencies that an emergency exists at the site of such installed alarm requiring an immediate response from such law enforcement or fire agency. This chapter does not apply to state, county, town and Village buildings.

**§ 70-3. Definitions.**

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

**AVOIDABLE FALSE ALARM** — Any false alarm received by a law enforcement or fire agency from an installed alarm which is caused by improper installation of the system, by a mechanical failure or malfunction of the system, or is due to negligence on the part of the owner, user, custodian or other person responsible for the installed alarm. An avoidable false alarm does not include an alarm activated by a natural phenomenon such as a tornado, earthquake, or the like, or by acts of third parties which are beyond control of the person responsible for the installed alarm.

**INSTALLED ALARM** — Any mechanical or electrical device installed in a building for the purpose of automatically notifying, directly or indirectly, fire or law enforcement agencies when a break-in or fire occurs and used for the purpose of summoning help from fire or law enforcement agencies.

**§ 70-4. Permits and fines.**

- A. Effective immediately, a Village permit is required for the installation and/or operation of any installed alarm which serves to alert, either directly or indirectly, any law enforcement agency or the Leicester Village Fire Department. Permits for those installed alarms which are now in operation must be obtained within 60 days of the effective date of this chapter.
- B. Permits, which include a list of penalties for infractions, are issued by the Village Clerk upon completion of an application which requires the following information:
- (1) Date of application.
  - (2) Type of alarm.
  - (3) Name, address and telephone number of the person responsible for the alarm.
  - (4) Address and extent of premises protected by alarm.
  - (5) Location of alarm device enunciator panel(s).
  - (6) Offices or agencies notified by alarm.
  - (7) Names, addresses and telephone numbers of persons to be contacted in event of an alarm, any time of the day or night, and who will respond to the alarm and are authorized by the alarm user to enter the premises.
  - (8) Other information required by the Clerk.
- C. Any person who is responsible for operating an installed alarm without a permit shall be guilty of a violation, punishable by a maximum fine of \$250 or by imprisonment for not more than 15 days, or both, plus an additional \$50 for each 10 days the alarm is operated without a permit thereafter.<sup>1</sup>

**§ 70-5. Penalties for offenses.**

Any person who is responsible for an installed alarm which renders more than two avoidable false alarms within a twelve-month period shall be liable for a civil penalty of \$100 for the third false alarm, and \$200 for the fourth false alarm. Any additional false alarms in such twelve-month period shall subject the user to a civil penalty of \$300 for each subsequent false alarm.

**§ 70-6. Deactivation of local alarms.**

- A. After an avoidable false alarm, the local alarm system shall become deactivated and silenced automatically, or by the landowner or his or her agent, after a period of time not to exceed 15 minutes.

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



- B. Law enforcement and/or fire officials may disable an audible alarm signal that has not been silenced at any time (including prior to the expiration of the fifteen-minute period), and shall not be liable for any damage that may result.

## Chapter 75

### ANIMALS

#### ARTICLE I Purpose and Definitions

§ 75-1. Purpose.

§ 75-2. Definitions.

#### ARTICLE II Regulations and Restrictions

§ 75-3. Applicability.

§ 75-4. Licensing of dogs.

§ 75-5. Animals running at large.

§ 75-6. Animals on premises which sell food prohibited.

§ 75-7. Dangerous animals.

§ 75-8. Destruction of property; deposit of animal waste.

§ 75-9. Noise.

§ 75-10. Maintenance of enclosures.

§ 75-11. Female dogs in heat.

§ 75-12. Animals confined in motor vehicles.

§ 75-13. Confining of dogs at night.

§ 75-14. Vaccinations.

#### ARTICLE III Redemption and Seizure

§ 75-15. Assistant Animal Control Officer.

§ 75-16. Seizure of dogs.

§ 75-17. Redemption of seized animals.

#### ARTICLE IV Administration and Penalties

§ 75-18. Town Justice to have jurisdiction.

§ 75-19. Penalties for offenses.

§ 75-20. Construction with other laws.

[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 11-15-1994 by L.L. No. 2-1994. Amendments noted where applicable.]

#### ARTICLE I Purpose and Definitions

§ 75-1. Purpose.

The purpose of this chapter shall be to promote the health, safety and morals and general welfare of the Village of Leicester, including the protection and preservation of the property of the Village of Leicester and its inhabitants and of the peace and good order by adopting and enforcing certain regulations and restrictions on the privileges of the owners of animals and the rights and privileges of the residents of the Village of Leicester and by imposing restrictions upon the keeping and running at large of animals within the Village of Leicester.

§ 75-2. Definitions.

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

**ANIMAL or ANIMALS** — Any and all animals kept for domestic use and shall include, but not be limited to, cats, dogs, birds and any other animal kept as a domestic pet.

**AT LARGE** — An animal off the premises of the owner.

**DOG or DOGS** — Both male and female dogs except where the context requires otherwise.

**LEASHED or RESTRAINED BY A LEASH** — An animal is equipped with a collar of sufficient strength to restrain the animal, to which is attached a leash or chain of sufficient strength to restrain the animal, which shall be secured or shall be held by a person having the ability to control and restrain the animal by means of a collar and leash. A harness worn by a guide dog for the blind or hearing impaired shall be deemed a suitable leash hereunder.

**OWNER** — Any person who owns, keeps or harbors or has the care, custody or control of an animal. Animals owned by minors shall be deemed to be in the custody and control of the minor's parents, or other head of the household where the minor resides.<sup>1</sup>

## ARTICLE II Regulations and Restrictions

### § 75-3. Applicability.

These regulations shall apply generally to all animals, except that those regulations specifically referring to a "dog" or "dogs" shall be specific for dogs only.

### § 75-4. Licensing of dogs. <sup>2</sup>

The owner of any dog shall be required to license said dog in accordance with § 109 of the Agriculture and Markets Law of the State of New York. Said license shall be an annual license in accordance with the Agriculture and Markets Law of the State of New York and by rules and regulations as promulgated by the Board of Trustees of the Village of Leicester, New York. The owner of any dog shall be required to keep on each licensed dog a suitable collar with the license securely attached. A dog at large without a collar and license shall be presumed to be unlicensed.

### § 75-5. Animals running at large.

The owner of any animal shall not allow, suffer, or permit such animal to run at large within the Village at any time except when such animal is restrained by a leash.

### § 75-6. Animals on premises which sell food prohibited.

No animal shall be in any restaurant, grocery or commercial establishment which sells food for human consumption, except that a guide dog for the blind or hearing impaired may enter

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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).

any such premises if leading or accompanying a blind person or hearing-impaired person thereon.

**§ 75-7. Dangerous animals.**

No person shall keep or suffer to be kept an animal which has attacked another person peaceably conducting himself in any place where such person may lawfully be, or which has attacked, chased, menaced or killed any domestic animal, as defined in the Agricultural and Markets Law of the State of New York, while such animal is in any place where it may lawfully be, and has been determined to be a dangerous dog, or dangerous animal.

**§ 75-8. Destruction of property; deposit of animal waste.**

An owner of any animal shall not permit or suffer such dog to damage or destroy the property of any kind or to deposit waste on the private property of other persons, including, but not by way of limitation, the upsetting and strewing of garbage.

**§ 75-9. Noise.**

No person shall keep, suffer or permit to be kept on the premises owned or occupied by such person, any animal which by its continual barking, howling, whining or other frequent or long-continued noises shall unreasonably disturb the comfort or repose of other persons.

**§ 75-10. Maintenance of enclosures.**

No owner of an animal shall permit the premises, structures or enclosures in which such animal is kept to be unclean or unsanitary.

**§ 75-11. Female dogs in heat.**

No owner of an unspayed female shall permit such female animal to be outside a building or fenced enclosure while such female animal is in heat.

**§ 75-12. Animals confined in motor vehicles.**

Animals confined in motor vehicles on public or private property shall be considered in compliance with this chapter.

**§ 75-13. Confining of dogs at night.**

It shall be the responsibility of any owner of any dog to comply with the applicable Livingston County night quarantine on dogs, as from time to time promulgated, by keeping said dogs confined between the hours of sunset and one hour after sunrise on each and every day.

**§ 75-14. Vaccinations.**

The owner of any animal shall be required to have such animal vaccinated against rabies or any other communicable disease as required by any provisions of the New York State Agriculture and Markets Law, Public Health Law and Environmental Conservation Law and any regulations promulgated pursuant to any of the aforesaid provisions of law.

**ARTICLE III**  
**Redemption and Seizure**

**§ 75-15. Assistant Animal Control Officer.** <sup>3</sup>

The Board of Trustees shall from time to time appoint an Assistant Animal Control Officer or officers, a peace officer or other agents of the Village of Leicester, as needed pursuant to the appropriate statutes of the State of New York. It shall be the duty of any Assistant Animal Control Officer, peace officer or other agent to enforce the provisions of this chapter as well as those of the Agriculture and Markets Law of the State of New York, with respect to animals in the Village of Leicester.

**§ 75-16. Seizure of dogs.** <sup>4</sup>

The Assistant Animal Control Officer or any peace officer of the Village of Leicester shall seize any animal which is found at large within the Village of Leicester in violation of this chapter, as well as any animal or animals otherwise required to be seized under and by virtue of the Agriculture and Markets Law of the State of New York.

**§ 75-17. Redemption of seized animals.**

- A. Every animal seized pursuant to this chapter or any provision of any law of the State of New York shall be immediately taken by the Assistant Animal Control Officer or other peace officer or other agent of the Village of Leicester to the shelter for animals as established by the Village of Leicester.<sup>5</sup>
- B. Every animal seized shall be properly fed and cared for at the expense of said Village until disposition thereof be made as herein provided. The redemption of a seized dog shall be in conformance with and pursuant to the provisions of the Agriculture and Markets Law of the State of New York, both as to the licensed and unlicensed dogs.
- C. In the event that a dog so seized bears a license tag, the Assistant Animal Control Officer, peace officer or other agent shall ascertain the owner of the dog and shall thereafter give immediate notice, in writing, to the owner of such dog or to an adult member of said owner's family stating that the dog has been seized and that the dog will

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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).

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

be turned over to the Livingston County Dog Control for euthanasia or adoption unless redeemed within the period hereinafter provided.<sup>6</sup>

- D. The owner of a dog seized bearing a license tag shall redeem said dog within five days after notice is given. The owner of a dog seized bearing no license tag, or the owner of any other animal, may redeem said animal within five days of the date of receipt of notice, if possible, or the date of seizure, whichever shall be greater, provided such animal has been properly licensed as required herein and provided such animal has been properly vaccinated as required by the New York State Agriculture and Markets Law and any regulations thereunder.
- E. The owner of any animal may redeem said animal within said applicable time periods by paying to the Village Clerk of the Village of Leicester the sum of \$10 for the first day of retention and \$15 per day for each day of retention thereafter, plus any penalty imposed under this chapter for a violation of this chapter.
- F. If any animal so seized is not redeemed within the time period hereinafter set forth, the owner shall forfeit all title to said animal and the animal shall be turned over to the appropriate agency for euthanasia or adoption according to the provisions of the Agriculture and Markets Law of the State of New York.

#### ARTICLE IV Administration and Penalties

##### § 75-18. Town Justice to have jurisdiction.

- A. The Town Justice of the Town of Leicester shall have jurisdiction to hear all signed complaints filed as hereinafter provided, and all actions and proceedings hereunder, and of all prosecutions for the violation of this chapter. Upon receipt by the Town Justice of any complaint against the conduct of any particular animal, the Town Justice shall summon the alleged owner or other person harboring said animal to appear in person before him. If the summons is disregarded, the Town Justice may permit the filing of an information and issue a warrant for the arrest of such owner or other person harboring said animal.
- B. The Assistant Animal Control Officer, peace officer, or other agent of the Village of Leicester, and any other private individual who observes an animal causing damage or destruction to property of a person other than its owner or violating any section of this chapter, may file a signed complaint under oath with the Town Justice of the Town of Leicester specifying the objectionable conduct of the animal, the date thereof, the damage caused, a description of the animal and the name and residence, if known, of the alleged owner or other person allegedly harboring said animal.<sup>7</sup>

<sup>6</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

<sup>7</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

**§ 75-19. Penalties for offenses.<sup>8</sup>**

A violation of this chapter shall be punishable by a fine not to exceed \$250 or imprisonment for not more than 15 days, or both. Each separate offense shall constitute a separate additional violation. The provisions hereof are in addition to the regulations, restrictions, requirements and penalties as contained in the Agriculture and Markets Law of the State of New York pertaining to dogs. Such fines will be subject to change by the Village Board as it deems necessary.

**§ 75-20. Construction with other laws.**

The provisions of this chapter are to be construed in addition to any other provision of federal, state or chapter, including but not limited to the New York State Agriculture and Markets Law, Public Health Law, Environmental Conservation Law and any and all relevant administrative regulations promulgated thereunder.

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

## Chapter 82

### BACKFLOW PREVENTION

#### ARTICLE I General Provisions

- § 82-1. Purpose.
- § 82-2. Responsibility for protection of water system; installation of backflow prevention at Village's direction.

#### ARTICLE II Definitions

- § 82-3. Terms defined.

#### ARTICLE III Requirements

- § 82-4. System to be open for inspection.

- § 82-5. Rating of water systems.
- § 82-6. Backflow prevention devices required.
- § 82-7. Design of backflow prevention devices.
- § 82-8. Inspections and testing.
- § 82-9. Preexisting backflow prevention devices.
- § 82-10. Backflow prevention required for connection to water system.
- § 82-11. Application for approval.

#### ARTICLE IV Enforcement and Penalties

- § 82-12. Enforcement and penalties for offenses.

[HISTORY: Adopted by the Board Trustees of the Village of Leicester 6-18-1996 by L.L. No. 1-1996. Amendments noted where applicable.]

#### GENERAL REFERENCES

Water — See Ch. 179.

#### ARTICLE I General Provisions

- § 82-1. Purpose.

The purpose of this chapter is to:

- A. Protect the public potable water supply of the Village of Leicester, Livingston County, New York from the possibility of contamination, isolating within its customers' internal distribution system(s) or its customers' private water system(s) such contaminants or pollutants which could backflow into the public water system; and
- B. Comply with the requirements of the New York State Sanitary Code 5-1.31.



**§ 82-2. Responsibility for protection of water system; installation of backflow prevention at Village's direction.**

The Village of Leicester Water Department and the water customer shall be responsible for the protection of the Village of Leicester distribution system from contamination (Part 5, New York State Sanitary Code, Subpart 5-1, Public Water Supplies, Section 5-1.31) due to the backflow of contaminants through the water service connection. If, in the judgment of the Village of Leicester Water Department, an acceptable backflow prevention device is required at the Village's water service connection to any customer's premises for the safety of the water systems, the Water Department or its designated agent shall give notice in writing to said customer to install such an acceptable backflow prevention device at each service connection to this premises. The customer shall immediately install such approved device or devices at his own expense; and failure, refusal or inability on the part of the customer to install said device or devices immediately shall constitute a ground for discontinuing water service to the premises until such devices have been properly installed.

**ARTICLE II**

**Definitions**

**§ 82-3. Terms defined.**

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

**ACCEPTABLE BACKFLOW PREVENTION DEVICE** — An acceptable air-gap reduced pressure zone device or double check-valve assembly used to contain potential contamination within a facility. In order for the reduced pressure zone device or the double check-valve assembly to be acceptable it must be listed on the most current list of acceptable devices for the New York State Department of Health.

**AESTHETICALLY OBJECTIONABLE FACILITY** — One in which substances are present which, if introduced into public water supply system, could be a nuisance to other water customers, but would not adversely affect human health. Typical examples of such substances are food-grade dyes, hot water, stagnant water from fire lines in which no chemical additives are used, etc.

**AIR GAP** — The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood-level rim of said vessel. An approved air gap shall be at least double the diameter of the supply pipe, measured vertically, above the top of the rim of the vessel; and, in no case less than one inch.

**APPROVED** — Acceptance by the Village of Leicester Water Department as meeting an applicable specification stated in this chapter as suitable for the proposed use.

**AUXILIARY WATER SUPPLY** — Any water supply on or available to the premises other than the Village of Leicester's approved water supply. These auxiliary waters may include water from another surveyor's public potable water supply or any natural source(s) such as a well, spring, river, stream, harbor, etc., or used waters. These waters may be contaminated or

they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

**BACKFLOW** — A flow condition, induced by a differential in pressure, that causes the flow of water or other liquids and/or gases into the distribution pipe of the Village of Leicester supply system for any source other than the intended source.

**CERTIFIED TESTER** — An individual or firm approved to accomplish the necessary inspections and operational tests of backflow prevention devices.

**CONTAMINATION** — The presence in water of a substance that tends to degrade its quality.

**CUSTOMER** — Any water user served by the supply system.

**CUSTOMER'S WATER SYSTEM** — Piping used to convey water supplied by the Village of Leicester supply system throughout a customer's facility. The system shall include all those parts of the piping beyond the control point of the Village water systems. The control point is either the curb valve or the main valve located in the public right-of-way that isolates the customer's facilities from the Village distribution system.

**DEGREE OF HAZARD** — Whether a facility is rated as hazardous, aesthetically objectionable or nonhazardous.

**DOUBLE CHECK-VALVE ASSEMBLY, ACCEPTABLE** — An assembly composed of two single, independently acting check valves, including tightly closing shutoff valves located at each end of the assembly and suitable connections for testing the water-tightness of each check valve.

**HAZARDOUS FACILITY** — One in which substances may be present which, if introduced into the public water system, would or may endanger, or have an adverse effect on, the health of other water customers. Typical examples include laboratories, sewage treatment plant, chemical plants, hospitals, and mortuaries.

**NONHAZARDOUS FACILITY** — A facility which does not require the installation of an acceptable backflow prevention device.

**PUBLIC WATER SUPPLY SYSTEM** — Shall be interpreted to encompass the entire Village of Leicester water system, including the source, treatment works, transmission mains, distribution system and storage facilities serving the public. This includes the distribution system up to its connection with the customer's water system.

**REDUCED PRESSURE ZONE DEVICE, ACCEPTABLE** — A device containing a minimum of two independently acting check valves, together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between the check valves shall be less than the supply pressure. In case of leakage of either check valve the differential relief valve, by

ARTICLE IV  
**Enforcement and Penalties**

**§ 82-12. Enforcement and penalties for offenses.**

- A. A violation of the provision of Article III of this chapter is a misdemeanor punishable by a fine not to exceed \$1,000 or imprisonment not to exceed one year, or both, for any one case, to be recovered in an action or proceeding brought by the Attorney for the Village of Leicester in a court of competent jurisdiction. Each day of a continuing violation shall be subject to a separate such fine, imprisonment or civil penalty.<sup>2</sup>
- B. The Attorney for the Village of Leicester may maintain an action or proceeding in the name of the Village of Leicester, in a court of competent jurisdiction to compel compliance with this chapter or restrain by injunction any violation of this chapter, notwithstanding the provisions of § 82-12A hereof for a penalty or other punishment.
- C. Where any violation of this chapter causes expense to the Village of Leicester, such violation may also be punishable by a civil suit against the violator, brought by the Attorney for the Village of Leicester in a court of competent jurisdiction, to recover such additional cost.

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

## **Chapter 86**

# **BUILDING CONSTRUCTION AND FIRE PREVENTION**

**[The Village, by L.L. No. 1-1983, adopted 9-6-1983, declined enforcement of the New York State Uniform Fire Prevention and Building Code. Therefore, according to statute, administration and enforcement of the Uniform Code are the responsibility of Livingston County.]**

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## Chapter 91

### BUILDINGS, UNSAFE

§ 91-1. Title.

§ 91-2. Definitions.

§ 91-3. Inspector.

§ 91-4. Notice.

§ 91-5. Posting of survey report.

§ 91-6. Costs and expenses.

[**HISTORY:** Adopted by the Board of Trustees of the Village of Leicester 8-22-1995 by L.L. No. 2-1995. Amendments noted where applicable.]

#### GENERAL REFERENCES

Building construction and fire prevention — See Ch. 86.

§ 91-1. Title.

This chapter shall be known as the “Village of Leicester Unsafe Buildings Law.”

§ 91-2. Definitions.

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

**PERSONS** — An individual, society, club, firm, partnership, corporation, or association of persons, and the singular number shall also include the plural number.

**UNSAFE BUILDING** — Any building or construction, structure or condition which is in such a state of disrepair as to create a substantial danger of injury to persons or property within the Village.

**VILLAGE** — The Village of Leicester, in the County of Livingston, State of New York.

§ 91-3. Inspector.

The Board of Trustees shall appoint an Inspector, who shall have the duty and authority to inspect and examine any and all buildings within the Village to determine whether such buildings are unsafe as defined herein. Said Inspector shall have the authority to investigate complaints filed by any person or at the request of the Board of Trustees. Upon the completion of such an investigation it shall be the duty of the Inspector to file written reports of his or her findings in the office of the Village Clerk.

§ 91-4. Notice.

If the Inspector's report indicates the existence of an unsafe building, the Village Clerk shall serve written notice on the owners of record of the premises on which said unsafe building is situated, either by personal delivery or by registered mail, addressed to the last known address of the owner of record as shown by the tax billing address on the real property tax assessment

records for properties situate within the Village. In the event said notice is served by registered mail, an additional copy of the same shall be posted on the premises. Said notice shall contain the following:

- A. A description which identifies the premises;
- B. A statement of the specific conditions in existence which cause the premises to be unsafe;
- C. An order that such unsafe conditions be removed or remedied, or that the premises be otherwise secured so as to eliminate any risk of danger to the general public;
- D. A statement of the date by which compliance with said order must be commenced, said date to be not later than five days after the receipt or service of the order;
- E. A statement of the date that compliance with said order must be completed, said date to be not more than 30 days from the receipt or service of the order;
- F. A provision advising the owner that in the event said order is not complied with, the Village Board of Trustees will order a survey and inspection of the premises by an inspector and New York State licensed architect or engineer appointed by the Village Board of Trustees, who shall report to the Village Board of Trustees with findings from said inspection. Said notice shall also advise the owner of his or her right to designate his or her own inspector, licensed architect or engineer to likewise inspect and survey the premises and report their findings to the Village Board of Trustees, and that a failure to so inspect and report within 10 days of said notice will result in the Village Board of Trustees accepting the report of the Village-designated inspectors, architect or engineer as true and correct;
- G. A statement that in the event the building or other structure or condition shall be reported unsafe or dangerous after such survey, an application will be made at a special term of the Supreme Court in the judicial district in which the property is located for an order determining the building or other structure to be a public nuisance and directing that it shall be repaired and secured or taken down and removed.

**§ 91-5. Posting of survey report.**

The Village Clerk shall cause a signed copy of the report of survey to be posted on the premises alleged to be unsafe.

**§ 91-6. Costs and expenses.**

The costs of all expenses incurred by the Village in connection with the proceedings to remove or secure, including all survey reports and expenses, all architects and surveyors charges, reasonable legal fees, and including the cost of actually removing or securing said unsafe building, shall be assessed against the land on which said unsafe building is located.

## Chapter 103

### FLOOD DAMAGE PREVENTION

#### ARTICLE I

##### Statutory Authorization and Purpose

- § 103-1. Findings.
- § 103-2. Statement of purpose.
- § 103-3. Objectives.

#### ARTICLE II Definitions

- § 103-4. Terms defined.

#### ARTICLE III General Provisions

- § 103-5. Lands to which chapter applies.
- § 103-6. Basis for establishing areas of special flood hazard.
- § 103-7. Interpretation and conflict with other laws.
- § 103-8. Penalties for offenses.
- § 103-9. Warning and disclaimer of liability.

#### ARTICLE IV Administration

- § 103-10. Designation of local administrator.
- § 103-11. Floodplain development permit.
- § 103-12. Application for permit.
- § 103-13. Duties and responsibilities of local administrator.

#### ARTICLE V Construction Standards

- § 103-14. General standards.
- § 103-15. Standards for all structures.
- § 103-16. Elevation of residential structures.
- § 103-17. Nonresidential structures.
- § 103-18. Manufactured homes and recreational vehicles.

#### ARTICLE VI Variance Procedure

- § 103-19. Appeals board.
- § 103-20. Conditions for variances.

[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 12-20-1994 by L.L. No. 3-1994. Amendments noted where applicable.]

#### GENERAL REFERENCES

Zoning — See Ch. 190.

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ARTICLE I  
**Statutory Authorization and Purpose**

**§ 103-1. Findings.**

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

**§ 103-2. Statement of purpose.**

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

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

**§ 103-3. Objectives.**

The objectives of this chapter are to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood-control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;



- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard, so as to minimize future flood blight areas;
- G. Provide that developers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

## ARTICLE II Definitions

### § 103-4. Terms defined.

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

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

**AREA OF SHALLOW FLOODING** — A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD** — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

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

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

**BUILDING** — See "structure."

**CELLAR** — Has the same meaning as "basement."

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

**ELEVATED BUILDING** — A nonbasement building built, in the case of a building in Zone A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor or, in the case of a building in Zone V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and adequately

anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zone A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zone V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** — The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEDERAL EMERGENCY MANAGEMENT AGENCY** — The federal agency that administers the National Flood Insurance Program.

**FLOOD or FLOODING** —

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
- (1) The overflow of inland or tidal waters;
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- B. "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A above.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)** — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

**FLOOD ELEVATION STUDY** — An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

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

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

**FLOOD INSURANCE STUDY** — See “flood elevation study.”

**FLOODPLAIN or FLOOD-PRONE AREA** — Any land area susceptible to being inundated by water from any source (see definition of “flooding”).

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

**FLOODWAY** — Has the same meaning as “regulatory floodway.”

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

**HIGHEST ADJACENT GRADE** — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**HISTORIC STRUCTURE** — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

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

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

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

**MANUFACTURED HOME PARK OR SUBDIVISION** — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

**MOBILE HOME** — The same meaning as "manufactured home."

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

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD** — The same meaning as "base flood."

**PRINCIPALLY ABOVE GROUND** — At least 51% of the actual cash value of the structure, excluding land value, is above ground.

**RECREATIONAL VEHICLE** — A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without

cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 103-12B of this chapter.

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

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

**SUBSTANTIAL DAMAGE** — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

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

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

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

### ARTICLE III General Provisions

#### **§ 103-5. Lands to which chapter applies.**

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

#### **§ 103-6. Basis for establishing areas of special flood hazard.**

- A. The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map (single panel) No. 361456A I-01, the effective date of which is August 27, 1982.
  - (2) Flood Hazard Boundary Map (single panel) No. 361456A H-01, the effective date of which is August 27, 1982.
- B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at: Village Clerk's Office, 52 South Parkway, Leicester, NY 14481.

**§ 103-7. Interpretation and conflict with other laws.**

- A. This chapter includes all revisions to the National Flood Insurance Program through November 1, 1989, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

**§ 103-8. Penalties for offenses.**

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

**§ 103-9. Warning and disclaimer of liability.**

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

ARTICLE IV  
Administration

**§ 103-10. Designation of local administrator.**

The Code Enforcement Officer is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

**§ 103-11. Floodplain development permit.**

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 103-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. Fees. All applications for floodplain development permit or floodplain certification letters shall be accompanied by an application fee of \$25. In addition, the applicant shall be responsible for reimbursing the Village of Leicester for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.

**§ 103-12. Application for permit.**

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

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zone A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 103-15C, Utilities.

- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 103-17, Nonresidential structures.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 103-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

**§ 103-13. Duties and responsibilities of local administrator.**

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

- A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:
  - (1) Review all applications for completeness, particularly with the requirements of § 103-12, Application for permit, and for compliance with the provisions and standards of this chapter.
  - (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction Standards, and, in particular, § 103-14A, Subdivision proposals.
  - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction Standards, no permit shall be issued. The applicant may revise the application to



include measures that mitigate or eliminate the adverse effects and resubmit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

B. Use of other flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 103-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
- (2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.

C. Alteration of watercourses.

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

D. Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

- E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.
- F. Stop-work orders.
- (1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 103-8 of this chapter.
  - (2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 103-8 of this chapter.
- G. Certificate of compliance.
- (1) In areas of special flood hazard, as determined by documents enumerated in § 103-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
  - (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
  - (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 103-13E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.
- H. Information to be retained. The local administrator shall retain and make available for inspection, copies of the following:
- (1) Floodplain development permits and certificates of compliance;
  - (2) Certifications of as-built lowest floor elevations of structures, required pursuant to § 103-13D(1) and D(2), and whether or not the structures contain a basement;
  - (3) Floodproofing certificates required pursuant to § 103-13D(1), and whether or not the structures contain a basement;
  - (4) Variances issued pursuant to Article VI, Variance Procedures; and
  - (5) Notices required under § 103-13C, Alteration of watercourses.

ARTICLE V  
Construction Standards

**§ 103-14. General standards.**

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 103-6.

- A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):
- (1) Proposals shall be consistent with the need to minimize flood damage;
  - (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and
  - (3) Adequate drainage shall be provided to reduce exposure to flood damage.
- B. Encroachments.
- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
    - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or
    - (b) The Village of Leicester agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Leicester for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Leicester for all costs related to the final map revision.
  - (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 103-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
    - (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or
    - (b) The Village of Leicester agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Leicester for all fees and

other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Leicester for all costs related to the final map revisions.

**§ 103-15. Standards for all structures.**

- A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- B. Construction materials and methods.
- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
  - (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
  - (3) For enclosed areas below the lowest floor of a structure within Zone A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
    - (a) Designs for meeting this requirement must either be certified by licensed professional engineer or architect or meet or exceed the following minimum criteria:
      - [1] A minimum of two openings having a total area of not less than one square inch for every square foot of enclosed area subject to flooding; and
      - [2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
    - (b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.
- C. Utilities.
- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood

elevation, a professional engineer's or architect's certification of the design is required;

- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### **§ 103-16. Elevation of residential structures.**

The following standards, in addition to the standards in §§ 103-14A, Subdivision proposals, and 103-14B, Encroachments, and 103-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated.

- A. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to two feet or more above the base flood level.
- B. Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- C. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 103-6 (at least two feet if no depth number is specified).
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

#### **§ 103-17. Nonresidential structures.**

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in §§ 103-14A, Subdivision proposals, and 103-14B, Encroachments, and 103-15, Standards for all structures.

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:
  - (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or

- (2) Be floodproofed so that the structure is watertight below an elevation two feet above the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
- (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
  - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2).
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

**§ 103-18. Manufactured homes and recreational vehicles.**

The following standards, in addition to the standards in §§ 103-14, General standards, and 103-15, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- A. Recreational vehicles placed on sites within Zones A1-A30, AE and AH.
- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
    - (a) Be on site fewer than 180 consecutive days;
    - (b) Be fully licensed and ready for highway use; or
    - (c) Meet the requirements for manufactured homes in Subsection B, D and E.

- (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.
- B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either outside of an existing manufactured home park or subdivision as herein defined; in a new manufactured home park or subdivision as herein defined; in an expansion to an existing manufactured home park or subdivision as herein defined; or in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood; shall be elevated on a permanent foundation such that the lowest floor is elevated to two feet or more above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- C. A manufactured home placed or substantially improved in Zone A1-A30, AE and AH in an existing manufactured home park or subdivision that is to be placed on a site on which a manufactured home has incurred substantial damage shall be:
  - (1) Elevated in a manner such as required in Subsection B; or
  - (2) Elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- D. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 103-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

ARTICLE VI  
Variance Procedure

**§ 103-19. Appeals board.**

- A. The Village Zoning Board of Appeals, as established by the Board of Trustees, shall hear and decide appeals and requests for variances from the requirements of this chapter.<sup>1</sup>
- B. The Village Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Village Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Village Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
- (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger to life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
  - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities

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



and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Village Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

**§ 103-20. Conditions for variances.**

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 103-19D(1) through (12) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
  - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure.
  - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
  - (1) The criteria of Subsections A, D, E and F of this section are met;
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
  - (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create

nuisances, cause fraud on or victimization of the public or conflict with existing chapters or ordinances.

- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

## Chapter 117

### NOTIFICATION OF DEFECTS

**§ 117-1. Written notice required.**

**§ 117-2. Presentation of notices to Board of Trustees.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 8-6-1985 by L.L. No. 1-1985. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Sidewalks — See Ch. 135.

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**§ 117-1. Written notice required.**

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

**§ 117-2. Presentation of notices to Board of Trustees.**

The Village Clerk shall cause all written notices received by her, pursuant to this chapter, to be presented to the Village Board of Trustees with five days of the receipt thereof or at the next succeeding Village Board meeting, whichever shall sooner occur.

## Chapter 124

### PARKS AND RECREATION AREAS

#### ARTICLE I Starr Playground

§ 124-2. Hours of operation.

§ 124-3. Enforcement.

§ 124-4. Penalties for offenses.

§ 124-1. Findings.

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

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#### ARTICLE I Starr Playground [Adopted 8-22-1995]

§ 124-1. Findings.

- A. The Village of Leicester operates Starr Playground for the use and enjoyment of the residents of the Village.
- B. There have been numerous incidents of vandalism at said Starr Playground.
- C. Said incidents have caused significant damage to the playground, and the risk of such future incidents gives rise to the risk of future damage to the playground.
- D. As a result of said damage and risk of damage, the Mayor of the Village has deemed it necessary to take immediate, corrective, emergency measures.
- E. It is the opinion and conclusion of the Mayor and the Board of Trustees that the implementation of hours of operation of Starr Playground will minimize the risk of such future vandalism.
- F. It has been deemed necessary and essential to protect against such vandalism and to provide for an orderly management and maintenance of Starr Playground to implement said hours of operation.

§ 124-2. Hours of operation.

- A. The hours of park operation during daylight saving time shall be from 8:00 a.m. to 9:00 p.m.
- B. The hours of operation during periods of Eastern standard time shall be from 8:00 a.m. to 6:00 p.m.

**§ 124-3. Enforcement.**

All appropriate law enforcement agencies are hereby empowered to patrol said Starr Playground and enforce the hours of operation as set by this article, said enforcement duties and powers to include citing violators for trespassing as provided for in the penal laws of the State of New York as well as for any such appropriate violation of the Penal Law or any other law, ordinance or regulation.

**§ 124-4. Penalties for offenses.<sup>1</sup>**

In addition to the above, the Town Court is hereby empowered to impose fines and penalties in an amount not to exceed \$250 or 15 days' imprisonment, or both, for anyone violating the hours of operation as set forth in this article.

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

## Chapter 135

### SIDEWALKS

§ 135-1. Definitions and word usage.

§ 135-2. Purpose.

§ 135-3. Building upon or blocking  
sidewalks prohibited.

§ 135-4. Violations.

§ 135-5. Penalties for offenses.

§ 135-6. When effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Leicester by L.L. No. 3-1969. Amendments noted where applicable.]

#### GENERAL REFERENCES

Notification of defects — See Ch. 117.

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**§ 135-1. Definitions and word usage.**

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

PERSON — Includes individuals, partners and corporations.

SIDEWALK — Includes pathways open to the public for pedestrian traffic.

B. All words shall be given their usual and customary meaning, and may include the plural.

**§ 135-2. Purpose.**

The purpose of this chapter is to insure to the inhabitants of the Village of Leicester that there shall be unencumbered and safe passage on the sidewalks within the Village and to eliminate pedestrian traffic on or along highways.

**§ 135-3. Building upon or blocking sidewalks prohibited.**

No person shall build upon, barricade, block, or do any act which will in any manner interfere with the free flow of pedestrian traffic on the sidewalks of the Village of Leicester, New York.

**§ 135-4. Violations.**

Any person who shall violate the provisions of this chapter shall be guilty of an offense, and each week such violation continues shall be deemed a separate offense.

**§ 135-5. Penalties for offenses.**<sup>1</sup>

Any person found guilty of a violation of this chapter shall be subject to be imprisoned for a term not to exceed 15 days, or to a fine not to exceed \$250, or both, for each violation thereof.

**§ 135-6. When effective.**

- A. This chapter shall become effective according to the provisions of the Municipal Home Rule Law.
- B. Persons having, maintaining, or permitting a violation of this chapter at the time it shall become effective shall have a further 90 days thereafter to correct and remove such violation, without penalty, but not thereafter.

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

**Chapter 140**  
**SOLID WASTE**

**ARTICLE I**  
**Recycling**

- § 140-1. Findings and purpose.
- § 140-2. Definitions.
- § 140-3. Preparation of recyclables for collection; removal.
- § 140-4. Waste haulers.
- § 140-5. Administration.

**ARTICLE II**  
**Dumping and Burning**

- § 140-6. Title.
- § 140-7. Purpose.
- § 140-8. Definitions.
- § 140-9. Dead animals.
- § 140-10. Burning prohibited.
- § 140-11. Dumping on public property.
- § 140-12. Penalties for offenses.

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

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**ARTICLE I**  
**Recycling**

**[Adopted 3-29-1992 by L.L. No. 1-1992]**

**§ 140-1. Findings and purpose.**

- A. The Village finds that the removal of certain materials from the solid waste stream will decrease the amount of solid waste disposed of in landfills and aid in the conservation of valuable resources.
- B. The Village finds that the New York Solid Waste Management Act of 1988 requires all municipalities to adopt a local law or ordinance by September 1, 1992, requiring separation of recyclable and reusable material from solid waste.
- C. The Village finds that in order to protect the health, safety and welfare of the people of the Village of Leicester, it is necessary for the Village to enact this article in order to encourage and facilitate the maximum recycling practicable on the part of every household, business and institution within the Village.
- D. The Village declares that the purpose of this article is to establish and implement recycling-related practices and procedures to be applicable to all waste generators within the Village.

**§ 140-2. Definitions.**

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



**COMMERCIAL WASTE GENERATOR** — Any business, governmental agency, municipality or other nonresidential generator of solid waste requiring off-site disposal.

**COUNTY** — Livingston County, New York, or any authorized county agency.

**DROP-OFF CENTER** — A private or publicly operated facility to which recyclables can be delivered.

**MATERIALS RECOVERY FACILITY** — A private or public facility for receiving source-separated recyclable materials and processing them into marketable commodities.

**RECYCLABLES** — Any material designated as such by the county, provided that such material is not hazardous and can be reasonably separated from the solid waste stream and held for material recycling or reuse value.

**RECYCLING RULES AND REGULATIONS** — County rules and regulations adopted by the county pertaining to the separation, collection, transportation and disposal of recyclables, as may be amended from time to time by the county.

**RESIDENTIAL WASTE GENERATOR** — Any person or household which produces solid waste requiring off-site disposal.

**SOLID WASTE** — All putrescible and nonputrescible solid waste, including, but not limited to, materials or substances discarded or rejected as being spent, useless, worthless, or in excess to owners at the time of such discard or rejection, or which are being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use, or as industrial, commercial and agricultural waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the Commissioner of the Department of Environmental Conservation.

**SOURCE SEPARATION** — The segregation of recyclables from the solid waste stream at the point of generation for separate collection, sale or other disposition.

**SOURCE SEPARATION LAW** — This Local Law No. 1 of 1992.

**WASTE GENERATOR** — A commercial waste generator or a residential waste generator.

**WASTE HAULER** — All persons engaged in the commercial collection, transportation and/or disposal of solid waste and/or recyclables generated, originated or brought within the county.

**VILLAGE** — The Village of Leicester, Livingston County, New York.

**§ 140-3. Preparation of recyclables for collection; removal.**

- A. Each commercial and residential waste generator in the Village shall source-separate recyclables from solid waste.
- B. Each waste generator in the Village shall provide for the removal of recyclables from the property on which they are generated either through a service provided by the municipality, a private hauler, or by direct haul by the individual waste generator to a disposal location permitted by law.
- C. Nothing in this article is intended to prevent any waste generator from making arrangements for the reuse, private collection, sale or donation of recyclables.
- D. Each waste generator shall provide for the source separation of recyclables in conformance with the recycling rules and regulations.

**§ 140-4. Waste haulers.**

- A. All waste haulers doing business in the Village shall offer or cause to be offered to their customers collection, transportation and disposal services for recyclables as any such waste hauler offers collection, transportation and disposal services for solid waste. Unless otherwise provided in the recycling rules and regulations, such services shall be provided on the same day(s) as solid waste pickup, transportation or disposal services are provided.
- B. All waste haulers shall offer a per-bag fee system to promote reduction of solid waste.
- C. Waste haulers are required to take recyclables to a materials recovery facility where such materials are recycled.
- D. Waste haulers are required to follow the requirements of the recycling rules and regulations.

**§ 140-5. Administration.**

This Village Source Separation Law shall be primarily administered by the Village. The county shall be primarily responsible for the development and implementation of the recycling rules and regulations.

**ARTICLE II**  
**Dumping and Burning**  
**[Adopted 12-16-1997 by L.L. No. 2-1997]**

**§ 140-6. Title.**

This article shall be known as the "Village of Leicester Dumping and Burning Law."

**§ 140-7. Purpose.**

The Village of Leicester Board of Trustees hereby finds that burning and dumping of garbage and rubbish creates a risk of harm to the health, safety and welfare of the residents of the Village of Leicester and therefore it is in the public interest to regulate such activities.

**§ 140-8. Definitions.**

For purposes of this article, certain words are hereinafter defined as follows:

**GARBAGE** — Includes waste food, papers, dead animals or parts thereof and all leaves, waste or discarded wood, lumber or vegetable matter of any kind or any other matter which shall be flammable or capable of fermentation or decay.

**PERSON** — Includes an individual, society, club, firm, partnership, corporation or association of persons or limited-liability company.

**RUBBISH** — Includes waste metal, tin cans, ashes, cinders, glass, pottery and all discarded substances of a solid and incombustible nature.

**§ 140-9. Dead animals.**

No person shall carry or leave or cause to be carried or left upon any premises any dead animals which create or may thereafter create a nuisance of any kind or which shall be or may become dangerous to human or animal life.

**§ 140-10. Burning prohibited.**

No person shall set fire to or cause to burn any garbage or rubbish, as herein defined, or any material, waste or refuse which may be left or deposited upon any premises.

**§ 140-11. Dumping on public property.**

No person shall throw or deposit or cause to be thrown or deposited any garbage, rubbish or abandoned vehicles or parts thereof in or upon any public highway, street or place within the Village of Leicester.

**§ 140-12. Penalties for offenses.**

Any person violating any of the provisions of this article shall, upon conviction thereof, be punishable by a fine not exceeding \$250 for each offense or by imprisonment for a term not to exceed 15 days, or by both such fine and imprisonment.

**Chapter 148**  
**STORAGE, OUTDOOR**

**§ 148-1. Title and purpose.**

**§ 148-2. Definitions.**

**§ 148-3. Storage on private property prohibited.**

**§ 148-4. Enforcement procedure.**

**§ 148-5. Deposit on other property.**

**§ 148-6. Penalties for offenses.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 6-17-1997 by L.L. No. 1-1997. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Sidewalks — See Ch. 135.

Solid waste — See Ch. 140.

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**§ 148-1. Title and purpose.**

This chapter shall be known as the "Village of Leicester Outdoor Storage Law." It is hereby declared that the outdoor storage and maintenance of abandoned, junked, discarded, dismantled and unlicensed motor vehicles, household appliances, rubbish and debris upon privately owned properties within the Village of Leicester is a matter affecting the public interest. Such storage and maintenance constitute a nuisance and an unsightly condition and are a source of vexation and annoyance not only to owners and occupants of adjoining lands but also to the general public. The preservation of peace and good order, the safeguarding of health, safety and general welfare and the protection of private property compel the Village Board of the Village of Leicester to legislate upon this subject matter.

**§ 148-2. Definitions.**

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

**APPLIANCE** — Any stove, washing machine, dryer, freezer, refrigerator or other household device or equipment abandoned, junked, discarded, wholly or partially dismantled, no longer intended or in condition for ordinary use for the purpose for which it was designed originally.

**JUNK VEHICLE** —

A. A vehicle (as defined in the New York State Vehicle and Traffic Law, or amendments thereof) which:

- (1) Does not, for a period of 30 days, have a current vehicle registration, properly affixed, if such affixation is required by law;
- (2) Cannot be put into an operational condition, except at a cost in excess of its market value after repair; or
- (3) Has been discarded for use as a vehicle or for any other purpose.

- B. Notwithstanding the foregoing, horse-drawn vehicles and recreational vehicles may be stored without registration and inspection.

**OWNER** — The person having legal title to real property or the person in possession thereof shall be considered owners of property for the purposes of this chapter.

**PERSON** — An individual, partnership, association, corporation or legal representative.

**RUBBISH or DEBRIS** — Includes ordinary household or store trash of a flammable character, such as barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, rubber tires, lumber, brick, stone and other building materials no longer intended or in condition for ordinary use; any and all tangible personal property no longer intended or in condition for ordinary and customary use.

**§ 148-3. Storage on private property prohibited.**

No person shall have or permit the existence of junk vehicles, appliances, rubbish or debris out of doors on property owned or occupied by such person.

**§ 148-4. Enforcement procedure.**

- A. The Code Enforcement Officer of the Village of Leicester or any other agency or official authorized from time to time by the Village Board of Trustees by resolution shall inspect property and file a written report of violations by owners with the Village Clerk. The Village Clerk shall prepare a written notice and shall cause it to be served upon the owner personally or by certified mail. The notice shall contain the following:
- (1) The name of the owner to whom the notice shall be addressed.
  - (2) The location of the premises involved in the violation.
  - (3) A statement of the facts which it is alleged violate this chapter.
  - (4) A demand that the junk vehicle, appliance, rubbish or debris be removed from the premises within seven days after service or mailing of the notice.
  - (5) A statement that a failure to comply with the demand may result in prosecution.
  - (6) A copy of the Village of Leicester Outdoor Storage Law.
- B. Upon failure of the owner to comply with the demand, a further notice shall be served upon such owner to remove the junk vehicle, appliance, rubbish or debris from the premises within seven days after the personal service upon or the mailing by certified mail to said owner, with notice that the owner will be prosecuted for failure to comply.
- C. Upon written application of the alleged owner showing reasonable cause, the Board of Trustees may grant an extension of up to 90 days for the owner to comply with the demands. Said application must be made to the office of the Village Clerk not later than 15 days after the service of the demand as hereinabove provided unless the Board of Trustees extends the time for filing said application upon a showing of good cause. In no

event shall an application be filed after the commencement of enforcement proceedings as provided hereinafter at § 148-4D.

- D. If the owner fails to comply with said notice and demand, an action may be maintained in the Town Court of the Town of Leicester for the enforcement hereof. Additionally an equitable or legal action or proceeding in the name of the Village of Leicester may be commenced in any court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of the Village of Leicester Outdoor Storage Law. In addition to any other remedy permissible by law or equity the Village of Leicester may seek a court order to enter the premises and remedy the violation.<sup>1</sup>

**§ 148-5. Deposit on other property.**

No person shall willfully place a junk vehicle, appliance, rubbish or debris on premises which such person does not own.

**§ 148-6. Penalties for offenses.**

- A. Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or both such fine and imprisonment. The continuation of such an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.
- B. In addition to any other penalties imposed hereunder all costs and expenses incurred by the Village of Leicester in connection with any legal action to enforce this chapter as well as with any work done to remedy the violation shall be assessed against the land on which the violation occurred, and a bill for such expenses shall be presented to the owner of the property, or if the owner cannot be ascertained, then such bill shall be posted in a conspicuous place on the premises. Such assessment shall constitute a lien upon such land. If the owner shall fail to pay for such expenses within 10 days after the bill is presented or posted, a legal action may be brought to collect such assessment or to foreclose such lien. As an alternative to the maintenance of any such action, the Code Enforcement Official may file a certificate of the actual expenses incurred as aforesaid, together with a statement identifying the property in connection with which the expenses were incurred and the owner thereof, with the Assessor, who shall in the preparation of the next assessment roll assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as is provided by law for the collection and enforcement of real property taxes in the Village of Leicester.

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

## Chapter 156

### TAXATION

#### ARTICLE I Utilities Tax

- § 156-1. Tax on furnishing of utility services.
- § 156-2. Definitions.
- § 156-3. Records of utilities.
- § 156-4. Filing by utility.
- § 156-5. Payment of tax.
- § 156-6. Sufficiency of returns.
- § 156-7. Notice.
- § 156-8. Failure to file.
- § 156-9. Refund.
- § 156-10. Tax not to be added to customers' bills.
- § 156-11. Failure to pay tax.
- § 156-12. Rules and regulations of Treasurer.
- § 156-13. Disposition of taxes and penalties.

#### ARTICLE II Disposition of Tax Revenue

- § 156-14. Payment to Village.

#### ARTICLE III Collection of Delinquent Taxes

- § 156-15. Legislative intent.
- § 156-16. Resolution by villages.
- § 156-17. Transmission of delinquent taxes from Village to county.
- § 156-18. Payment of delinquent taxes by county to Village.
- § 156-19. County jurisdiction unaffected.

#### ARTICLE IV Tax Exemption for Disabled Persons With Limited Incomes

- § 156-20. Statutory authority.
- § 156-21. Exemption granted.
- § 156-22. Eligibility; exemption schedule.

#### ARTICLE V Veterans Exemption

- § 156-23. Statutory authority.
- § 156-24. Exemption amount; effective date.

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

#### ARTICLE I Utilities Tax [Adopted 6-18-1969 by L.L. No. 4-1969]

- § 156-1. Tax on furnishing of utility services. <sup>1</sup>

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 on and after the first day of July, 1969, is hereby imposed

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

upon every utility doing business in the Village of Leicester, 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 of property subject to such supervision under Article 3-b of the Public Service Law, and a tax equal to 1% of its gross operating income from and after the first day of July, 1969, is hereby imposed upon every other utility doing business in the Village of Leicester, New York, which has a gross operating income for 12 months ending May 31 in excess of \$500, which taxes shall have application only within the territorial limits of the Village of Leicester, 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 Leicester notwithstanding that some acts be necessarily performed with respect to such transaction within such limits.

### § 156-2. Definitions.

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

**GROSS INCOME** — Includes receipts received in or by reasons 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 the gross income), made or service rendered for ultimate consumption or use by the purchaser in the Village of Leicester, New York, including cash credit 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 costs of the property sold, the cost of the material used, labor, or services or other costs, interest or discount paid, or any other expense whatsoever; also profits from the sale of real property growing out of the ownership or use of or interest in such property; also profit from 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 Leicester, New York, other than such as are received from a corporation, a minority of whose voting stock is owned by the taxpayer utility, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof, and also from any transaction (except sales for resale and rentals) within the Village of Leicester, 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 Leicester, New York, and in the case of utility engaged in selling telegraphy and telegraph service, only receipts from transactions wholly consummated within the Village of Leicester, New York.

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



**PERSON** — Persons, corporations, companies, associations, joint stock associations, copartnerships, estates, assignees 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 municipality, and public districts.

**UTILITY** — Includes every person subject to the Supervision of the State Department of Public Service, except the person engaged in the business of operating or leasing sleeping and parlor railroad cars or operating railroads other than street surface, rapid, subway and elevated railroads, and also includes every other person (whether or not such person is subject to such supervision), who sells gas, electricity, steam, water, refrigeration, telephone and telegraphy, delivered through mains, pipes, or wires, or furnishes gas, electricity, steam, water, refrigeration, telephone or telegraphy service, by means of mains, pipes, or wires, regardless of whether such activities are the main business of such person or are only incidental thereto, or whether use is made of the public streets.

**§ 156-3. Records of utilities.**

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.

**§ 156-4. Filing by utility.**

Every utility subject to tax hereunder shall file annually, on or before March 1 of each year, a return for the 12 calendar months, or part thereof, ending the prior December 31; provided, however, in lieu of an annual return any utility may file quarterly on or before the 25th day of April, July, October, and January for the calendar quarter preceding each such return date. 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 Leicester, New York, to file an annual return which shall contain any data specified by him. Every return shall have annexed thereto an affidavit of the head of the utility making the same, or of the owner or of the co-partner thereof, or of a principal officer of the corporation, if such is conducted by a corporation, to the effect that the statements contained therein are true.

**§ 156-5. Payment of tax.**

At the time of filing a return, each utility shall pay to the Village of Leicester 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.

**§ 156-6. Sufficiency of returns.**

- 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.
- B. 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 therefrom 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 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 in the prosecution of such proceeding, or at the option of the applicant such undertaking may be in a sum sufficient to cover the tax, interest, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax, interest and penalties as a condition precedent to the granting of such order.
- C. Except in the case of willfully false or fraudulent return with intent to evade the tax, no assessment or 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.

**§ 156-7. 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 post-paid envelope, addressed to such persons at the address given 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.

**§ 156-8. Failure to file.**

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's 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 same time for filing any return and, satisfied that the delay was excusable, may remit all or any portion of the penalty by the foregoing provisions of this section.

**§ 156-9. Refund.**

If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the Village Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Village Treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Village Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Village Treasurer as hereinbefore provided, unless the Village Treasurer, after a hearing as hereinbefore provided, or of his own motion, shall have reduced the tax 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 monies collected under this article. An application for a refund made, as hereinbefore provided, shall be deemed an application for the revision of tax 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 provisions hereinbefore contained relating to the granting of such order.

**§ 156-10. Tax not to be added to customers' bills.**

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

**§ 156-11. Failure to pay tax.<sup>2</sup>**

Whenever any person shall fail to pay any tax or penalty imposed by this article, the Village Attorney shall, upon request of the Village Board, bring an action to enforce payment of the same. The proceeds of any judgement 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.

**§ 156-12. Rules and regulations of Treasurer.**

In the administration of this article the 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 his performance of his duties, and to prescribe the form of blanks, reports relating

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

to the administration and 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.

**§ 156-13. 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 Leicester, and shall be credited to and deposited in the general fund of the Village.

ARTICLE II  
**Disposition of Tax Revenue**  
[Adopted 8-14-1974]

**§ 156-14. Payment to Village.**

Pursuant to § 1262 of the Tax Law, the amounts which would be applied to reduce the county and general town taxes levied upon real property in such Village shall be paid directly to such Village in lieu of such tax reduction.

ARTICLE III  
**Collection of Delinquent Taxes**  
[Adopted 3-28-1984 by L.L. No. 2-1984]

**§ 156-15. Legislative intent.**

The purpose of this article is to provide for the collection by the County of Livingston of certain delinquent Village taxes in accordance with § 1442 of the Real Property Tax Law of the State of New York.

**§ 156-16. Resolution by villages.**

Villages requesting collection of delinquent village taxes shall file with the Livingston County Treasurer and the Clerk of the Livingston County Board of Supervisors a certified copy of the resolution of the Village Board of Trustees requesting such collection. Such resolution shall be filed with the Livingston County Treasurer and the Clerk of the Livingston County Board of Supervisors on October 1 of the year in question.

**§ 156-17. Transmission of delinquent taxes from Village to county.**

At such time as the resolution is filed as provided for in § 156-16 of this article, the Village Board shall transmit to the Livingston County Treasurer in such form as may be prescribed by the County Treasurer the account of all unpaid taxes and certificate of delinquencies. Upon delivery to the County Treasurer of the account and certificate of unpaid Village taxes, a penalty of 5% shall be added to each amount currently due and owing. The amount of penalty and interest accumulated on any delinquent account at the time such account is transmitted to

the County Treasurer shall be included in and be deemed part of the amount of the unpaid tax for purposes of payments to the Village from the County Treasurer and for purposes of computing the additional percentage to be levied by the Board of Supervisors of Livingston County. Following such transmission, the delinquent taxes, with interest, may be paid to the Livingston County Treasurer at any time prior to relevy of said taxes by the Livingston County Legislature. The payment of delinquent taxes will not be accepted by the County Treasurer after relevy of unpaid taxes.

**§ 156-18. Payment of delinquent taxes by county to Village.**

After transmission of delinquent Village taxes by the Village to the Livingston County Treasurer, the County Treasurer shall make payment of such taxes, together with interest and penalties in accordance with the provisions of § 1442 of the Real Property Tax Law of the State of New York. The County Treasurer will pay to the Village Treasurer the amount of the delinquent taxes, including interest accumulated to the time of the return of the tax roll by the Village Treasurer to the Village Board of Trustees, on or before the first day of April following the receipt of the amount and certification of delinquent Village taxes; provided, however, that the County Treasurer shall retain the five-percent penalty imposed pursuant to Paragraph (a) of Subdivision 4 of § 1436 of the Real Property Tax Law.

**§ 156-19. County jurisdiction unaffected.**

Nothing herein shall be construed to limit the authority of the Livingston County Board of Supervisors and/or Livingston County Treasurer to enforce and collect delinquent county taxes as otherwise provided by law.

ARTICLE IV

**Tax Exemption for Disabled Persons With Limited Incomes**

[Adopted 2-24-1998 by L.L. No. 1-1998; amended in its entirety 2-6-2003 by L.L. No. 1-2003<sup>3</sup>]

**§ 156-20. Statutory authority.**

This article is adopted pursuant to the authority granted by Real Property Tax Law § 459-c. All definitions, terms, and conditions of such state law shall apply to this article.

**§ 156-21. Exemption granted.**

Real property owned by a person with disabilities whose income is limited by such disabilities, and used as the legal residence of such person, shall be entitled to a partial exemption from taxation to the extent of 50% of the assessed valuation.

3. Editor's Note: The long title to L.L. No. 1-2003 reads as follows: "A Local Law Amending Local Law 1-2002 Increasing the Maximum Income Eligibility for Tax Exemptions from Real Property Taxes to Senior Citizens and Disabled Persons." The authority for granting tax exemption for senior citizens is found in Real Property Tax Law § 467.

**§ 156-22. Eligibility; exemption schedule.**

To be eligible for the exemption authorized by Real Property Tax Law § 459-c and implemented by this article, the maximum income of such person shall not exceed \$23,399.99. Any such person shall be eligible for an exemption in accordance with the following schedule enacted by the Village Board of Leicester.

<b>Annual Income</b>	<b>Percentage of Assessed Valuation Exempt From Taxation</b>
\$0 to \$15,000	50%
\$15,001 to \$15,999.99	45%
\$16,000 or more but less than \$16,999.99	40%
\$17,000 or more but less than \$17,999.99	35%
\$18,000 or more but less than \$18,899.99	30%
\$18,900 or more but less than \$19,799.99	25%
\$19,800 or more but less than \$20,699.99	20%
\$20,700 or more but less than \$21,599.99	15%
\$21,600 or more but less than \$22,499.99	10%
\$22,500 or more but less than \$23,399.99	5%

**ARTICLE V  
Veterans Exemption  
[Adopted 2-24-1998 by L.L. No. 2-1998]**

**§ 156-23. Statutory authority.**

Section 458-a(2)(d)(ii) of the Real Property Tax Law authorizes a town/village to increase the maximum allowable exemption granted to veterans for real property tax purposes.

**§ 156-24. Exemption amount; effective date.**

The Village of Leicester, pursuant to the authority granted by § 458-a(2)(d)(ii) of the Real Property Tax Law, increases the maximum allowable exemption granted under Paragraphs (a), (b) and (c) of Subdivision (2) of § 458-a of the Real Property Tax Law to \$15,000, \$10,000, and \$50,000, respectively. This increase shall be effective with the 1998 assessment roll.

2004  
LIVINGSTON COUNTY

SENIOR CITIZENS EXEMPTION (RPTL-467)  
AND  
PERSONS WITH DISABILITIES AND LIMITED INCOMES EXEMPTION (RPTL-459-c)

Exemption Income Limits and Percentage of Exemption

<u>INCOME</u>	<u>RESIDENTIAL EXEMPTION</u>
\$0 - \$15,500	50%
\$15,500.01 - \$16,499.99	45%
\$16,500 - \$17,499.99	40%
\$17,500 - \$18,499.99	35%
\$18,500 - \$19,399.99	30%
\$19,400 - \$20,299.99	25%
\$20,300 - \$21,199.99	20%
\$21,200 - \$22,099.99	15%
\$22,100 - \$22,999.99	10%
\$23,000 - \$23,899.99	5%

## Chapter 163

### TREES

**§ 163-1. Water supply right-of-way.**

**§ 163-3. Restrictions on planting.**

**§ 163-2. Village right to regulate trimming or removal.**

**§ 163-4. Village regulation or removal of hazardous trees.**

**[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 7-19-2001. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Notification of defects — See Ch. 117.

Sidewalks — See Ch. 135.

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**§ 163-1. Water supply right-of-way.**

A distance of five feet from each side of a Village water supply main shall be deemed the right-of-way for a Village water supply main.

**§ 163-2. Village right to regulate trimming or removal.**

The Board of Trustees of the Village of Leicester has the right to regulate the trimming or removal of any and all trees that are in the right-of-way of the Village water supply mains.

**§ 163-3. Restrictions on planting.**

Trees cannot be planted in the right-of-way of the Village water supply mains.

**§ 163-4. Village regulation or removal of hazardous trees.**

The Board of Trustees of the Village of Leicester has the right to regulate or trim any and all trees that constitute a highway safety hazard or a street maintenance hazard.



## Chapter 170

### VEHICLES AND TRAFFIC

#### ARTICLE I Parallel Parking

§ 170-1. Parallel parking areas designated.

§ 170-2. Penalties for offenses.

#### ARTICLE II Parking

§ 170-3. "No parking" areas designated.

§ 170-4. Penalties for offenses.

#### ARTICLE III Village Speed Limit

§ 170-5. Definitions.

§ 170-6. Maximum speed limit.

§ 170-7. Obedience to speed limit.

§ 170-8. Authority to install traffic control devices.

§ 170-9. Penalties for offenses.

#### ARTICLE IV Stop and Yield Intersections; Weight Limits

§ 170-10. Definitions.

§ 170-11. Through highways.

§ 170-12. Obedience to signs.

§ 170-13. Weight limits.

§ 170-14. Authority to install traffic control devices.

§ 170-15. Penalties for offenses.

#### ARTICLE V Winter Parking

§ 170-16. Title.

§ 170-17. Purpose.

§ 170-18. Hours and dates of winter parking restrictions.

§ 170-19. Authority to impound and remove vehicles.

§ 170-20. Penalties for offenses.

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

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#### ARTICLE I Parallel Parking

[Adopted 10-6-1947 by Ord. No. 19]

§ 170-1. Parallel parking areas designated.

Parking in the following areas shall be limited the parallel parking only:

Name of Street	Location
Caledonia Road	S.H. 5694 Station 744+95 to Station 756+21:65 (north side of public square to north corporation line)

<b>Name of Street</b>	<b>Location</b>
Mount Morris Road	S.H. 5666 Station 763+65.6 to Station 775+03 (north side of public square to south corporation line and on S.H. 1248 from Station 192+15.5 west corporation line to Station 206+00 and from Station 210+03.2 to Station 231+54 east corporation line)

**§ 170-2. Penalties for offenses. <sup>1</sup>**

Violations of this article will be punished as set forth in the New York State Vehicle and Traffic Law.

**ARTICLE II**

**Parking**

**[Adopted 8-3-1959 by Ord. No. 22, effective 1-1-1959]**

**§ 170-3. "No parking" areas designated.**

The driver of any vehicle, motor vehicle or motorcycle shall not park such vehicle, and the owner of any such vehicle shall not suffer or permit such vehicle to be parked, at any time in the following areas:

- A. In that area on the north side of Main Street between the intersecting point of the east line of Route 36 and the north line of Main Street and a point 30 feet easterly therefrom, all of which nonparking space is designated by a sign within said space marked "No Parking."

**§ 170-4. Penalties for offenses. <sup>2</sup>**

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

**ARTICLE III**

**Village Speed Limit**

**[Adopted by L.L. No. 1-1969]**

**§ 170-5. Definitions.**

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

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1. Editor's Note: Added 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).

**§ 170-6. Maximum speed limit.**

Thirty miles per hour is hereby established as the maximum speed at which vehicles may proceed within the corporate limits of the Village of Leicester.

**§ 170-7. Obedience to speed limit.**

No person shall operate a vehicle on any highway or private road open to public motor vehicle traffic at a rate of speed in excess of the maximum established by this article.

**§ 170-8. Authority to install traffic control devices.**

The Highway Department of the Village shall install and maintain traffic control devices when required under the provisions of this article to make effective the provisions of said article and may install and maintain such additional traffic control devices as it may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provision of §§ 1662 and 1684 of that law.

**§ 170-9. Penalties for offenses.**

Any person violating the provisions of this article shall be subject to the penalty as provided in Article 45 of the Vehicle and Traffic Law of the State of New York.

ARTICLE IV  
**Stop and Yield Intersections; Weight Limits**  
[Adopted by L.L. No. 2-1969]

**§ 170-10. Definitions.**

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

**§ 170-11. Through highways.**

- A. Main Street Route U.S. 20-A and Route 39 are each hereby designated as a through highway.
- (1) Stop signs shall be erected on the following entrances thereto:
    - (a) North Street from the north.
    - (b) South Street from the south.
    - (c) Pleasant Street from the south.
  - (2) Yield signs will be erected on the following entrances thereto:

(a) South Park Street from the south.

- B. The intersection of Route 36 with Market Street is hereby designated a stop intersection and a stop sign shall be erected on Market Street at its entrance to said intersection from the southwest.

**§ 170-12. Obedience to signs.**

- A. Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop as required by § 1172 of the Vehicle and Traffic Law, and after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.
- B. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for existing conditions, or shall stop if necessary as provided in § 1172 of the Vehicle and Traffic Law, and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection; provided, however, that if such driver is involved in a collision with a pedestrian in a crosswalk or a vehicle in the intersection after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.

**§ 170-13. Weight limits. [Added 10-16-1973 by L.L. No. 1-1973]**

No vehicle with a gross laden weight in excess of five tons shall be allowed or permitted on South Park Street.

**§ 170-14. Authority to install traffic control devices.**

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

**§ 170-15. Penalties for offenses.**

Any person violating the provisions of this article shall be subject to the penalty as provided in Article 45 of the Vehicle and Traffic Law of the State of New York.

ARTICLE V  
**Winter Parking**  
**[Adopted 3-3-1970]**

**§ 170-16. Title.**

This article shall be known and cited as the "Winter Parking Ordinance."

**§ 170-17. Purpose.**

The purpose of this article is to permit and facilitate the plowing and removal of snow from the streets, highways, alleys and public places, by the Village of Leicester and its employees.

**§ 170-18. Hours and dates of winter parking restrictions.**

No vehicle, motor-driven or otherwise, shall be parked or permitted to stand on any street, highway, sidewalk, alley or public place within the corporate limits of the Village of Leicester between the hours of 2:00 a.m. and 7:00 a.m. from November 15 of each year to April 15 of the following year.

**§ 170-19. Authority to impound and remove vehicles.**

Any vehicle found unattended during the period prohibited herein may be removed by any police or peace officer, and stored in a suitable place at the expense of the owner. The owner, or person in charge of such vehicle, may redeem such vehicle upon payment to the Village of Leicester of the amount of all expenses actually and necessarily incurred in effecting such removal.

**§ 170-20. Penalties for offenses.** <sup>3</sup>

Any violation of this article by any person shall constitute disorderly conduct, and any person so violating shall be a disorderly person, as provided by § 20-2006 of the Village Law of the State of New York, and may be punished by a fine not exceeding \$250.

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

## Chapter 179

### WATER

#### ARTICLE I Water District Regulations

- § 179-1. Title.
- § 179-2. Definitions.
- § 179-3. Applications; tap or connection rate.
- § 179-4. Taps.
- § 179-5. Alterations.
- § 179-6. Service during repair.
- § 179-7. Limiting use.
- § 179-8. Responsibility for repair; inspection; disconnection of facilities.
- § 179-9. Access to inspect and repair.
- § 179-10. Buildings without basements.
- § 179-11. Extensions.

- § 179-12. Meters.
- § 179-13. Cutting off supply; fee for turning supply on or off.
- § 179-14. Water services and charges.
- § 179-15. Meter readings.
- § 179-16. Amendments to rules, regulations and rates.

#### ARTICLE II Temporary Meter Shut-Offs

- § 179-17. Fee for temporary meter shut-offs and turn-ons.

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

#### GENERAL REFERENCES

Backflow prevention — See Ch. 82.

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#### ARTICLE I Water District Regulations <sup>1</sup> [Adopted 6-20-1991]

##### § 179-1. Title.

This article shall be known as the "Water District Regulations Ordinance."

##### § 179-2. Definitions.

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

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1. Editor's Note: The Village specifications for meter installations are available for inspection and are on file in the Village offices.

MAIN LINE — So much of the water system as is owned by the Village.

OWNER — The person occupying any premises within the Village limits.

PERSON — Any individual or individuals, corporation, partnership or any other association or group.

SERVICE LINE or SERVICE FACILITIES — All that part of the water system leading from the main line to the premises served.

VILLAGE — The Village of Leicester.

VILLAGE BOARD or BOARDS — The duly elected Trustees of the Village of Leicester, the Water Commissioners, or their duly appointed agent.

**§ 179-3. Applications; tap or connection rate.**

- A. All persons hereafter applying for water must make application to the Village Clerk, upon such forms as are from time to time approved by the Board of Trustees, agreeing at all times to use the water according to the rules of such Board, as from time to time adopted, the Board reserving the right to refuse such application for good cause shown.
- B. The Board shall have the authority, from time to time, to set the rate to be charged for the tap or connection to the main line, and such charges shall be paid at the time application is made for water use. If a person would rather have a second meter and a second tap on the main water line, he or she may choose to do so. A charge of \$55 per unit allowing 4,000 gallons, and \$2.50 per 1,000 gallons, will be charged for users inside the Village. Users outside the Village will be charged \$72 per unit allowing 4,000 gallons, and \$3 per 1,000 gallons. A second unit would allow 8,000 gallons. Currently, however, the fee for tapping the main line is \$500, and requires an application to be submitted by the user. [Amended 6-3-1999<sup>2</sup>]
- C. In all cases, when an application for water is made for other than a permanent building, the entire cost of all labor and materials shall be paid by the applicant, including a deposit of \$70 on the meter.
- D. All applications for the introduction of supply of water into any premises or for the extension of any pipe for the conveyance of such water, must be made in writing, and if the applicant is not the owner of the premises, the written consent of the owner must accompany the application. The Board reserves the right to refuse any application if, in its judgment, it would be for the best interest of the district.
- E. Permission will not be granted to supply two or more buildings from the same service line, unless one shall be a building not used as a dwelling. All existing violations of this section shall be remedied within 30 days after notice has been given under penalty of having water supply shut off until remedied.

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

**§ 179-4. Taps.**

- A. It shall be unlawful for any person, other than the person duly authorized by the Board, to tap, cut or drill into the main line.
- B. All taps or connections with the main line shall be made under the supervision of the Board; all curb cocks or boxes shall be within four feet of the main line.
- C. All service lines, after making tap, extending from the main line to the meter on the premises, must be three-quarter-inch Type K copper pipe.
- D. All expenses attending the introduction of water from the curbstock into any premises shall be borne by the applicant.
- E. When necessary to cross a road or highway to make said tap, this entire expense shall be borne by the applicant.

**§ 179-5. Alterations.**

It shall be unlawful for any person to change or alter his service line without the prior approval of the Board.

**§ 179-6. Service during repair.**

- A. In making repairs, or in the construction of new facilities, it shall be lawful for the Board to shut off the water supply, during which time no deduction shall be made in the water rate, on notice to the owner.
- B. It shall be lawful for the Board to limit the amount of water furnished any consumer under the same circumstances as exist under Subsection A hereof.

**§ 179-7. Limiting use.**

It shall be lawful for the Board to limit the amount of water furnished any consumer for good cause, with reasonable notice to any owner or person, and in event of emergency, without notice.

**§ 179-8. Responsibility for repair; inspection; disconnection of facilities.**

The owner of the property to which water is supplied is responsible for the repair and maintenance, at his expense, of all service lines and attachments, fixtures and equipment beyond the main line connection. The Board shall have the right to inspect all service facilities for proper installation and may approve or disapprove the same; in the event of disapproval thereof, the Board shall have the right to disconnect the service facilities, or repair the incorrect and disapproved installation and charge the same to the owner on his next regular water bill.



**§ 179-9. Access to inspect and repair.**

The Board shall have free access to any premises to which water is supplied, at any reasonable hour; or in the event the Board determines there is an emergency, at any hour, for the purpose of inspection and repair.

**§ 179-10. Buildings without basements.**

Trailers, dwellings, or other homes with no basements, or any similar or equivalent situation, must have a meter pit built according to the specifications of the Board. All meter pits must be kept free of water by the property owner; if necessary for the Village to perform such service, there will be an additional charge of \$30 added to the next billing.

**§ 179-11. Extensions.**

All extensions from the present main line must be at least the equivalent of a six-inch cast-iron pipe.

**§ 179-12. Meters.**

- A. All meters will be furnished by and remain the property of the Village, and it shall be unlawful for any owner or person to do, directly or indirectly, any act or thing which will damage any part of said meter; and upon discontinuing service the owner or person will return the meter to the Village in the same condition as when obtained; necessary wear expected.
- B. Any willful or negligent damage done to Village meters may be repaired at the cost of the Village and the amount thereof billed and collected in the same manner as prescribed for water rates. Any meter larger than 3/4 inch shall be the sole responsibility of the property owner.

**§ 179-13. Cutting off supply; fee for turning supply on or off. <sup>3</sup>**

Any owner or person who shall violate any of the provisions of this article, whether by failure to make payment of the water services provided herein or otherwise, shall be subject to having his water supply discontinued at the discretion of the Board, without notice, and there will be a charge of \$100 made for cutting off the supply or for turning the service on again.

**§ 179-14. Water services and charges.**

- A. All water furnished to consumers shall be by meter only, and the charge therefor shall be paid quarterly.
- B. The charge made for water will be due on or before the date appearing on the quarterly bill for the months rendered. A penalty of 10% for late payment will be added to the rate

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

charged, and the total will be known as the "gross amount." The gross amount will be collected and due 30 days after the original due date.

- C. When the due date falls on a Saturday, Sunday or legal holiday, the amount due will be accepted on the first succeeding business day. Remittance by mail will not be accepted at the net rate if postmarked later than the due date.
- D. Failure to pay the charge made when due will subject the owner or person to a discontinuance of service, as hereinbefore provided.
- E. If a meter gets out of order and fails to register the correct amount of water used, the consumer will be charged at the average daily consumption as shown by the meter when in order.
- F. The owner of said property shall be responsible for all water bills, whether originally due from him or from the previous owner or occupant, and the same shall become a lien upon the property until paid.

**§ 179-15. Meter readings.**

All estimated readings and/or outside readers shall be read from meter once per year at the discretion of the Board.

**§ 179-16. Amendments to rules, regulations and rates.**

The Board reserves the right to make such changes in the rules and regulations and in the rates and charges for the use of water as it may from time to time deem advisable.

**ARTICLE II  
Temporary Meter Shut-Offs  
[Adopted 10-20-1998]**

**§ 179-17. Fee for temporary meter shut-offs and turn-ons.**

When shutting off water for periods of one month or more (residents going south for the winter), the Board will charge a shut-off fee of \$25 and a turn-on fee of \$25.

## Chapter 190

### ZONING

#### ARTICLE I

##### Enacting Clause, Title, Purposes, Application and Definitions

- § 190-1. Statutory authority.
- § 190-2. Title.
- § 190-3. Purposes.
- § 190-4. Applicability; interpretation; preexisting uses or permits.
- § 190-5. New York State Uniform Fire Prevention and Building Code.
- § 190-6. Definitions and word usage.

#### ARTICLE II Administration

- § 190-7. Enforcement.
- § 190-8. Duties of Zoning Enforcement Officer.
- § 190-9. Certificates and permits.
- § 190-10. Application procedures.
- § 190-11. Fees for permits, amendments, variances, and special use permits.
- § 190-12. Certificates of compliance.
- § 190-13. Board of Appeals.
- § 190-14. Planning Board.
- § 190-15. Penalties for offenses.
- § 190-16. Complaint of violation.
- § 190-17. Procedure for amendment.
- § 190-18. Remedies.
- § 190-19. State Environmental Quality Review (SEQR).

#### ARTICLE III

##### Zoning District Regulations, Zoning Map

- § 190-20. General regulations.
- § 190-21. Zoning district classification.
- § 190-22. Newly annexed lands.
- § 190-23. Interpretation of zoning district boundaries.
- § 190-24. Existing lots of record.
- § 190-25. R-1 Residential 1 District.
- § 190-26. R-2 Residential 2 District.
- § 190-27. R-3 Residential 3 District.
- § 190-28. C-1 Neighborhood Commercial District.
- § 190-29. I Industrial District.

#### ARTICLE IV Site Plan Review

- § 190-30. Site plan review and approval.
- § 190-31. Submission of site plan and supporting data.
- § 190-32. Site plan review.
- § 190-33. Performance bond or letter of credit as condition of site plan approval.
- § 190-34. Performance standards.
- § 190-35. Other duties not impaired.

#### ARTICLE V Supplementary Regulations

- § 190-36. Off-street parking space requirements.
- § 190-37. Off-street loading space requirements.

§ 190-38. Modification of parking and loading requirements.

§ 190-42. Signs.

§ 190-39. Land abutting residential uses.

§ 190-43. Fences.

§ 190-40. Gasoline station, gasoline station-market, motor vehicle repair shop, motor vehicle sales agency, drive-in business.

§ 190-44. Exterior security lighting.

§ 190-45. Mobile home parks.

Schedule A

Zoning Map

§ 190-41. Public utility facilities.

[HISTORY: Adopted by the Board of Trustees of the Village of Leicester 10-7-1994 by L.L. No. 1-1994. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention — See Ch. 86.  
 Unsafe buildings — See Ch. 91.

Water — See Ch. 179.

ARTICLE I

Enacting Clause, Title, Purposes, Application and Definitions

§ 190-1. Statutory authority.

Pursuant to the authority conferred by Article 7 of the Village Law of the State of New York, the Village Board of the Village of Leicester hereby adopts and enacts as follows.

§ 190-2. Title.

This chapter shall be known as the “Zoning Law of the Village of Leicester.”

§ 190-3. Purposes.

- A. The purposes of this chapter and zoning districts as outlined on the Zoning Map<sup>1</sup> are to provide for orderly growth and development, to lessen congestion in streets, to secure safety from fire, flood and other dangers, to provide adequate light and air, to prevent overcrowding, to avoid undue concentration of population, to conserve, enhance and perpetuate special historic sites, places and buildings, to facilitate the adequate provision of transportation, sewer, sewerage, schools, parks and other public requirements, and to promote the health, safety, morals or general welfare of the public.
- B. The chapter has been made with reasonable consideration, among other things, to the character of each district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land.

1. Editor’s Note: A copy of the Zoning Map is included at the end of this chapter.

**§ 190-4. Applicability; interpretation; preexisting uses or permits.**

- A. No building shall be erected, constructed, moved, altered, rebuilt or enlarged, nor shall any land, water or building be used, designed or arranged to be used for any purpose except in conformity with this chapter, with the exception of the performance of necessary repairs which do not involve material alteration of structural features, and/or plumbing, electrical or heating/ventilation systems. Such necessary repairs shall include, for example, the replacement of siding and roofing materials. No building, structure or premises shall be used, and no building or other structure shall be erected which is intended, arranged or designed to be used for any trade, industry, business or purpose of any kind that is noxious or offensive by reason of the emission of odor, dust, refuse matter, garbage, smoke, fumes, gas, noise or vibration, or that is dangerous to the comfort, peace, enjoyment, health or safety of the community, or tends to its disturbance, inconvenience, discomfort or annoyance.
- B. In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public health, safety, morals and general welfare. This chapter shall not be deemed to affect in any manner whatsoever any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land, or upon the creation, erection, construction, establishment, moving, alteration or enlargement of buildings than are imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations, or by easements, or covenants, or agreements, then the provisions of this chapter shall prevail.
- C. This chapter shall not apply to uses which were legal, prior existing, nonconforming uses as defined herein.
- D. Nothing herein contained shall require any change in plans or construction of a building for which a building permit has been issued.

**§ 190-5. New York State Uniform Fire Prevention and Building Code.**

No provision of this chapter shall be construed to repeal, modify or constitute an alternative to the New York State Uniform Fire Prevention and Building Code (hereafter referred to as the "Uniform Code"). Village residents and other individuals using these zoning regulations should make sure they refer to the Uniform Code in order to determine its applicability to their specific project.

**§ 190-6. Definitions and word usage.**

- A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense shall include the future tense, and the plural includes the singular; the word "lot" includes the word "plot," the word "building" includes the word "structure," the word "shall" is always mandatory; the words "occupied" or "used" shall be construed to mean and shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied."

- B. The following terms are specifically defined. As used in this chapter the following words shall have these meanings:

**ACCESSORY USE** — Use of buildings customarily incidental and subordinate to the principal use or buildings, and located on the same lot.

**ALLEY** — Narrow supplementary thoroughfare for the public use of vehicles or pedestrians, affording access to abutting property.

**ALTERATION** — Structural change, rearrangement, change of location, addition to, or deletions from a building, other than repair and modification in building equipment systems (i.e., heating, cooling, electrical, etc.).

**ARCADE** — Any establishment having three or more video or pinball games.

**BASEMENT** (see “cellar”) — A story partly underground and having 1/2 or more of its clear height above the average level of the adjoining ground. A story which has one or more walls completely above ground shall not be considered a basement. The basement shall not be considered in determining the permissible number of stories.

**BOARDINGHOUSE** — An owner-occupied dwelling wherein three or more people are sheltered for profit.

**BOARD OF ZONING APPEALS** — That board appointed by the Village Board, specifically to hear all appeals as provided by these regulations and other duties specifically set forth in this chapter or as assigned to it by the Village Board.

**BUFFER ZONE** — A continuous strip of trees and/or shrubs densely planted to provide a physical screen preventing visual access from one use to another and to reduce the escape and/or intrusion of litter, fumes, dust, smoke, noise or other noxious or objectionable elements.

**BUILDING** — A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals or property.

**BUILDING, ACCESSORY** — A building, subordinate to the principal building on the lot and used for purposes customarily incidental to that of said main building.

**BUILDING, FRONT LINE OF** — The line of that face of the building nearest the street line, or if there are street lines on two or more sides of the building, it is the line of that face of the building frontage on that street line where the principal entrance is located. This face includes covered porches, whether enclosed or unenclosed, but does not include steps.

**BUILDING, HEIGHT OF** — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof.

**BUILDING, TEMPORARY or STRUCTURE, TEMPORARY** — A building or structure erected, constructed or placed upon the premises, to exist there for a brief or temporary duration of time, not exceeding six months. All other buildings or structures shall be deemed and considered as permanent for the purposes of this chapter.

**CELLAR** — A story partly underground and having more than 1/2 of its clear height below the average finished grade of the adjoining ground. A story which has one or more walls above ground shall not be considered a cellar. The cellar shall not be considered in determining the permissible number of stories.

**CERTIFICATE OF COMPLIANCE** — A certificate issued by the Zoning Officer upon completion of construction, alteration or change in occupancy or use of a building or land. Said certificate shall acknowledge compliance with all the requirements of this chapter only and such adjustment thereto granted by the Board of Appeals and/or the Planning Board.

**CHILD DAY CARE:** —

- (1) Care for a child on a regular basis provided away from the child's residence for less than 24 hours per day by someone other than the parent, stepparent, guardian or relative within the third degree of consanguinity of the parents or stepparents of such child.
- (2) Child day care does not refer to care provided in:
  - (a) A summer day camp, traveling summer day camp or children's overnight camp as defined in the State Sanitary Code;
  - (b) A program for school-age children operated solely for the purpose of religious education, sports, classes, lessons or recreation;
  - (c) A facility providing day services under an operating certificate issued by the Department of Social Services;
  - (d) A facility providing day treatment under an operating certificate issued by the Office of Mental Health or by the Office of Mental Retardation and Developmental Disabilities; or
  - (e) A kindergarten, pre-kindergarten or nursery school for children three years of age or older, or a program for school-age children conducted during non-school hours, operated by a public school district or by a private school or academy which is providing elementary or secondary education or both in accordance with the compulsory education requirements of the Education Law, provided that such kindergarten, pre-kindergarten, nursery school or program is located on the premises or campus where the elementary or secondary education is provided.

**CHILD DAY-CARE CENTER** — A program or facility in which child day care is provided on a regular basis to more than six children for more than three hours per day per child for compensation or otherwise, except those programs operating as a group family day-care home, a family day-care home, or school-age child-care program, as defined in this section.

**CLUB, MEMBERSHIP** — A group of persons organized in accordance with the Not-For-Profit Corporation Law for social and/or recreational purposes (example: fish and game clubs).

**COMMUNITY CENTER** — Any meeting hall, place of assembly, museum, art gallery or library, not operated primarily for profit.

**COMMUNITY RESIDENCE** — A supervised community home operated in compliance with the New York State Mental Hygiene Law which houses not more than 14 individuals and provides client supervision on a twenty-four-hour basis. For the purposes of this chapter an approved community residence as defined herein is considered a one-family dwelling.

**CONVALESCENT HOME, NURSING HOME or EXTENDED-CARE FACILITY** — See "hospital."

**COVERAGE** — That percentage of the lot area covered by the combined area of all buildings or structures on the lot.

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

**DISPOSAL TRANSFER STATION** — A solid waste management facility, other than a recyclables handling and recovery facility exclusively handling nonputrescible recyclables, that can have a combination of structures, machinery, or devices, where solid waste is taken from collection vehicles and placed in other transportation units for movement to another solid waste management facility.

**DOMESTIC ANIMAL** — Animals commonly kept as household pets, including, but not limited to, dogs, cats, caged birds, rabbits, guinea pigs, nonpoisonous snakes, fish, turtles, frogs, mice and ferrets. Species of animals which are considered harmful (i.e., poisonous) to humans shall not be considered domestic animals for the purposes of this chapter.

**DRIVE-IN SERVICE** — A building or use where a product is sold to, or a service performed for, customers while they are in or near their motor vehicle, including, but not limited to, fast-food restaurants, drive-up bank tellers, film processing service booths, etc.

**DWELLING** — A detached building designed or used exclusively as living quarters for one or more families; the term shall not be deemed to include an automobile court, motel, boarding or rooming house, mobile home, recreation vehicle, tourist home or tent.

**DWELLING, MULTIFAMILY** — A dwelling containing three or more dwelling units.

**DWELLING, ONE-FAMILY** — A dwelling containing one dwelling unit only.

**DWELLING, TWO-FAMILY** — A dwelling containing two dwelling units only.

**DWELLING UNIT** — A building, or portion thereof, providing complete housekeeping facilities for one family.

**EDUCATIONAL INSTITUTION, PRIVATE** — Any nonpublic school or other organization or institution conducting a regularly scheduled curriculum of study similar to that of the public schools and operated under the Education Law of New York State and recognized by the appropriate educational authorities.



**FACTORY-MANUFACTURED HOME (MODULAR HOME)** — A factory-manufactured home incorporates structures or components designed for residential occupancy, constructed by a method or system of construction whereby the structure or component is wholly or in substantial part manufactured in a manufacturing facility and is intended for permanent installation on a building site. Such home shall be constructed and installed in accordance with the requirements of the New York State Fire Prevention and Building Code and shall bear an Insignia of Approval issued by the Secretary of State. Factory-manufactured homes shall be deemed to be one- or two-family or multiple dwellings.<sup>2</sup>

**FAMILY** — One or more persons who live together in one dwelling unit and maintain a common household; may consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption; may also include domestic servants and gratuitous guests.

**FAMILY DAY-CARE HOME** — A family home which is a personal residence and occupied as a family residence which provides child day care on a regular basis for more than three hours per day per child for three to six children for compensation or otherwise, except as provided below. The name, description or form of the entity which operates a family day-care home does not affect its status as a family day-care home. For the purposes of this chapter, a family day-care home shall be considered an accessory use to a one-family dwelling unit.

**FARM ANIMAL** — Animals commonly kept for agricultural purposes, including, but not limited to, cattle, horses, sheep, pigs, goats, and chickens.

**FLOOR AREA OF A BUILDING** — The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding basement or cellar floor areas and not devoted to habitable use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

**FLOOR, LOWEST** — Lowest level including basement, cellar, crawl space, or garage of lowest enclosed area.

**FRONTAGE** — The extent of a building or a lot along one public street as defined herein.

**GARAGE, PRIVATE** — An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

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

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

**GASOLINE STATION** — Any building or land or any part thereof used for sale of motor fuel, oil and motor vehicle accessories, and which may include facilities for lubricating, washing or servicing vehicles, but not including painting or body repairs.

**GASOLINE STATION-MARKET** — A gasoline station which provides one or more additional commercial services such as a restaurant, dairy bar, beverage market, or food market or such a commercial use which also provides for gasoline sales. For the purpose of this definition, sales from vending machines are not considered commercial service.

**GROUP FAMILY DAY-CARE HOME** — A family home which is a personal residence and occupied as a family residence which provides child day care on a regular basis for more than three hours per child for seven to 12 children for compensation or otherwise, except as provided below. Such home must be operated by a provider and have at least one assistant present during the hours that care is provided. The name, description or form of the entity which operates a group family home does not affect its status as a group family day-care home. For the purposes of this chapter, a group family day-care home shall be considered a home occupation when considered in conjunction with a residential use.

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

**HOME OCCUPATION** — An occupation or profession which:

- (1) Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit, and
- (2) Is carried on by a member of the immediate family residing in the dwelling unit, and
- (3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

**HOSPITAL** — Hospital, sanitarium, clinic, rest home, nursing home, convalescent home, home for aged, and any place for diagnosis and treatment of human ailments, except a doctor's office.

**HOSPITAL, ANIMAL** — An establishment for the medical and/or surgical care of sick or injured animals.

**HOTEL/MOTEL** — A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room may be provided within the building or in an accessory building.

**JUNK** — Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, scrapped, ruined, dismantled or wrecked motor vehicles or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material, tires, lumber, pallets and other wood debris.

**JUNKYARD** — Outside storage or deposit, whether in connection with another business or not, where one or more unregistered, old, or secondhand vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric, or otherwise, for the purpose of disposing of the same or for any other purpose. Such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles and/or material defined as junk by this chapter which, taken together, equal in volume 100 cubic feet. A junkyard shall include any land or structure used for collection, storage, sale or disposal of junk, scrap metal, or other discarded materials. Not included is a single motor vehicle intended, maintained and used on a seasonal basis (i.e., motorcycles and winter or summer cars), provided such vehicle is intact, located in other than the front yard, and has a NYS motor vehicle inspection sticker which was issued within the previous 12 months.

**KENNEL** — Any building or land or part thereof used for harboring three or more dogs over six months old.

**LAUNDROMAT** — A business premises equipped with individual clothes-washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.

**LOT** — Land occupied or which may be occupied by a building and its accessory uses, together with required open space, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated; and having frontage on a street, or other means of access as may be determined by the Planning Board to be adequate as a condition for issuance of a zoning permit.

**LOT AREA** — The total area within property lines.

**LOT, CORNER** — A lot located at the junction of and fronting on two or more intersecting streets (also see the definition of "lot line front").

**LOT DEPTH** — The mean horizontal distance from the street right-of-way line of the lot to its opposite rear line, measured at right angles to building line.

**LOT LINES** — The property lines bounding a lot as defined herein.

**LOT LINE, FRONT** — In the case of a lot abutting upon only one street, the line separating the lot from the street right-of-way; in the case of a lot abutting more than one street, each street line shall be considered a front lot line.

**LOT LINE, REAR** — The lot line which is generally opposite the front lot line; if the rear lot line is less than 10 feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line, not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.

**LOT LINE, SIDE** — The property line or lines extending from the front lot line to the rear lot line.

**LOT WIDTH** — The horizontal distance between the side lot lines, measured at right angles to the lot depth.

**MOBILE HOME** — A structure, whether occupied or not, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation, when connected to the required utilities.

**MOBILE HOME PARK** — A parcel which has been improved for the rental or lease of two or more lots and the provision of services for mobile homes for nontransient residential use.

**MOTEL** — See "hotel."

**MOTOR VEHICLE REPAIR SHOP** — Any building or structure used for the repair and servicing of motor vehicles for profit or as part of a commercial operation.

**NONCONFORMING USE** — A use of a building or of land that does not conform to the regulations as to use and area in the district in which it is situated, which was lawful under any applicable preceding ordinances or laws at the time the use was established, or if established before 1964 was lawful before such date, and in either event has not been extended after becoming a nonconforming use or otherwise been rendered an illegal use pursuant to provisions of any prior law or ordinance.

**NURSING HOME or CONVALESCENT HOME** — See "hospital."

**OWNER** — An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

**PARKING SPACE** — An off-street space available for the parking of one motor vehicle on a transient basis and having a width of 10 feet, and an area of not less than 200 square feet, exclusive of passageways and driveways, and having direct usable access to a street.

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

**RECREATION, INDOOR** — Includes, but is not limited to, a bowling alley, theater, table tennis, and pool hall, skating rink, gymnasium, swimming pool, hobby workshop, arcade, and similar places of indoor recreation.

**RECREATION, OUTDOOR** — Includes, but is not limited to, a golf course, golf driving range, trap, skeet, and archery range, swimming pool, skating rink, riding stable, tennis court, recreation stadium, skiing facility, hunting preserve, and similar pieces of outdoor recreation.

**RECREATION VEHICLE** — A vehicular-type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodations for recreation, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

**RECYCLABLES HANDLING AND RECOVERY FACILITY** — A solid waste management facility, other than collection and transfer vehicles, at which recyclables are separated from the solid waste stream, or at which previously separated recyclables are collected.

**RELIGIOUS INSTITUTION** — A church, temple, parish house, convent, seminary and retreat house.

**RETAIL STORE/SERVICE** — An enclosed store for sale of retail goods and services, including, but not limited to, the following: barber, beauty, dry clean, personal service shop, department store and restaurant/tavern. "Retail store/service" shall not be interpreted to include the following: drive-up service, freestanding retail stand, gasoline station, gasoline station-market, motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

**SCHOOL** — Parochial, private and public school, college, university and accessory uses operated under the Education Law of the State of New York and recognized by the appropriate educational authorities, and shall exclude commercially operated schools of beauty, culture, business, dancing, driving, music and similar establishment.

**SCHOOL-AGE CHILD-CARE PROGRAM** — A program or facility providing school-age child care (care provided on a regular basis to more than six school-age children under 13 years of age or who are incapable of caring for themselves) during the school year to an enrolled group of children before and/or after the period children enrolled in such program are ordinarily in school or during school lunch periods and may also include such care during school holidays and those periods of year when school is not in session, including summer vacation.

**SELF-SERVICE STORAGE FACILITY** — A building or group of buildings divided into separate units or compartments used to meet the temporary storage needs of businesses and residential users. A warehouse operated for a specific commercial or industrial establishment shall not be considered a self-storage facility.

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

- (1) **AWNING SIGN** — Any visual message incorporated into an awning attached to a building.
- (2) **COPY-CHANGE SIGN** — A sign on which the visual message may be periodically changed.
- (3) **DIRECTIONAL SIGN** — A sign limited to providing information on the location of an activity, business or event.

- (4) **FREESTANDING SIGN** — Any sign not attached or part of any building but separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, pylon signs and masonry wall-type signs.
- (5) **ILLUMINATED SIGN** — Any sign illuminated by electricity, gas or other artificial light either from the interior or exterior of the sign, and which includes reflective and phosphorescent light.
- (6) **OFF-PREMISES SIGN** — A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.
- (7) **PORTABLE SIGN** — A sign, whether on its own trailer, wheels, or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.
- (8) **PROJECTING SIGN** — A sign which is attached to the building wall or structure and which extends horizontally more than 15 inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.
- (9) **REPRESENTATIONAL SIGN** — A three-dimensional sign built so as to physically represent the object advertised.
- (10) **TEMPORARY SIGN** — A sign related to a single activity or event having a duration of no more than 15 days.
- (11) **WALL SIGN** — A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall, and not extending more than 15 inches from the face of such wall.
- (12) **WINDOW SIGN** — A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four feet of the window, but not including graphics in connection with customary window display of products.

**SIGN DIRECTORY** — A listing of two or more business enterprises, consisting of a matrix and sign components.

**SIGN STRUCTURE** — The supports, uprights, bracing and framework for the sign. In the case of a sign structure consisting of two or more sides where the angle formed between any two of the sides or the projections thereof exceeds 30°, each side shall be considered a separate sign structure.

**SIGN SURFACE AREA** — The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign. The structure supporting a sign shall be excluded unless the structure is designed in a way to form an integral background for the display.

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

**SPECIAL USE** — A specifically designed use that would not be appropriate generally or without restrictions throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare.

**STREET** — A public way for vehicular traffic which affords principal means of access to abutting properties.

**STREET LINE** — The right-of-way line of a street as dedicated by a deed of record; if no such deed exists, then by any other record establishing such right-of-way line of a street.

**STRUCTURE** — A combination of materials to form a construction for use, occupancy or ornamentation, including, but not limited to, buildings, mobile homes, towers, wind energy conservation systems (WECS), antennas, satellite dishes, or gas or liquid storage tanks, that are principally above ground.

**SUBSTANTIAL IMPROVEMENT:** —

- (1) Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:
  - (a) Before the improvement or repair is started; or
  - (b) If the structure has been damaged and is being restored, before the damage occurred.
- (2) For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
  - (a) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
  - (b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**SWIMMING POOL** — A structure or receptacle for water having a depth greater than one foot, used for swimming, and shall exclude portable plastic pools designed to hold less than 100 gallons.

**TOURIST HOME** — An owner-occupied dwelling in which overnight accommodation, with or without meals, is provided for transient guests for profit. The term includes bed-and-breakfast establishments.

**TRAILER** — Any vehicle which may be towed and used for carrying or storing goods, equipment, machinery, construction materials, snowmobiles, boats, all-terrain cycles (ATC), motor vehicles or as a site office.

**UTILITY, PUBLIC** — Any person, firm, corporation or governmental subdivision, duly authorized to furnish to the public, under public regulation, electricity, gas, water, sanitary sewers, storm sewers, steam, telephone, telegraph or cable television.

**VETERINARY FACILITY** — Any structure or premises in which animals are kept, boarded, bred or trained for commercial gain.

**YARD** — An unoccupied space, open to the sky, on the same lot with the building and structure.

**YARD, FRONT** — An open, unoccupied space on the same lot with the building, situated between the front line of the building and the street line and extending the full width of the lot.

**YARD, REAR** — The area of the lot extending across the entire rear of the lot, bounded by the real property lot line and the rear building line and between the two side lot lines.

**YARD, SIDE** — The area between the side building line and the related side lot line and between the front yard and the rear yard.

## **ARTICLE II Administration**

### **§ 190-7. Enforcement.**

The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the Zoning Enforcement Officer, who shall have such powers as are conferred upon him by this chapter and as reasonably may be implied therefrom. He shall be appointed by the Village Board and shall receive compensation as the Village Board shall determine. The Zoning Enforcement Officer shall have such other and further duties as may be assigned by the Village Board pursuant to this chapter or otherwise.

### **§ 190-8. Duties of Zoning Enforcement Officer.**

#### **A. Inspection and review.**

- (1) It shall be the duty of the Zoning Enforcement Officer, or his duly authorized assistants, to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this chapter.
- (2) The Zoning Enforcement Officer and all his duly authorized assistants shall be entitled to enter any building or premises (which includes the internal premises such as basement, etc.) for the purpose of inspection, observation, measurement, testing and records examination in performing his duties set forth in this chapter, and for the further purpose of ascertaining whether the provisions of this chapter are being met and all requirements are being complied with. Persons or occupants of premises to be entered shall allow the Zoning Enforcement Officer and/or his assistants ready access at all reasonable times to all parts of the premises to carry out the actions specified herein. Where any owner or occupant has security



measures in force which would require proper identification and clearance before entry into his premises, the owner or occupant shall make necessary arrangements with his security guards so that upon presentation of suitable identification, personnel from the Village will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

- (3) The Zoning Enforcement Officer or any of his duly authorized assistants seeking to enter private property pursuant to the provisions of this chapter may enter such property on the consent of the owner or occupant. In the event such consent is denied or if said Zoning Enforcement Officer or assistant determines that it is preferable to obtain a search warrant without first seeking such consent, said Zoning Enforcement Officer or assistant shall be entitled to obtain a search warrant pursuant to the applicable provisions of law from a court of competent jurisdiction to compel the owner or occupant to permit immediate entry and inspection.
  - (4) Notwithstanding the provisions contained in Subsection A(3), in the event an emergency situation exists, said Zoning Enforcement Officer and/or assistants shall be entitled to immediately enter upon any private property for the purposes set forth in this chapter either with or without a search warrant.
- B. Violations and written orders. Where the Zoning Enforcement Officer, in the course of his duties, determines that any plans, buildings or premises are in violation of the provisions of this chapter, he shall order the responsible party in writing to remedy such conditions. Said written order shall comply with the provisions of this chapter.
- C. Revocation of certificate of compliance. On the serving of notice and failure to comply with the time limits specified in such notice by the Zoning Enforcement Officer to the owner of any violation of any of the provisions of this chapter, any certificate of compliance previously issued for such buildings or use shall be held null and void. A new certificate of compliance shall be required for any further use of such building or premises.
- D. Records. The Zoning Enforcement Officer shall maintain a permanent record of all matters considered and all action taken by him. Such records shall form a part of the records of his office and shall be available for the use of the Village Board and other officials of the Village. The records to be maintained shall include at least the following:
- (1) Application file. An individual permanent file for each application for a permit provided for by this chapter shall be established at the time the application is made. Said file shall contain one copy of the application and all supporting documents and plans; notations regarding pertinent dates and fees, and the like: as appropriate, one copy of the resolution of the Planning Board and/or Zoning Board of Appeals in acting on the application if such action is required; and the date the permit applied for was issued or denied by the Zoning Enforcement Officer as well as a copy of any permit issued by the Zoning Enforcement Officer and any correspondence sent or received by the Zoning Enforcement Officer regarding such application.
  - (2) Monthly report. The Zoning Enforcement Officer shall prepare a monthly report for the Village Board. Said report shall cite all actions taken by the Zoning

Enforcement Officer, including all referrals made by him; all permits and certificates issued and denied; and all complaints of violations received and all violations found by him, and the action taken by him consequent thereto. A copy of this monthly report shall also be transmitted by the Zoning Enforcement Officer to the Tax Assessor, Planning Board and Board of Appeals at the same time it is transmitted to the Village Board.

#### **§ 190-9. Certificates and permits.**

The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this chapter.

- A. Zoning permit. The Zoning Enforcement Officer is hereby empowered to issue a zoning permit for any plans regarding the construction or alteration of any building or structures or part of any building, or the change in the use of any land or building or part thereof, where he shall determine that such plans are not in violation of the provisions of this chapter.
- B. Temporary use permit. Upon written direction of the Planning Board, the Zoning Enforcement Officer is hereby empowered to issue a temporary use permit. A temporary use permit shall only be effective for a period not to exceed 12 months; such permit may be extended by the Zoning Enforcement Officer not more than once for an additional period not to exceed six months.
- C. Special use permit. Upon written direction of the Planning Board, the Zoning Enforcement Officer is hereby empowered to issue any special use permit provided for by this chapter.
- D. Certificate of compliance. The Zoning Enforcement Officer is hereby empowered to issue a certificate of compliance which shall certify that all provisions of this chapter have been complied with in respect to the location and use of the building, structure or premises in question.

#### **§ 190-10. Application procedures.**

- A. Application. Applications for zoning permits shall be accompanied by a layout sketch, drawn to scale, showing the shape and dimensions of the lot to be built upon, the size and location of all buildings or structures proposed as well as those that shall remain, the intended use of each building or structure, and any such other information with regard to the lot and neighboring lots, buildings and/or structures as the Zoning Enforcement Officer may in his discretion deem necessary to determine and provide for the enforcement of this chapter. Applications, together with a layout sketch, shall be submitted in triplicate. The Zoning Enforcement Officer shall carefully consider the application and supporting documents for compliance with this chapter and either issue or deny the zoning permit applied for. When the application is for any nonresidential use within the Village, the Zoning Enforcement Officer shall, prior to the issuance of any permit, refer one copy of such plans, drawings and statements to the Planning Board for site plan review (see Article IV).

- B. Issuance of zoning permit. The Zoning Enforcement Officer shall issue a zoning permit only after the site plan, if required, has been approved by the Planning Board and all required variances and special use permits have been obtained.
- C. Installation of foundation. The Zoning Enforcement Officer shall be notified that the site is prepared for installation of the foundation of a structure, and shall inspect the site to check the location of the structure.
- D. Initiation of construction. If a zoning permit is not obtained by the applicant within 90 days after final approval, such approval shall be void.
- E. Completion of construction. A permit shall be void if construction is not substantially completed within a period of one year from the date of said permit. The Zoning Enforcement Officer may issue a six-month extension of a permit for good cause shown. Two such extensions of a permit will be allowed.
- F. Location of permit. The zoning permit shall be located in a place readily visible to the public during construction activities.

**§ 190-11. Fees for permits, amendments, variances, and special use permits.**

Fees may be charged for permits issued, and processing of applications for amendments, variances, and special use permits. The fee shall be set by resolution of the Village Board and may be changed from time to time in the same manner.

**§ 190-12. Certificates of compliance.**

No land shall be used or occupied and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of compliance has been issued by the Zoning Enforcement Officer in accordance with the provisions of this chapter.

**§ 190-13. Board of Appeals.**

- A. Organization. The Village Board of Trustees shall appoint a Board of Appeals pursuant to the applicable provisions of New York Village Law, and applicable local laws, resolutions, intermunicipal agreements.
- B. Meetings, minutes and records. Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- C. Filing requirements. Every rule, regulation, amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals, shall immediately be filed in the office of the Village Clerk and shall be a public record.
- D. Hearing appeals. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, interpretation or determination made by the

Zoning Enforcement Officer or other administrative official. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer, or to grant a use or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Village.

- E. Time of appeal. Such appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the Zoning Enforcement Officer by filing with said official and with the Village Clerk a notice of appeal specifying the grounds thereof and the relief sought. Such notice of appeal shall be filed on forms available from the Zoning Enforcement Officer or Village Clerk. The cost of sending or publishing any notice relating to such appeal shall be borne by the appealing party and shall be paid to the Village Clerk prior to the hearing of such appeal.
- F. Hearing an appeal.
- (1) A public hearing shall be held by the Zoning Board of Appeals before deciding an appeal. Such public hearing shall be advertised by publication in a paper of general circulation within the Village of a notice of such hearing at least five days prior to the date thereof. When required by the provisions of § 239-m of the General Municipal Law, the Zoning Board of Appeals shall forward the application to the County Planning Board for its review.<sup>3</sup>
  - (2) When considering an application for a use variance, at least 30 days before the date of the public hearing unless such time limit is waived by the Planning Board, the Secretary of the Zoning Board of Appeals shall transmit to the Planning Board a copy of the notice of hearing. The Planning Board shall inform the Zoning Board of Appeals in writing of its advisory opinion (including recommendations) prior to the hearing. Failure of the Planning Board to inform the Zoning Board of Appeals within the allotted time shall be deemed to signify a recommendation for approval of the application.
  - (3) The Zoning Board of Appeals shall send, by regular mail, a copy of the notice of hearing to all owners of property situated within 200 feet of the property which is the subject of the application at least seven days before the date of the hearing.
- G. Time of decision. The Zoning Board of Appeals shall decide upon an appeal within 62 days after the conduct of the public hearing.
- H. Filing of decision and notice. The decision of the Zoning Board of Appeals on an appeal shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- I. Compliance with State Environmental Quality Review Act (SEQR). The Zoning Board of Appeals shall comply with the provisions of SEQR under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of NYCRR. The SEQR process may extend the time limits set forth in this article, specifically those set forth in § 190-13.

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

## J. Permitted action by the Zoning Board of Appeals.

- (1) Interpretations, requirements, decision and determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determinations as in its opinion ought to have been made.
- (2) Use variance. The Zoning Board of Appeals, on appeal from the decision or determination of the Zoning Enforcement Officer, shall have the power to grant use variances, authorizing a use of land which otherwise would not be allowed or would be prohibited by this chapter.
  - (a) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that:
    - [1] Under applicable zoning regulations, the applicant cannot realize a reasonable return from the property in question, provided that lack of return is substantial as demonstrated by competent financial evidence;
    - [2] The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
    - [3] The requested use variance, if granted, will not alter the essential character of the neighborhood; and
    - [4] The alleged hardship has not been self-created.
  - (b) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (3) Area variances. The Zoning Board of Appeals shall have the power, upon appeal from a decision or determination of the Zoning Enforcement Officer, to grant area variances from the area or dimensional requirements of the chapter.
  - (a) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:
    - [1] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

- [2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - [3] Whether the requested area variance is substantial;
  - [4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, and
  - [5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- (b) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (4) Imposition of conditions. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- K. Solar access. Pursuant to Chapter 742 of the Laws of 1979,<sup>4</sup> the siting of houses to take best advantage of solar energy and/or the construction of residential solar equipment shall be considered in the application of the provisions of this chapter. Upon appeal pursuant to this section of this chapter, the Zoning Board of Appeals shall consider the specific conditions of the case and may make provisions for, so far as conditions permit, the accommodation of solar energy systems and equipment and access to sunlight necessary thereof when hearing a request for an area variance.

#### § 190-14. Planning Board.

- A. Organization. The Planning Board shall consist of five members appointed by the Mayor subject to the approval of the Village Board pursuant to the applicable provisions of New York Village Law, and applicable local laws, resolutions and intermunicipal agreements.<sup>5</sup>
- B. Powers and duties. Powers and duties of the Planning Board shall be as follows:
- (1) Special use permits: granting of special use permits based upon the criteria set forth in Subsection F of this section.

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4. Editor's Note: See Village Law § 7-704.

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

- (2) Review variances: review in an advisory capacity variances referred to the Planning Board as set forth in § 190-13.
  - (3) Temporary uses and structures: grant permits for temporary uses and structures.
    - (a) The Planning Board may direct the Zoning Enforcement Officer to issue a temporary permit for a period of time not to exceed 12 months, for incidental nonconforming uses and structures as follows:
      - [1] Temporary uses incidental to a construction project.
      - [2] Temporary real estate sales office incidental to a subdivision.
      - [3] Other similar temporary incidental uses which:
        - [a] In no way exert a detrimental effect upon the lawful use of land and activities normally permitted in the zone in question; and
        - [b] Contribute materially to the welfare and well-being of the Village.
    - (b) Permits shall be conditioned upon an agreement by the applicant to remove the use upon expiration of the permit.
    - (c) Permits may be reissued a maximum of one time for an additional period of six months.
  - (4) Other powers and duties. The Planning Board shall have such other powers and duties as are provided by law, including this chapter, or as are otherwise assigned to it by the Village Board.
- C. Procedure for special use permit.
- (1) Applications for special use permits shall be made in writing on the appropriate form. Four copies of each application, including a site plan, shall be submitted to the Zoning Enforcement Officer, who shall review the application for completeness prior to forwarding it to the Village Clerk and the Planning Board. One copy shall be retained by the Zoning Enforcement Officer.
  - (2) A public hearing shall be held by the Planning Board before acting on any application for a special use permit. When necessary under § 239-m of the General Municipal Law, the Planning Board shall forward the application to the County Planning Board for its review. The Planning Board shall send, by regular mail, a copy of the notice of hearing to all owners of property situated within 200 feet of the property at least 10 days before the date of the hearing.<sup>6</sup>
  - (3) Every Planning Board decision shall be by resolution, which shall contain a full statement of the pertinent facts in the case, and shall be recorded in the minutes.
- D. Required plan for special use permit. Four sets of the application and site plan shall be submitted to the Zoning Enforcement Officer to portray clearly the intentions of the

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

applicant. These documents shall become part of the record. Such site plan shall show the location of all buildings, parking, access and circulation, open space, landscaping and other information necessary to determine that the proposed special use complies with the intent of this chapter.

- E. Special use permit. A special use permit may be issued when such use is listed as a use permitted with a special use permit within that specific district. Such special use permit may be issued only when authorized by the Planning Board after considering those factors set forth herein, provided that such use is not inconsistent with the public convenience and welfare. Such use shall be subject to conditions and safeguards which may be imposed by the Planning Board to protect the use of neighboring properties. Such special use permit shall not be granted if it substantially changes the characteristics of the neighborhood in which the subject property is located. The Zoning Enforcement Officer, at least yearly, shall review the use of the property to determine compliance with any conditions which have been prescribed by the Planning Board in issuing such special use permit. Violation of said conditions shall require a review of the permit by the Planning Board, which shall have the discretion to revoke said special use permit.
- F. Standards applicable for all special use permits. The Planning Board may issue a special use permit only after it has found that all the following standards and conditions have been satisfied:
- (1) The location and size of the use and all structures, the nature and intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to streets giving access, are such that the use will be in harmony with the orderly development of the district.
  - (2) The location, nature and height of buildings, walls, and fences will not discourage the appropriate development and use of adjacent land and buildings, nor impair their value.
  - (3) No radio or television antenna or tower, water or cooling tower, oil or gas holder, elevator bulkhead, or similar structure may be erected in excess of district height limits unless an area variance has been issued therefor.

#### **§ 190-15. Penalties for offenses.**

- A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use or occupy any land, building or structure or part thereof in a manner not permitted by an approved zoning permit or certificate of compliance.
- B. Any person violating any provision of this chapter shall be served by the Zoning Enforcement Officer with a written notice of violation and correction order stating the nature of the violation found to exist, the remedy ordered and providing a time limit for the satisfactory correction thereof. Unless a different time limit is provided by this chapter for the correction of any violation, which alternate time limit shall prevail, said notice of violation and correction order shall provide a time limit of 30 days for the satisfactory correction of the violation. The notice of violation shall further inform the



violator of his right to appeal the Zoning Enforcement Officer's interpretation to the Zoning Board of Appeals.

- (1) Service of the notice of violation/correction order shall be sufficient if directed to the owner, operator or occupant of a residence, commercial or industrial facility, as the case may be, violating this chapter.
  - (2) Service of said notice of violation/correction order shall be made personally upon the alleged violator, if said violator can be found with due diligence; otherwise, service of said notice of violation/correction order shall be sufficient if service is completed by delivering the same to a person of suitable age or discretion at the actual residence, commercial or industrial facility at which said violation is occurring and by mailing the notice to the person to be served at his last known residence or business address; or, where service cannot otherwise be made with due diligence, by affixing said notice of violation/correction order to the door of the residence, commercial or industrial facility at which said violation is occurring and by mailing said notice to such person at his last known residence or place of business.
  - (3) It shall be unlawful for any person to fail to comply with a written notice of violation/correction order of the Zoning Enforcement Officer within the time fixed for compliance therewith.
- C. It shall be unlawful for any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or for any person taking part or assisting in the construction, repair or use of any land, building or structure, to violate any of the applicable provisions of this chapter, or any lawful order, notice, directive, permit or certificates of the Zoning Enforcement Officer made hereunder.
- D. Any violation of this section and/or this chapter shall be punishable by a fine and/or imprisonment as set forth in New York Village Law. Each and every week such violation continues shall be deemed a separate and distinct violation.
- E. The Zoning Enforcement Officer may, with permission of the Village Board, institute court action to enforce the provisions of this chapter, or may refer the matter to the Village Board for its action.
- F. Any person violating any provision of this chapter shall be liable to the Village for any and all losses, damages and expenses incurred by the Village or for which the Village may be held liable as a result of said violation. The Village or Zoning Enforcement Officer shall have the right to obtain reimbursement for any loss, damage or expense incurred by it as a result of any violation of this chapter, including, but not limited to, attorney's fees and court costs incurred as a result of any legal proceedings brought hereunder.
- G. Nothing contained in this chapter shall prevent the Village or Zoning Enforcement Officer, either alone or in conjunction with the foregoing penalties, from maintaining an action or proceeding in the name of the Village or Zoning Enforcement Officer in any court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter.

**§ 190-16. Complaint of violation.**

Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing, signed, and shall be filed with the Zoning Enforcement Officer, who shall properly record such complaint and immediately investigate it. Where the Zoning Enforcement Officer finds such violation, he shall take appropriate action and/or submit the results of his investigation in writing to the Village Board if action by it is required.

**§ 190-17. Procedure for amendment.**

- A. The Village Board may, from time to time, on its own motion, on petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this chapter after official notice has been given and a public hearing has been held by the Village Board as required by law.
- B. Each petition requesting a change of zoning regulations or district boundaries shall be typewritten, signed by the owner and filed in triplicate, accompanied by the required fee.
- C. Every such proposed amendment shall be referred to the Planning Board for a report prior to any public hearing.
- D. Prior to adoption by the Village Board, a proposed amendment may, in the proper case, have to be referred to the County Planning Board pursuant to law.
- E. In case of a protest against such change signed by the owners of 20% or more, either of the area of the land included in such proposed change, or of that immediately adjacent extending 100 feet therefrom or of that directly opposite thereto, extending 100 feet, from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least 3/4 of the members of the Village Board.

**§ 190-18. Remedies.**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure, or land is divided into lots, blocks or sites in violation of this chapter, or of any local law or other regulation made under authority conferred thereby, the proper local authorities of the Village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. All issues in any action or proceeding for any of the purposes herein stated shall have preference over all other civil actions and proceedings.

**§ 190-19. State Environmental Quality Review (SEQR).**

- A. The State Environmental Quality Review Act (SEQR) requires that local government examine the environmental impact of all actions they permit, fund, or construct. Environmental Conservation Law Article 8 and Part 617 of Title 6 of the New York Code of Rules and Regulations (8 NYCRR Part 617) sets forth the SEQR regulations in detail and should be reviewed for compliance prior to undertaking any of the above-mentioned activities.
- B. As set forth in 8 NYCRR Part 617, determination of lead agency status is one of the initial steps in the SEQR process.
- (1) When the Village is designated lead agency for a particular zoning action, the following boards (agencies) may typically be the lead agency for the actions identified on the following page:
    - (a) Zoning text amendment: Village Board.
    - (b) Zoning district amendment: Village Board.
    - (c) Special permit: Planning Board.
    - (d) Zoning permit (if necessary): Planning Board.
    - (e) Variance: Zoning Board of Appeals.
  - (2) When a project involves two or more separate zoning actions, the board (agency) having the final (last) approval would typically be the lead agency. Nothing in this section shall be interpreted to override the process for designation of lead agency status as set forth in 8 NYCRR Part 617.

**ARTICLE III****Zoning District Regulations, Zoning Map****§ 190-20. General regulations.**

The provisions of this chapter shall be subject to such exceptions, additions, or modifications as herein provided by the following general supplementary regulations. The dimensional requirements and restrictions set forth in Schedule A<sup>7</sup> annexed hereto are incorporated herein and made a part of this chapter. No building or structure shall be erected and no land shall be used in violation of those dimensional requirements and restrictions.

**A. Buildings, uses and lots.**

- (1) One principal building and use per lot. There shall not be more than one principal structure and one principal use on any lot in the residential districts (R-1, R-2).
- (2) Yard and open space for every building. No part of any yard or other open space required about any building or structure for the purpose of complying with the

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7. Editor's Note: Schedule A is included at the end of this chapter.

provisions of this chapter shall be included as part of the yard or other open space similarly required for another structure. Also, no yard or other open space on one lot shall be considered as a yard or open space for a building or structure on any other lot.

- (3) Subdivision of a lot. Where a lot is hereafter formed from part of a lot already occupied by a building, such separation shall be effected so as not to violate any of the requirements of this chapter with respect to the existing building, including yards and other required spaces in connection therewith. No zoning permit shall be issued for the erection of a building on the new lot thus created unless there is full compliance with all the provisions of this chapter.
- (4) 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, the matter shall be referred to the Zoning Board of Appeals and dealt with in accordance with the applicable provision of § 190-13.
- (5) Required street frontage. No zoning permit shall be issued for any structure unless the lot which that structure is to be built upon has the required frontage on a street, as defined herein, which frontage provides the actual access to such structure, and which street shall have been suitably improved to Village Board standards or a bond posted therefor to the satisfaction of the Village Board and Planning Board.
- (6) Parts of lot not counted toward area requirements. No part of any lot less in width than one-half of the minimum requirements for the district in which it is located shall be counted as part of the minimum lot area.
- (7) Adjacent lots. Where two or more adjacent lots are at the time of the effective date of this chapter in the same ownership, they shall not be considered a single lot, unless they are described as one parcel in a deed recorded at the Livingston County Clerk's office.
- (8) Supplementary yard regulations.
  - (a) Porches. No unroofed structure shall be considered part of a building insofar as yard requirements are concerned. A porch shall be considered a part of the building in determining the yard requirements or amount of lot coverage.
  - (b) Projecting horizontal architectural features. Architectural features, such as window sills, belt courses, chimneys, cornices, eaves or bay windows, shall not project more than three feet into any required yard.
  - (c) Visibility at intersections. On a corner lot in any district, no fence, wall, hedge, or other structure or planting more than three feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are 20 feet distant from the point of intersection, measured along said street lines. This subsection shall not apply to existing trees, provided that no branches are closer than six feet to the ground.

(d) Swimming pools. All swimming pools whose capacity is 100 gallons or more shall be considered accessory buildings within the provisions of § 190-20B of this chapter, and shall set back from lot lines at least the minimum distance required for other buildings and structures. Pools shall be fenced and protected by a gate or other protection when required by the New York State Uniform Fire Prevention and Building Code.

(e) Buffer strip. Wherever a buffer strip is required by this chapter it shall meet the following standards:

[1] Be at least 10 feet in width along any commercial or industrial lot line abutting a lot in a residential district.

[2] Be of evergreen planting of such type, height and spacing as, in the judgment of the Planning Board, will screen the activities on the lot from view of a person standing at street level on the adjoining lot. The plan and specifications for such planting shall be filed with the approved plan for the use of the lot.

[3] A wall or fence of location, height, and design approved by the Planning Board may be substituted for the required planting.

(f) Waste containers/dumpsters. The location of all waste containers and/or dumpsters for multifamily and nonresidential uses shall be determined by the Planning Board through the site plan review process. Relocation of existing waste containers and/or dumpsters shall also be subject to review and approval by the Planning Board. The Planning Board may require screening of waste containers/dumpsters. This provision shall not apply to the temporary placement of garbage cans awaiting collection or the temporary use of dumpsters or roll-offs during cleaning, moving or construction projects.

(9) Open space in industrial districts. Where an industrial district abuts a residential district, there shall be at least 100 feet of open space within the industrial district along such abutting line, which open space shall include a buffer strip.

(10) Excavation. In any construction, open excavations shall be limited to a maximum of 30 days, with appropriate fencing, barricades, or covering.

B. Location of accessory building, structures and satellite dishes.

(1) Accessory buildings are permitted as follows:

(a) A one-story accessory building having a total floor area of 150 square feet or less and a building height of not more than nine feet shall not be located closer than three feet to the rear and side lot lines and must be located in the rear yard or side yard areas.

(b) The location of accessory buildings having a total floor area greater than 150 square feet or a building height of greater than nine feet shall be in

compliance with the required yard areas of the respective district and shall not be located in front of the principal building, i.e., the front yard.

(2) Accessory structures (other than buildings) are permitted as follows (for fences see § 190-43):

(a) Accessory structures equal to or less than 15 feet in height shall not be located closer than three feet to the rear and side lot lines in the rear yard area.

(b) Accessory structures greater than 15 feet in height shall be located in compliance with the required yard areas of the respective district and shall not be located in front of the principal building, i.e., the front yard.

(c) Satellite dish antennas may not occupy front or side yards in any district. Satellite dish antennas shall be permitted in the rear yard as follows:

[1] Satellite dish antennas with a diameter of less than 13 feet, and with a height of less than 15 feet, shall not be located closer than three feet to any rear or side lot lines.

[2] Satellite dish antennas with a diameter of 13 feet or more or with a height of 15 feet or more shall only be located in compliance with the required rear and side yard areas of the respective district (according to Schedule A of this chapter<sup>8</sup>).

C. Nonconforming uses, structures and lots.

(1) Lawfully existing uses or structures. Except as otherwise provided in this section, the lawful use of land or structures existing at the effective date of this chapter may be continued, although such use or structure does not conform to the regulations specified in this chapter for the zone in which such land or structure is located; provided, however, that:

(a) No nonconforming lot shall be further reduced in size.

(b) No nonconforming building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of nonconformance.

(c) No nonconforming use may be expanded.

(d) No existing conforming use shall be changed to a nonconforming use.

(2) Abandonment. A nonconforming use shall be adjusted or abandoned when there occurs a cessation of any such use or activity and a failure on the part of the tenant or owner to reinstate such use within a period of one year from the date of cessation or discontinuance.

(3) Restoration and repair. Nothing in this chapter shall prevent the restoration and repair or continuation of use of a nonconforming building destroyed or partly

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8. Editor's Note: Schedule A is included at the end of this chapter.

destroyed by a disaster, provided that restoration is commenced within six months after the date of destruction and is completed within 12 months after the date of destruction.

- (4) Reversion. No nonconforming use shall, if once changed into a conforming use, be changed back again to a nonconforming use.
- (5) Alterations. A nonconforming building may not be structurally altered during its life to an extent exceeding, in aggregate cost, 50% of the assessed value of the building unless said building is changed to conform to the requirements of this chapter.
- (6) District changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, the foregoing provisions shall also apply to any nonconforming use existing therein or created thereby.

D. Uses not permitted. Uses which are not specifically allowed by this chapter are prohibited.

E. Minimum enclosed living area.

- (1) One-family dwellings shall have a minimum enclosed living area (not including garage but also not limited to only habitable floor area) of at least 750 square feet.
- (2) Two-family dwellings shall have an enclosed living area of at least 750 square feet per unit.
- (3) Multiple-family dwellings shall have an enclosed living area per unit as follows:

<b>Number of Bedrooms Per Unit</b>	<b>Minimum Square Footage</b>
Efficiency	300
1-bedroom	550
2-bedroom	650
3-bedroom	800
4-bedroom	1,000
5+ bedrooms	1,000, plus 150 square feet for each bedroom over 4

F. Stabling farm animals and storage of fertilizer, agricultural chemicals and manure.

- (1) There shall be no stabling of farm animals or storage of manure within the Village.
- (2) There shall be no storage of bulk quantities of fertilizer, pesticides, and/or herbicides, or similar odor- or dust-producing or hazardous substances within the Residential or Commercial Districts. Bulk storage of such substances within the Industrial District is permitted only after site plan approval.

- G. Minimum dimensional criteria. All one- and two-family dwelling units located on individual lots shall have a minimum outside width of at least 18 feet. This provision shall not prohibit the construction of smaller additions or projections from larger units (less than 18 feet wide) provided a eighteen-foot minimum width is clearly established for the overall unit.
- H. Harboring of animals. Only domestic animals as defined by this chapter or through successful appeal to the Zoning Board of Appeals, shall be harbored within the Village.

**§ 190-21. Zoning district classification.**

The Village of Leicester is hereby divided into the following zoning districts and overlay zones:

- R-1 Residential 1 District
- R-2 Residential 2 District
- R-3 Residential 3 District
- C-1 Neighborhood Commercial District
- I Industrial District

**§ 190-22. Newly annexed lands.**

In order to promote orderly development and the general welfare of the community, where land is newly annexed but before legislative action can be taken to zone said land designating said land as being in one of the districts referred to in § 22 of this article, such newly annexed land shall not be improved or developed in any manner, including the erection of any buildings or other structures or alteration of any existing buildings or other structures thereon or change of any use with respect thereto, until such legislative action is taken; provided, however, that if such legislative action is not taken and such designation is not made within 180 days of the effective date of the annexation, the restrictions contained in this section shall no longer apply.

**§ 190-23. Interpretation of zoning district boundaries.<sup>9</sup>**

- A. Questions concerning the exact location of district boundary lines as shown on the Zoning Map shall be resolved by the Zoning Enforcement Officer with the option of appeal of such determination to the Zoning Board of Appeals pursuant to the provisions of § 190-13 of this chapter.
- B. Where a district boundary line divides an existing lot of record, the regulations for the less restricted part of such lot shall extend to this lot line in the more restrictive district or 50 feet or whichever is less, provided the lot has frontage on a street in the less restricted district.

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9. Editor's Note: A copy of the Zoning Map is included at the end of this chapter.



**§ 190-24. Existing lots of record.**

A single-family dwelling and/or customary accessory buildings may be placed on any lot of record existing prior to the effective date of this chapter and having a minimum of 50 feet in width and 6,000 square feet in area. This provision shall apply even though such lot fails to meet the requirements for area, width or yard size, provided that the yard requirements of this section and the other requirements of this chapter are met. The minimum yard requirements for single-family dwelling on existing lots shall be as follows:

- A. Front: 20 feet.
- B. Side: 10 feet.
- C. Rear: 35 feet.

**§ 190-25. R-1 Residential 1 District.**

The R-1 District is designed to accommodate primarily single-family residential uses on lots with a minimum area of 18,000 square feet. The primary purpose of this district is to encourage quality residential development in those newly developed or still undeveloped areas of the Village.

- A. The following uses are permitted in R-1 Districts:
  - (1) Single-family dwelling.
  - (2) Accessory building.
  - (3) Home occupations, subject to the following:
    - (a) The occupation or profession is carried on wholly within the principal building or within a building or other structure accessory thereto.
    - (b) No more than one person outside the immediate family is employed in the home occupation.
    - (c) There is no exterior display, no freestanding sign, no attached exterior sign that is larger than two square feet, no exterior storage of materials and no exterior indication of the home occupation or variations of the residential character of the principal building.
    - (d) No offensive noise, vibration, smoke, dust, odors, heat, or glare is produced, nor does the home occupation result in:
      - [1] Dissemination of noise, vibration, odor, dust, smoke, observable gas or fumes, or other atmospheric pollutant beyond the boundaries of the immediate site of the building in which such use is conducted.
      - [2] Hazard or fire explosion or other physical hazard to any person, building or vegetation.

[3] Radiation or interference with radio or television reception beyond the boundaries of the immediate site of the building in which such use is conducted, or the testing of material or instruments in such manner as to constitute a public nuisance.

- (e) Adequate parking is provided as set forth in § 190-36.
- (f) In particular, a home occupation may include, but is not limited to, the following: art studio, barber shop and beauty parlors (when limited to two work stations), cook, day nursing, draftsman, dress maker, electrical/radio/television repair, laundering, musician, photographer, professional office of a physician, dentist, lawyer, engineer, architect or accountant, upholsterer, teaching or tutoring or real estate offices, within a dwelling occupied by the same.
- (g) However, a home occupation shall not be interpreted to include the following: motor vehicle repair shop, machine shop, welding and fabrication shop, commercial stables and kennels, restaurants, car sales.

B. The following uses are permitted in the R-1 District upon the issuance of a special use permit:

- (1) School.
- (2) Church, rectory.
- (3) Volunteer fire department/ambulance service.
- (4) School-age child-care program.
- (5) Community center.

**§ 190-26. R-2 Residential 2 District.**

The R-2 District is designed to accommodate primarily single- and two-family dwellings on lots with a minimum area of 15,000 and 18,000 square feet, respectively. The primary purpose of this district is to encourage the retention of a positive community character within those developed residential areas of the Village.

A. The following uses are permitted in R-2 Districts:

- (1) Single-family dwelling.
- (2) Two-family dwelling.
- (3) Accessory building.
- (4) Home occupation, subject to the requirement stated in § 190-25A(3) above.
- (5) Child day care.
- (6) Boardinghouse.

B. The following uses are permitted in R-2 Districts upon the issuance of a special use permit:

- (1) School.
- (2) Church, rectory.
- (3) Volunteer fire department/ambulance service.
- (4) Funeral home.
- (5) Social organization.
- (6) School-age child-care program.
- (7) Community center.

**§ 190-27. R-3 Residential 3 District.**

A. The following uses are permitted in R-3 Districts:

- (1) Single-family dwelling.
- (2) Two-family dwelling.
- (3) Multifamily dwellings.
- (4) Accessory building.
- (5) Home occupation, subject to the requirements stated in § 190-25A(3) above.
- (6) Child day care.
- (7) Boardinghouse.

B. The following uses are permitted in R-3 Districts upon the issuance of a special use permit:

- (1) School.
- (2) Church, rectory.
- (3) Volunteer fire department/ambulance service.
- (4) Funeral home.
- (5) Social organization.
- (6) School-age child-care program.
- (7) Community center.
- (8) Mobile home park.

**§ 190-28. C-1 Neighborhood Commercial District.**

The C-1 District is designed to accommodate primarily commercial uses on lots with a minimum area of 12,000 square feet. Site plan review is required of all uses in C-1 Districts.

A. The following uses are permitted in C-1 Districts:

- (1) Bakeries.
- (2) Retail stores/services.
- (3) Warehouse/storage (enclosed, no hazardous materials).
- (4) Funeral homes.
- (5) Business and professional offices.
- (6) Restaurants.
- (7) Accessory buildings.
- (8) Hotels/motels.
- (9) Banks.
- (10) Medical/veterinary facilities.
- (11) Clubs.
- (12) Community centers.
- (13) Child day-care centers.
- (14) Single- or two-family dwellings.
- (15) Home occupations, subject to the requirements stated in § 190-25A(3) above.

B. The following uses are permitted in C-1 Districts upon the issuance of a special use permit:

- (1) Gasoline station.
- (2) Gasoline station-market.
- (3) Drive-in establishment.
- (4) Motor vehicle sales and service.
- (5) Night club/tavern.
- (6) Self-service storage facility.

**§ 190-29. I Industrial District.**

The I District is designed to accommodate industrial uses. Site plan review is required of all uses in the I District.

**A. The following uses are permitted in I Districts:**

- (1) Enclosed manufacturing industry.
- (2) Enclosed warehouse or wholesale use.
- (3) Public utility.
- (4) Enclosed service and repair.
- (5) Machinery and transportation equipment, sales, service and repair.
- (6) Enclosed industrial processes and service.
- (7) Freight or trucking terminal.
- (8) Contractor's yard.
- (9) Accessory building and use.

**B. The following uses are permitted in I Districts upon the issuance of a special use permit:**

- (1) Manufacturing use (not enclosed).
- (2) Warehouse or wholesale use (not enclosed).
- (3) Service and repair (not enclosed).
- (4) Other industrial uses upon the finding that such use is of the same general character as those permitted and will not be detrimental to other uses within the district or to adjoining land uses.
- (5) Self-service storage facility.
- (6) Disposal transfer station.
- (7) Recyclables handling and recovery facility.

**ARTICLE IV  
Site Plan Review**

**§ 190-30. Site plan review and approval.**

Site plan review shall be required of all uses, excluding agricultural uses, single- and two-family dwellings and home occupations. Accessory buildings for these uses are also exempt from site plan review. The Planning Board, at a regular meeting, shall review and approve, approve with modification, or disapprove a site plan in connection with any matter requiring submission of a site plan.

**§ 190-31. Submission of site plan and supporting data.**

In addition to the site plan initially submitted by an applicant, the Planning Board may require other data to be presented in graphic form and accompanied by a written text. Such other supporting data may include, but is not limited to, the following:

- A. Traffic circulation, parking and loading spaces, and pedestrian walks.
- B. Topography and landscaping plans, including site grading, landscaping design, open areas and buffer zones.
- C. Preliminary architectural drawings for buildings to be constructed, floor plans, exterior elevations and sections.
- D. Preliminary engineering plans; street improvements, storm drainage, water supply and sanitary sewer facilities.
- E. Engineering feasibility studies of any anticipated problem which might arise due to proposed development, as required by the Planning Board.
- F. Construction sequence and time schedule for completion of each phase for buildings, parking, and landscaped areas.
- G. Description of proposed uses; hours of operation and expected number of employees, volume of business, and volume of traffic generated.

**§ 190-32. Site plan review.**

- A. When necessary under § 239-m of the General Municipal Law, the Planning Board shall forward the site plan to the Livingston County Planning Board for its review prior to taking any final action. The Village Planning Board shall review the site plan and supporting data before approval, approval with modifications, or disapproval of such site plan, taking into consideration the following:<sup>10</sup>
  - (1) Harmonious relationship between proposed uses and existing adjacent uses.
  - (2) Maximum safety of vehicular circulation between the site and street.
  - (3) Adequacy of interior circulation, parking and loading facilities, with particular attention to pedestrian safety and convenience.
  - (4) Adequacy of landscaping and setbacks to achieve compatibility with, and protection of, adjacent residential uses.
- B. The Planning Board may require changes or additions in relation to yards, driveways, landscaping, buffer zones, etc., to insure safety, to minimize traffic difficulties and to safeguard adjacent properties. Should changes or additional facilities be required by the Planning Board, final approval of the site plan shall be conditional upon satisfactory compliance by the applicant in making the changes or additions.

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

- C. Any applicant wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.

**§ 190-33. Performance bond or letter of credit as condition of site plan approval.**

The Planning Board may require, as a condition of site plan approval, that the applicant file a performance bond or letter of credit in such amount as the Planning Board determines to be in the public interest, to insure that proposed development will be built in compliance with accepted plans. The amount of any such bond must also be approved by the Village Board.

**§ 190-34. Performance standards.**

In all districts, uses are not permitted which violate applicable county, state and/or federal codes and regulations pertaining to environmental issues. The Planning Board, under its powers of site plan review and approval, shall decide whether uses meet these standards.

**§ 190-35. Other duties not impaired.**

The provisions of this article shall not be interpreted to limit in any way those powers and duties of the Planning Board as set forth in Article 7 of the New York Village Law.

**ARTICLE V  
Supplementary Regulations**

**§ 190-36. Off-street parking space requirements.**

For every building hereafter erected, altered or changed in use, there shall be provided at least the minimum number of off-street parking spaces set forth under this section. All off-street parking for nonresidential and multifamily use shall be designed in such a manner as to allow vehicles to exit onto a street without backing out onto it.

Use	Number of Parking Spaces Required
Residential uses	
One- and two-family dwellings	2 for every dwelling unit
Multiple-family dwellings	5 for every three dwelling units
Home occupations	3, plus 1 additional for every 200 square feet of office space or other nonresidential use, in addition to any other required space
Motel	3, plus 1 for every guest room
Places of public assembly	1 for every 5 seats, or 1 for every 100 square feet of floor area
Professional offices	2, plus 1 for every 200 square feet of office space

<b>Use</b>	<b>Number of Parking Spaces Required</b>
Commercial	1 for every motor vehicle used directly in the business, plus 1 for every 200 hundred square feet of business area
Restaurant, eating and drinking establishment (other than drive-in)	1 for every 100 square feet of floor area
Industrial, wholesale, warehouse, storage, freight, and trucking uses	1 for every motor vehicle used directly in the business, plus additional parking as required by the Planning Board
Unspecified uses	As required by the Planning Board, based upon use intensity, turnover, customers, employees and vehicles used

**§ 190-37. Off-street loading space requirements.**

Every building occupied for the purpose of business or industry shall provide adequate space for off-street loading and unloading of vehicles.

**§ 190-38. Modification of parking and loading requirements.**

The Planning Board, under its powers of site plan review and approval, may modify requirements for parking and loading spaces.

**§ 190-39. Land abutting residential uses.**

See also § 190-20A(8)(e). Where in any district a commercial or industrial use is created adjacent to an existing residential use, a buffer strip shall be established by the nonresidential use along the lot line adjacent to the residential use.

**§ 190-40. Gasoline station, gasoline station-market, motor vehicle repair shop, motor vehicle sales agency, drive-in business.**

Gasoline stations, gasoline station-markets, motor vehicle repair shop, motor vehicle sales agencies, and drive-in businesses shall comply with the following:

- A. Lots containing such uses shall not be located within 300 feet of any lot occupied by a school, playground, library or religious institution. Measurement shall be made between the nearest respective lot lines.
- B. Lot size shall be at least 40,000 square feet.
- C. Lot frontage shall be at least 200 feet.
- D. Lot depth shall be at least 150 feet.
- E. Pumps, other service devices, and fuel and oil storage shall be located at least 30 feet from all lot lines.



- F. Automobile parts and dismantled vehicles are to be stored within the building, and no major repair work is to be performed outside the building.
- G. There shall be no more than two access driveways from any street. The maximum width of each access driveway shall be 30 feet.

**§ 190-41. Public utility facilities.**

Public utility installations shall comply with the following:

- A. Such facility shall be surrounded by a fence approved by the Planning Board.
- B. The facility shall be landscaped in a manner approved by the Planning Board.
- C. To the extent practicable, equipment shall be stored so as not to be visible from surrounding properties.
- D. Any other requirements as determined by the Planning Board.

**§ 190-42. Signs.**

A. Purpose.

- (1) The purpose of this section is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more visual open space, and curb the deterioration of the community's appearance and attractiveness.
- (2) This section is intended to promote attractive signs which clearly present the visual message in a manner that is compatible with their surroundings. The appearance, character and quality of a community are affected by the location, size, construction and graphic design of its signs. Therefore, such signs should convey their messages clearly and simply to enhance their surroundings.

B. Permit required. It is unlawful for any person to erect or relocate any sign other than those identified as exempt in Subsection C of this section, within the Village without first obtaining a sign permit and paying the fee therefor as provided in this chapter.

- (1) Application procedure. Applications shall be made in writing to the Zoning Enforcement Officer on forms prescribed and provided by the Village and shall contain the following information:

- (a) Name, address and telephone number of:
    - [1] Applicant.
    - [2] Owner of the property.
  - (b) Location of the building, structure or land upon which the sign now exists or is to be erected.
  - (c) If a new sign is to be erected, elevation and plan drawings to scale shall be included. In addition, a full description of the placement and appearance of the proposed sign shall be included and shall cover the following:
    - [1] Location on the premises; specifically, its position in relation to adjacent buildings, structures and property lines.
    - [2] The method of illumination, if any, and the position of lighting or other extraneous devices, and a copy of the NYS Uniform Code permit (if required) related to the electrical connections.
    - [3] Graphic design, including symbols, letters, materials and colors.
    - [4] The visual message, text, copy or content of the sign.
  - (d) Written consent, or a copy of the contract made with the owner of the property upon which the sign is to be erected, if the applicant is not the owner.
- (2) Permit. Upon the filing of a completed application for a sign permit and the payment of the required fee, the Zoning Enforcement Officer shall examine the plans, specifications, and other data submitted and the premises on which the sign is to be erected or now exists. If it shall appear that the sign is in compliance with all requirements of this section, he shall then, within 15 days, issue a permit for the erection of the proposed sign or for an existing sign. The issuance of a permit shall not excuse the applicant from conforming to other federal, state or local laws, ordinances, and/or regulations.

C. Specific sign regulations.

- (1) Exempt signs (require no permits).
  - (a) Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations; not exceeding six square feet.
  - (b) Flags and insignia of any government.
  - (c) On-premises directional signs for the convenience of the general public, parking areas, fire zones, entrances and exits and similar signs, internally illuminated or nonilluminated, not exceeding four square feet per face and six

feet in height. Business names and advertising messages shall not be allowed as part of such signs.

- (d) Nonilluminated "warning," "private drive," "posted" or "no trespassing" signs, not exceeding two square feet per face.
- (e) One on-premises sign, either freestanding or attached, in connection with any residential building in any zoning district, for permitted professional office or home occupation, not exceeding two square feet and set back at least 10 feet from the property line. Such sign shall state name and vocation only. Illumination shall not produce a direct glare beyond the limits of the property line.
- (f) Number and name plates identifying residents, mounted on a house, apartment or mailbox, not exceeding two square feet in area.
- (g) Lawn signs identifying residents, not exceeding two square feet (per side). Such signs are to be nonilluminated except by a light which is an integral part of a lamppost if used as a support, with no advertising message thereon.
- (h) Private-owner merchandise sale signs for garage sales and auctions, not exceeding four square feet for a period not exceeding four days within a given month.
- (i) Temporary nonilluminated "For Sale," "For Rent," real estate signs and signs of similar nature, concerning the premises upon which the sign is located. In a residential zoning district, one sign not exceeding four square feet per side; in a commercial or industrial zoning district, one sign not exceeding 50 square feet set back at least 15 feet from all property lines. All such signs shall be removed within three days after the sale, lease or rental of the premises.
- (j) Temporary, nonilluminated window signs and posters.
- (k) Holiday decorations, including lighting, are exempt from the provisions of this chapter and may be displayed in any district without a permit.
- (l) Temporary signs advertising and/or providing directions to meetings, conventions, charitable events, and other assemblies. No sign shall exceed 32 square feet in area. Such signs must be removed one week after the event.
- (m) One sign, not exceeding six square feet in the residential districts nor 16 square feet in the business districts, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation or repair is in progress.
- (n) Political posters, banners, promotional devices and similar signs, not exceeding four square feet in the residential districts nor 16 square feet in the business districts, providing the names and addresses of the sponsor and the person responsible for removal are identified.

- (o) Signs required by federal, state, county or Village regulations (i.e., NYS registered motor vehicle shop and NYS inspection stations).
  - (p) One sign, which may be a copy-change sign, is permitted on the premises of a religious or nonprofit organization. Such sign shall not exceed 12 square feet in area.
- (2) Prohibited signs and acts:
- (a) No sign shall be illuminated by or contain flashing, intermittent, rotating or moving lights except to show time and temperature.
  - (b) No sign shall impair or cause confusion of vehicular or pedestrian traffic, in its design, color or placement. No such sign shall impair visibility for the motorist at a street corner or intersection by placement and location within 25 feet of the intersection of the street or highway lines.
  - (c) No sign or sign supports shall be placed upon the roof of any building.
  - (d) No sign shall consist of banners, pennants, ribbons, streamers, spinners or similar moving, fluttering or revolving devices.
  - (e) No advertising message shall be extended over more than one sign placed along a street or highway.
  - (f) Temporary and/or portable signs, including copy-change signs, not otherwise specifically permitted in this section.
  - (g) Temporary and/or portable signs shall not be attached to or placed upon any tree, lamppost, utility pole, hydrant, bridge or fence located within a public right-of-way.
- (3) Temporary signs.
- (a) All signs of a temporary nature, except as otherwise provided by this section, shall be permitted for a period not exceeding six weeks prior to the activity or event nor exceeding four days after the activity or event. Such signs shall not exceed 16 square feet in business or industrial districts nor eight square feet in residential districts, nor be attached to fences, trees, utility poles, rocks or other facets of the natural landscape, nor be placed in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and welfare of the general public.
  - (b) A cash deposit equal to the fee shall be deposited with the Zoning Enforcement Officer to insure removal of such signs upon expiration of the permit period. The Zoning Enforcement Officer, after seven days' written notice to the permit holder to remove such signs, and after the failure of the permit holder to do so, shall cause said signs to be removed, and the cash deposit shall be forfeited to help defray the cost of removal. The seven days' written notice provided herein shall be computed from the date of mailing said notice. Said notice shall be directed to the permit holder at the address

provided to the Zoning Enforcement Officer on the permit application, and shall be sent to the owner by regular first-class mail.

(4) Permanent signs.

(a) Residential districts.

[1] Signs advertising a use in a Residential District, such as public or quasi-public building or buildings used solely for nonprofit, church, school, hospital or other like purposes, shall be permitted, provided such sign is located on the same premises as the use that it advertises. No such sign shall exceed 12 square feet in area, and such sign shall be located not less than 10 feet from property lines.

[2] For large-scale multifamily developments, one project identification sign shall be permitted, which shall not exceed 25 square feet in area and shall be situated not less than 10 feet from the property lines. The sign may include only the name of the property, the street address, and the presence or lack of vacancies.

(b) Commercial and industrial districts.

[1] The total number of permitted signs on a single business or industrial lot shall not exceed one sign per wall per use and one freestanding for the building.

[2] The total cumulative sign area of all signs permitted on such lot shall be calculated at the rate of two square feet of sign area per lineal foot of building frontage, but in no case shall exceed 150 square feet, except as provided for in Subsection C(4)(b)[5] below. In calculating the total cumulative sign area, only one side, or wall, of a building, shall be used. A total sign area of 32 square feet may be permitted for any use, regardless of building frontage.

[3] The surface area of a freestanding sign shall be calculated as follows:

[a] Freestanding sign area up to 25 square feet (per side) shall be deducted from the total sign area permitted on a one-to-one basis;

[b] Freestanding sign area between 25 and 40 square feet (per side) shall be deducted from the total sign area permitted on a four-to-one basis;

[c] Freestanding sign area over 40 square feet shall be prohibited except as set forth in Subsection C(4)(b)[5] below.

[4] Where groups of two or more contiguous stores are located together in a shopping center (mall or plaza) or where a lesser number of stores total not less than 20,000 square feet of gross leasable area, one common freestanding sign denoting the name of the shopping facility shall be permitted, not exceeding 50 square feet (per side) and with the bottom

panel not less than eight feet above grade. All other signs shall be attached to buildings, of a wall or soffit type, and coordinated in material, shape, lettering, color and/or decorative elements. The total sign area permitted for the entire shopping center shall be calculated at the rate of one square foot of sign per linear foot of building frontage, and such exterior signs shall be permitted upon, and identify only, the uses which allow direct public access from outside the mall building.

- [5] Representational signs shall not project in any direction more than four feet beyond the principal structure to which they are attached, or extend over a public right-of-way, and shall not exceed 15 square feet.
  - [6] Illuminated signs which indicate the time, temperature, date or similar public service information shall not exceed 32 square feet and shall not employ less than 60% of the total sign area, each side, for said public service information.
  - [7] Gasoline service stations shall additionally be permitted two price/product (type of gas: i.e., regular, no lead, etc.) signs each, not exceeding six square feet per side, if located on the pump island, or set not closer than 10 feet to the edge of the pavement, not exceeding eight feet above grade nor situated so as to impair visibility for pedestrians or motorists. The sign area for these signs shall be deducted from the total sign area for that building.
- (5) Portable signs. A new business, or a business in a new location, awaiting installation of a permanent sign, may utilize a portable sign for a period of not more than 60 days or until installation of a permanent sign, whichever occurs first. Such a portable sign must meet all the construction standards of the NYS Uniform Fire Prevention and Building Code. A separate permit for such a portable sign shall be required.
  - (6) Nonconforming signs. A nonconforming sign shall not be enlarged or replaced by another nonconforming sign. Any maintenance, repair or alteration of a nonconforming sign shall not cost more than 50% of the current depreciated value of the sign as of the date of alteration or repair. No repair or alteration exceeding 50% of the current depreciative value shall be made without making the sign a conforming sign.
  - (7) Removal of signs. Any sign, existing on or after the effective date of this amendment, which no longer advertises an existing business conducted or product sold on the premises upon which such sign is located shall be removed. In addition, where the permit for a sign is revoked for any reason, the sign shall be removed immediately.
    - (a) If the Zoning Enforcement Officer shall find that any sign regulated in this section is not used, does not advertise a current product or service available on the property, is abandoned, unsafe or insecure, or is a menace to the public, the Zoning Enforcement Officer shall give written notice to the named owner of the land upon which it is located, who shall remove or repair

the sign within 30 days from the date of the notice. If the sign is not removed or repaired within said time period, the Zoning Enforcement Officer shall revoke the permit issued for such sign and may remove or repair the sign and assess the owner for all costs incurred for such service.

- (b) The Zoning Enforcement Officer may cause any sign which is a source of immediate peril to persons or property to be removed immediately and without notice.
- (8) Construction standards. All signs shall be constructed and installed in conformance with the NYS Uniform Fire Prevention and Building Code.
- (a) Wall signs.
    - [1] Wall signs shall not extend beyond the ends or over the top of the walls to which attached, and shall not extend above the level of the second floor of the building. Such signs shall be limited to three feet in height.
    - [2] Wall signs shall not extend more than nine inches from the face of the buildings to which attached, except that copy-change signs may extend 15 inches.
    - [3] Any part of a sign extending over pedestrian traffic areas shall have a minimum clearance of eight feet.
    - [4] Copy-change wall signs shall be permitted on theaters only.
  - (b) Freestanding signs.
    - [1] No freestanding sign shall be located less than 10 feet from the front property line nor less than five feet from the side property line. No freestanding sign may be located less than 50 feet from any other freestanding sign.
    - [2] If for any reason the property line is changed at some future date, any freestanding sign made nonconforming thereby must be relocated within 90 days to conform with the minimum setback requirements.
    - [3] No freestanding sign shall be more than 25 feet in height above finished grade. Such height shall be measured vertically from the established average grade directly below the sign or entry level of the building or structure, whichever is less, to the highest point of the sign, including supporting structures.
    - [4] No freestanding sign shall extend over or into the public right-of-way, nor shall it overhang the property lines.
    - [5] Freestanding signs under which a pedestrian walkway or driveway passes must have 10 feet of vertical clearance.
    - [6] Masonry wall-type signs shall not exceed four feet in height and shall not be placed so as to impair visibility for motorists.

## (c) Projecting signs.

- [1] Projecting signs shall not have more than two faces, and shall not be more than three feet in height. For the purposes of this subsection, projecting signs shall be considered those signs which extend more than nine inches from the face of a building, unless such sign is a copy-change sign, which may extend up to 15 inches before being considered a projecting sign.
- [2] The exterior edge of a projecting sign shall extend not more than five feet from the building face, or extend over a public right-of-way or property line.
- [3] No part of a projecting sign shall extend into vehicular traffic areas, and any part extending over pedestrian areas shall have a minimum clearance of 10 feet.
- [4] Projecting signs shall not extend above the level of the second floor of the buildings to which attached, or in any case be higher than 12 feet.
- [5] No projecting sign shall be closer than 15 feet to the corner of a building located at a street intersection.

## (d) Other signs.

- [1] Sign directories. Sign directories shall contain identification of and direction to several business enterprises, but shall contain no promotional advertising.
- [2] Awning signs.
  - [a] No sign shall project from an awning.
  - [b] Awning graphics may be painted or affixed flat to the surface of the front or sides, and shall indicate only the name and/or address of the enterprise or premises.
  - [c] Awning graphics shall be a single line of lettering not exceeding six inches in height.

## D. Appeal procedures.

- (1) Any person aggrieved by a decision of the Zoning Enforcement Officer relative to the provisions of this section may appeal such decision in writing to the Board of Appeals as provided in § 190-13 and shall comply with all procedural requirements prescribed by the Board of Appeals.
- (2) At least 30 days prior to hearing such appeal, the Board of Appeals shall refer the application to the Planning Board for its review and recommendation. The Planning Board shall review such application at a regular meeting and forward its recommendation to the Board of Appeals. Failure on the part of the Planning Board to forward a recommendation within 30 days shall constitute an approval.



- (3) In granting any variance from the provisions of this section, the Board of Appeals must find that the variance is necessary for the reasonable use of the land or buildings, that granting the variance is in harmony with the general purposes and intent of this section, that such will not be injurious to the neighborhood character or otherwise detrimental to the public welfare, and that denial of the variance would result in practical difficulty or unnecessary hardship to the applicant.

#### **§ 190-43. Fences.**

The installation, or replacement, of a fence within the Village does not require a permit, provided the following criteria are met:

##### **A. All fencing.**

- (1) All fencing must be installed, or replaced, in conformance with the NYS Uniform Code. Fencing shall be located on an individual's own property and not on adjoining property or directly upon a property line.
- (2) No fencing shall be installed, or replaced, which poses a potential hazard to either pedestrians or motorists by restricting vision.
- (3) It shall be up to the discretion of the property owner erecting a fence to determine which side of the fence faces towards his property and which side faces away from his property.
- (4) It shall be the responsibility of the property owner whose land contains a fence to maintain that fence so that it remains structurally sound and does not aesthetically detract from neighboring properties. The property owner is also responsible to see that any vegetation (i.e., grass, weeds) around a fence is regularly mowed. Failure on the part of a property owner to maintain his fence in accordance with these provisions shall constitute a violation of this chapter.

##### **B. Fencing in front yards.**

- (1) Fencing located within front yards shall be located not closer than one foot to the edge of a public sidewalk or three feet from the front property line, whichever is less.
- (2) Fencing located in the front yard shall not exceed three feet in height for closed fencing, or four feet in height for open fencing. For the purposes of this section the term "open fencing" shall refer to fencing which is at least 75% open (i.e., chain-link-type fencing); fencing which is less than 75% open shall be considered closed fencing.
- (3) Plantings and bushes used in lieu of a man-made fence as set forth above (i.e., a hedge) shall not exceed three feet in height.

##### **C. Fencing in side and rear yards. Fencing located in side or rear yards shall not exceed six feet in height.**

**§ 190-44. Exterior security lighting.**

Exterior security lighting (i.e., mercury vapor, high-pressure sodium, spot or flood lights) shall not be installed or maintained so as to shine directly in or upon adjoining residential dwellings. Such lighting shall not be installed or maintained so as to pose a hazard for vehicular traffic.

**§ 190-45. Mobile home parks.**

Mobile home parks may be permitted in the R-3 District, provided the following standards and requirements are complied with:

- A. **Size.** The size of all mobile home parks shall be a minimum of 10 acres.
- B. **Construction and safety standards.** All mobile homes within the park shall comply with the current construction and safety standards set forth by the U.S. Department of Housing and Urban Development.
  - (1) Mobile homes shall have a minimum enclosed living area of 750 square feet.
  - (2) Solid fuel burning devices shall not be permitted within any mobile home in a mobile home park.
- C. **Layout and design.**
  - (1) **Double access.** All mobile home parks containing 20 or more units shall have access to a public highway at two points, with such points being separated by at least 100 feet. This provision may be waived by the Planning Board if the applicant's proposal contains acceptable alternatives for emergency access.
  - (2) **Buffer zone.** The site shall be located and laid out so that no mobile home is located within 100 feet of any adjacent public highway right-of-way or within 35 feet of any other adjoining property line. Additional buffer areas may be required by the Planning Board if deemed necessary in order to avoid potential conflicts with existing or planned land uses.
  - (3) **Sales area.** Commercial areas may be provided for the display and sales of mobile homes within the confines of the mobile home park, except on the frontage established in the buffer zone. Model units shall only be placed upon individual lots, limited to one unit per lot.
  - (4) **Other principal structures.** A private conventional residence may be located within the confines of the mobile home park. Lot location and minimum distances shall be fixed by the Planning Board after due consideration of each case.
  - (5) **Interior roadways.** The layout of interior roadways, driveways, and walkways shall be designed and maintained in such a manner as to provide for safe, efficient and orderly vehicular and pedestrian traffic acceptable to the Planning Board. In addition, all interior roadways shall be clearly identified by signs at each intersection. Such signs shall be acceptable to the Planning Board.

- (6) Roadway (or driveway) clear zone width. All roadways shall have a minimum clear zone width of 40 feet which is completely clear of obstructions to a height of 12 feet.
- (7) Roadway grades. The maximum roadway grade shall be 7%. Entrance gradients shall be less than 3% for a distance of 75 feet from the edge of the right-of-way of the public highway.
- (8) Minimum radius. The minimum radius of curvature for any street shall be 75 feet.
- (9) Alignment. Roadways shall be laid out so as to intersect as nearly as possible at right angles, and in no case shall any angle or intersection be less than 75°. Roadways in four-way intersections shall be directly across from one another or offset a minimum of 125 feet.
- (10) Roadways. Roadway or driveway pavement shall be located in the center of the roadway clear zone and shall be at least 20 feet wide or as designated by the Planning Board. If parking provision is made within the roadway clear zone, such parking shall be off the pavement and the clear zone shall be increased accordingly.
- (11) Parking. Two parking spaces shall be provided for each mobile home lot to meet the needs of occupants of the mobile home park and their guests without interference with normal movement of vehicular or pedestrian traffic. Such parking may be in tandem. Each parking space shall have minimum dimensions of at least 10 feet by 20 feet per vehicle and shall have an all-weather surfacing.
- (12) Auxiliary parking. Auxiliary parking areas for motor vehicles shall be provided at a ratio of one parking space to every five mobile home units. Additional auxiliary parking areas are to be provided for parking trucks, maintenance equipment, boat trailers, utility trailers, and similar such equipment and vehicles.
- (13) Mobile home lot size. All lots shall be a minimum of 8,000 square feet, exclusive of any common areas, and shall have a minimum dimension of 80 feet across the lot. No common areas, such as buffer zones, roadway clear zones, auxiliary parking lots, recreational areas, service buildings and areas, sales areas, etc., shall be counted towards required individual mobile home lot areas.
- (14) Walkways. Walkways shall be laid out so as to connect service buildings, dry yards, and storage lockers with roadways. Walkways shall also provide access to recreation areas if such areas are not located adjacent to a roadway. Each roadway shall have a walkway running parallel to it, separated from the roadway by a minimum distance of seven feet. Additional walkways may also be placed along the rear of each lot. All walkways shall be a minimum of three feet wide and thickness of four inches and shall be provided with joints so designed as to minimize cracking. All walkways shall be made of concrete or blacktop or other similar material approved by the Planning Board.
- (15) Recreation areas. Recreation areas shall be provided in central locations at an amount equal to 10% of the total park area. Recreational areas shall include

playgrounds for children and separate areas for more passive enjoyment by adults. The playgrounds shall be equipped with play equipment for children under 10 years of age and should be away from traffic.

- (16) Public telephone. If public telephones are provided within the court, they shall be located directly adjacent to service buildings.
  - (17) Mailboxes. Mailboxes shall be located in compliance with U.S. Postal Service regulations and shall not be placed in any location where they constitute a safety hazard to pedestrians or to vehicles.
  - (18) Trees. All existing trees shall be preserved insofar as possible in the design of the park.
- D. Siting of mobile homes. Mobile homes shall be situated within the mobile home park in conformance with the following:
- (1) The following minimum distances shall be maintained when providing specific locations of mobile homes as related to each other within the park:
    - (a) Laterally (side of mobile home facing the side of another): 30 feet.
    - (b) Longitudinally (end of mobile home facing the end of another): 20 feet.
    - (c) Perpendicularly (end of one mobile home facing the side of another): 25 feet.
  - (2) In cases of irregularly shaped lots the Planning Board shall determine the application of the above-listed provisions, but in no case shall any two mobile homes be closer than 20 feet to one another.
  - (3) No mobile home shall be located less than 50 feet from any service or storage building other than approved accessory buildings located on and serving the specific mobile home lot as set forth in Subsection E(12) of this section.
  - (4) The minimum setback from the roadway line (clear zone rather than pavement) shall be 15 feet. The minimum setback from all interior lot lines shall be five feet.
  - (5) The percentage of lot coverage for an individual mobile home lot shall be no greater than 25%.
  - (6) The minimum distance between a mobile home and a parking space for motor vehicles shall be 10 feet.
  - (7) No occupied travel or vacation trailer or other form of temporary-type living units shall be permitted in a mobile home park.
  - (8) Every mobile home lot shall be clearly identified by a number located on a sign or light post located on the lot.
- E. Required improvements.
- (1) Water and sewage system. Water supply and sewage collection/treatment facilities shall be installed and maintained in compliance with the requirements of the New

York State Health Department, Department of Environmental Conservation and the Livingston County Health Department. Water supply from the Village shall be through a "master meter" installed at the expense of the park owner.

- (2) Underground utilities. Electrical systems, gas piping systems, cable and telephone wires, and community and individual fuel storage shall be installed underground and maintained in compliance with the NYS Uniform Code.
- (3) Artificial lighting. Artificial lighting shall be provided from dusk to dawn to illuminate walks, driveways, roadways and parking spaces for the safe movement of pedestrians and vehicles. Specifically, roadway lighting standards shall be provided as follows:
  - (a) Overhead roadway lighting standards shall be placed no farther than 100 feet apart, have a minimum clearance above the pavement of 12 feet and shall have a minimum capacity of 100 watts or as specified by the Planning Board.
  - (b) Service buildings shall have sufficient exterior lighting fixtures so as to properly illuminate entrances and drying yards connected therewith.
- (4) Refuse disposal. It shall be the responsibility of the park owner to insure that garbage and rubbish shall be collected and properly disposed of outside the park as frequently as may be necessary to insure that garbage receptacles do not overflow. This responsibility shall include either the provision of garbage cans with tight-fitting covers to each unit or dumpsters which service a number of units. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, incident or fire hazard. Suitable screening shall be provided for all community refuse (dumpster) areas.
- (5) Roadway paving. All roadways within the park shall be paved for a minimum width of 20 feet in accordance with specifications acceptable to the Planning Board.
- (6) Parking area paving. Areas for motor vehicle parking and access driveways shall be surfaced with asphalt or concrete.
- (7) Mobile home lots. Each mobile home lot shall contain a mobile home stand to provide adequate support for the placement and tie down of the mobile home. The stand shall not heave, shift, or settle unevenly under the weight of the mobile home as a result of any frost action, inadequate drainage, vibration or other such forces. The material used in constructing the stand should be durable and capable of supporting the expected load regardless of the weather, and shall be constructed in compliance with the NYS Uniform Code. In addition, the footings and the load-carrying portion of the ground anchors shall extend below the frost line.
- (8) Patios/decks. Mobile home lots may be provided with patios and/or decks. If installed, patios and/or decks may be covered and shall conform to distance separations, lot setbacks and percentage of lot coverage requirements, and shall not be enclosed (insect screening is allowable).

- (9) Stormwater drainage. Mobile home parks shall have adequate facilities for drainage of surface and subsurface water. The entire mobile home park shall be graded to facilitate the safe and efficient drainage of surface water and to permit no ponding areas where water will stand for lengths of time so as to constitute a health or other hazard. Drainage ditches shall be provided where necessary to provide for the removal of surface drainage. Such ditches shall be provided in such a way as not to constitute a hazard to pedestrians. Gutters, culverts, catch basins, drain inlets, stormwater sewers or other satisfactory drainage systems shall be utilized where deemed necessary and shall be acceptable for a size specified by the Planning Board and the Livingston County Soil and Water Conservation District.
- (10) Landscaping. Each mobile home lot shall be provided with at least two shade trees with trunks not less than 1 1/2 inches in diameter as measured three feet from the ground. Poplars, silver or soft maples, box elders, catalpas, and horse chestnuts shall not be planted. The planting of elms is not recommended. Shade trees shall also be planted at intervals of not less than 50 feet within the buffer areas to the sides and rear of the mobile home court. Shade trees are recommended in the buffer area between the public highway and the adjacent mobile home lots. Due regard shall be had to the obstructive qualities of limbs and branches along mobile home movement and accessways.
- (11) Service buildings. The developer shall be required to furnish service buildings in conformance with the following:
- (a) Service buildings shall be located in such a way as to prohibit primary access directly adjacent to a mobile home lot.
  - (b) Service buildings housing sanitation and laundry facilities or any other facilities shall be permanent structures complying with the NYS Uniform Code and the New York State Sanitary Code.
  - (c) The service buildings shall be well lighted at all times from dusk to dawn and shall be well ventilated with screened openings, shall be constructed of such moisture-proof material, including painted woodwork, as shall permit repeated cleaning and washing, and be maintained at a temperature of at least 68° F. during the period of October 1 to June 1. The floors of such buildings shall be of concrete and supplied with drains.
- (12) Additional structures on mobile home lots. Additional structures on mobile home lots are subject to the following:
- (a) No nonintegral structural addition or other accessory building or structure in excess of 100 square feet shall be permitted on any mobile home lot.
  - (b) Structural additions, accessory buildings, car ports and awnings shall conform to distance separations, lot setbacks and percentage of lot coverage requirements.
  - (c) Accessory buildings shall not be placed in front yards.

- (13) Mobile home park owner obligations. In general, mobile home parks shall be properly maintained so as to insure the desirable residential character of the property. Specifically, the following shall apply:
- (a) Yard maintenance. Mobile home parks shall be maintained reasonably free from holes and excavations, sharp protrusions, and other objects or conditions which might be a potential cause of personal injury. Walks, steps, driveways and roadways that contain holes or tripping hazards shall be filled, repaired, or replaced as the need indicates. Trees, or limbs of trees, that constitute a hazard, shall be removed. Snow removal is the responsibility of the mobile home park owner.
  - (b) Noxious weeds. Ragweed and other noxious weeds considered detrimental to health, such as poison ivy or poison sumac, shall be completely eliminated from all areas of the mobile home park. Open areas shall be maintained free of heavy undergrowths of any description.
  - (c) Accessory structures. All accessory buildings or structures shall be kept in good repair, free from health, fire and accident hazards. They shall be of durable construction and appropriate for intended use and location; exterior wood surfaces of all structures that are not inherently resistant to deterioration shall be periodically treated with a protective coating or paint or other suitable preservative.
  - (d) Gravel areas. All areas surfaced with gravel shall be kept clear of all forms of vegetation.
  - (e) Infestation. Grounds and structures shall be maintained free of insect, vermin, and rodent harborage and infestation. Methods used for purposes of extermination shall conform with generally accepted practice.
  - (f) Skirts. Skirts for individual mobile homes are required and shall conform to the New York State Uniform Code. Such skirting shall be installed within 30 days of the installation of the mobile home and must be maintained.
- (14) Mobile home park plans and registration of mobile home park occupants. It shall be the duty of each mobile home park owner/operator to keep a register containing a record of all mobile home owners and occupants located within the park. This register shall contain the following:
- (a) The name and legal address of all occupants.
  - (b) The name and address of the owner of each mobile home.
  - (c) The make, model, year, and license number of each mobile home.

ZONING

Village of Leicester  
Zoning Schedule

District	Uses	Minimum Lot Size (square feet)	Minimum Yards			Maximum Height (feet)	Maximum Lot Coverage	Site Plan
			Front (feet)	Rear (feet)	Side (feet)			
R-1	Single-family	15,000	20	35	10	35	30%	No
R-2	Single-family	15,000	20	35	10	35	30%	No
	Two-family	18,000	20	35	10	35	30%	No
R-3	Single-family	15,000	20	35	10	35	30%	No
	Two-family	18,000	20	35	10	35	30%	No
	Multifamily	+2,500**	*	*	*	*	*	Yes
C	Commercial	12,000	*	*	*	35	*	Yes
I	Industrial	*	*	*	*	35	*	Yes

Notes:

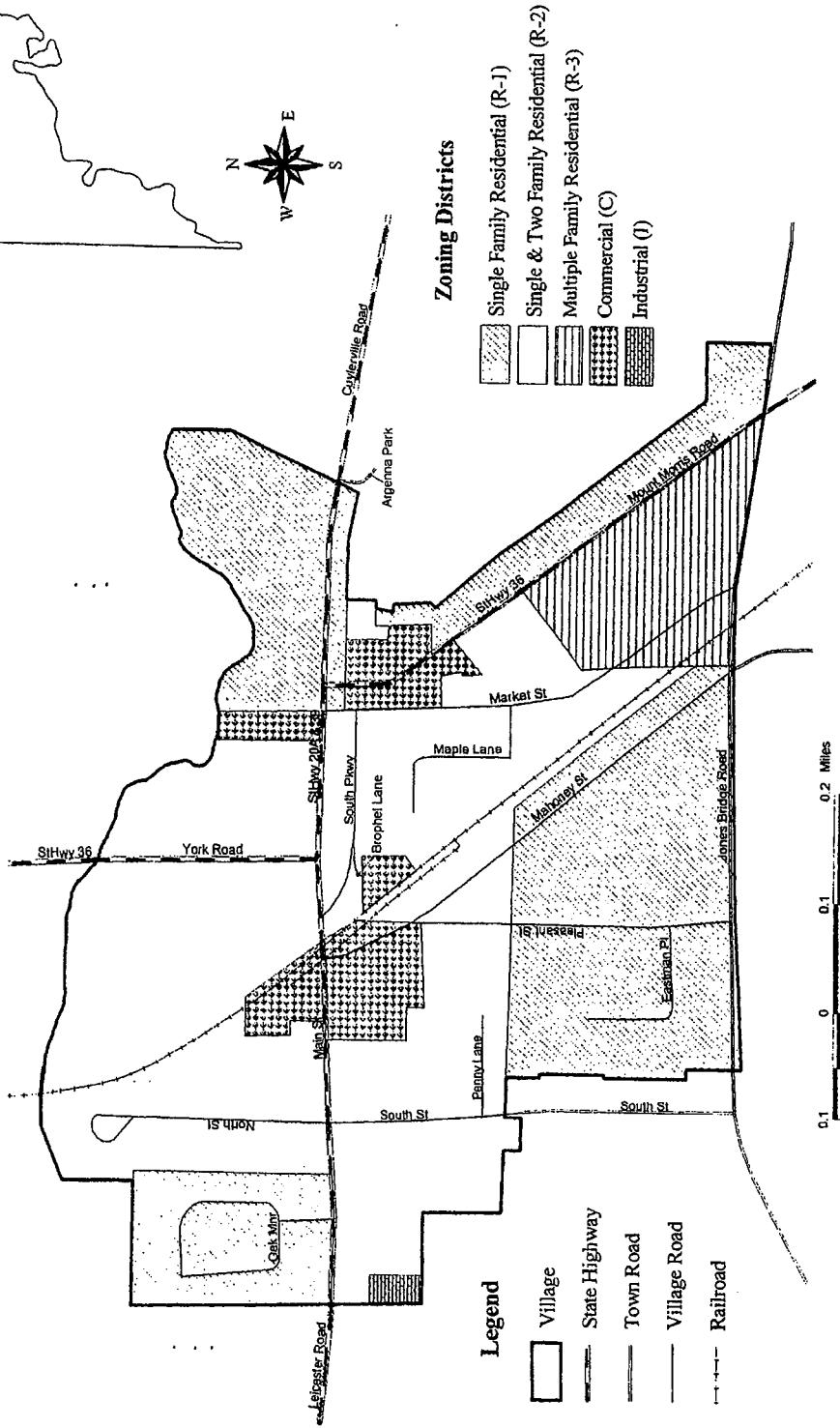
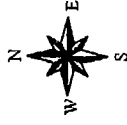
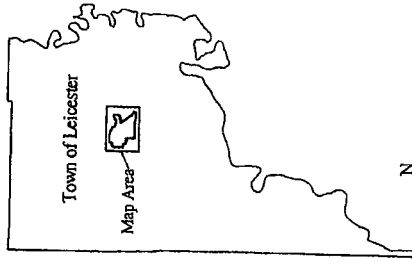
\* Determined by use as a part of the site plan process.

\*\* Two-family minimum lot size plus 2,500 square feet per family for each additional family over two.



ZONING

# Village of Leicester Zoning Map



- Zoning Districts**
- Single Family Residential (R-1)
  - Single & Two Family Residential (R-2)
  - Multiple Family Residential (R-3)
  - Commercial (C)
  - Industrial (I)

- Legend**
- Village
  - State Highway
  - Town Road
  - Village Road
  - Railroad



Map created by the Livingston County Planning Department, September, 2001

M:\Mentwell\Leicester\wzoning.dwg

# **APPENDIX**

**DISPOSITION  
LIST**

## Chapter DL

### DISPOSITION LIST

#### § DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Village of Leicester reviewed for the 2003 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).] The last legislation reviewed for the 2003 publication of the Code was a resolution adopted 4-10-2003.

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#### § DL-1. Disposition of legislation.

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Ord. No. 16	12-18-1946	Speed limit	Superseded by L.L. No. 1-1969
Ord. No. 19	10-6-1947	Parallel parking	Ch. 170, Art. I
Ord. No. 21	11-21-1955	Filling stations	Repealed at time of adoption of Code
Ord. No. 22	8-3-1959	Parking regulations	Ch. 170, Art. II
L.L. No. 1-1969		Village speed limit	Ch. 170, Art. III
L.L. No. 2-1969		Stop and yield intersections	Ch. 170, Art. IV
L.L. No. 3-1969		Sidewalks	Ch. 135
L.L. No. 4-1969	6-18-1969	Utilities tax	Ch. 156, Art. I
	3-3-1970	Winter parking	Ch. 170, Art. IV
L.L. No. 1-1971	2-2-1971	Code of Ethics	Ch. 19
L.L. No. 1-1973	10-16-1973	Vehicle weight limits	Ch. 170, Art. IV
	8-14-1974	Disposition of tax revenue	Ch. 135, Art. II
L.L. No. 1-1980	1-2-1980	Construction in flood hazard areas	Superseded by L.L. No. 2-1989
L.L. No. 2-1980	8-12-1980	Floodplain management	Superseded by L.L. No. 2-1989
L.L. No. 1-1983	9-6-1983	Declining enforcement of Uniform Building Code	See Ch. 86
L.L. No. 2-1984	3-28-1984	Collection of delinquent taxes	Ch. 134, Art. III

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
L.L. No. 1-1985	8-6-1985	Notification of defects	Ch. 117
L.L. No. 1-1986	2-18-1986	Defense and indemnification	Ch. 12
	8-2-1988	Retirement incentive	NCM
L.L. No. 1-1989	5-2-1989	Termination of Village's status as an assessing unit	Ch. 5, Art. I
L.L. No. 2-1989	6-6-1989	Flood damage prevention	Superseded by L.L. No. 3-1994
L.L. No. 1-1991		Property annexation	NCM
	6-20-1991	Water district regulations	Ch. 179, Art. I
L.L. No. 1-1992	3-29-1992	Recycling	Ch. 140, Art. I
L.L. No. 1-1993		Fire prevention and building construction	See Ch. 86
L.L. No. 1-1994	10-7-1994	Zoning	Ch. 190
	6-21-1994	Property annexation	NCM
L.L. No. 2-1994	11-15-1994	Animals	Ch. 75
L.L. No. 3-1994	12-20-1994	Flood damage prevention	Ch. 103
L.L. No. 1-1995		Property annexation	NCM
L.L. No. 2-1995	8-22-1995	Unsafe buildings and structures	Ch. 91
	8-22-1995	Rules for Starr Playground	Ch. 124, Art. I
L.L. No. 1-1996	6-18-1996	Backflow prevention devices	Ch. 82
L.L. No. 1-1997	6-17-1997	Outdoor storage	Ch. 148
L.L. No. 2-1997	12-16-1997	Burning of rubbish and garbage	Ch. 140, Art. II
L.L. No. 1-1998	2-24-1998	Tax exemption for disabled persons	Superseded by L.L. No. 1-2000
L.L. No. 2-1998	2-24-1998	Veterans tax exemption	Ch. 156, Art. V
	10-20-1998	Temporary water meter shut-offs	Ch. 179, Art. II
	6-3-1999	Water district regulations amendment	Ch. 179, Art. I
L.L. No. 1-1999	11-4-1999	Alarms	Ch. 70

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
L.L. No. 1-2000	2-17-2000	Tax exemption for disabled persons	Superseded by L.L. No. 1-2002
	7-19-2001	Trees	Ch. 163
L.L. No. 1-2002	1-17-2002	Tax exemption for disabled persons	Superseded by L.L. No. 1-2003
	8-15-2002	Records	Ch. 51
	1-17-2002	Records	Ch. 51
L.L. No. 2-2002	10-17-2002	Terms of office	Ch. 63
	11-21-2002	Standard workday	Ch. 40, Art. I
L.L. No. 1-2003		Tax exemption for disabled persons	Ch. 156, Art. IV
	4-10-2003	Investment policy	Ch. 28
	4-10-2003	Procurement policy	Ch. 46

# **INDEX**

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**DEFINITIONS NOTE:** For the convenience of the Code user, all terms defined in this Code are included in the Index under the heading "Definitions and Abbreviations."

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