



Village of Pomona Code Book electronic version

Version 08-2007

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for convenience*

*The computer version of the Village Code is a copy and does not
necessarily contain the most recent updates to the code. The
official code book located in Village Hall must always be used for
specific reference to the code*

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Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona: Art. I, 2-8-1988 as L.L. No. 1-1988. Amendments noted where applicable.]

ARTICLE I

Adoption of Code

[Adopted 2-8-1988 as L.L. No. 1-1988]

Be it enacted by the Board of Trustees of the Village of Pomona, County of Rockland, New York, as follows:

~ 1-1. Legislative intent.

In accordance with Subdivision 3 of ~ 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Village of Pomona as codified by General Code Publishers Corp. and consisting of Chapters 1 through A134, are hereby adopted as the Code of the Village of Pomona and such local laws, ordinances and resolutions shall be known collectively as the "Code of the Village of Pomona," hereafter termed the "Code," and the various parts and sections of such local laws, ordinances and resolutions shall be distributed and designated as provided in said Code. Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Village of Pomona" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number, as if such local law, ordinance or resolution had been formally amended to so read.

~ 1-2. Continuation of existing provisions.

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

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

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

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

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

A. Any right or liability established, accrued or incurred under any legislative provision of the Village of Pomona prior to the effective date of this local law, or any action or proceeding brought for the enforcement of such right or liability.

B. An offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Village of Pomona, or any penalty, punishment or forfeiture which may result therefrom.

C. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered prior to the effective date of this local law, brought pursuant to any legislative provision of the Village of Pomona.

D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Pomona.

E. Any local law or ordinance of the Village of Pomona providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Village of Pomona or any portion thereof.

F. Any local law or ordinance of the Village of Pomona appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Village of Pomona or other instruments or evidence of the Village's indebtedness.

G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.

H. The levy or imposition of special assessments or charges.

I. The dedication of property.

J. Any legislation relating to salaries.

K. Any local law or ordinance amending the Zoning Map.

L. All legislation adopted subsequent to June 15, 1987.

~ 1-5. Severability.

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

~ 1-6. Copy of Code on file.

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

~ 1-7. Amendments to Code.

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

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

It shall be the duty of the Village Clerk to keep up-to-date the certified copy of the book containing the Code of the Village of Pomona required to be filed in the office of the Village Clerk

for use by the public. All changes in said Code and all local laws and resolutions adopted by the Board of Trustees subsequent to the enactment of this local law in such form as to indicate the intention of said Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws or resolutions until such changes, local laws or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

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

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

~ 1-10. Tampering with Code; penalties.

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

~ 1-11. Changes in previously adopted legislation.

A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Village of Pomona, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)¹

¹ Editor's Note: Pursuant to ~ 1-11B, the following sections were amended or added: ~ 9-3I, 13-4, 16-1, 16-3, 16-4, 16-5, 22-1, 22-2, 22-4, 22-6, 22-7, 50-1, 50-2, 50-4, 50-5, 50-6, 50-7, 50-8, 65-2, 65-6, 65-8, 67-1, 70-2, 70-3, 70-4, 79-8, 79-10, Subsections I and N of ~ 96-3, ~ 96-4, 110-1, 110-6, 110-7, 110-8, 110-20, 110-26, 110-27, 110-28, 110-30A(1) and (2), 110-31A, 110-33, 110-35, 110-42, 110-43, 110-44, 110-46, 115-3, 120-2D, 120-3, 124-7, and 124-9; Chs. 25, 30, 40, 47, 61, 74, 106, 118, 130 and A134. A complete description of each change is on file in the office of the Village Clerk.

~ 1-12. General penalties for offenses.

A. Except where specifically provided elsewhere, any person other than a corporation, who shall violate any provision of the Code or any other regulation made under authority conferred thereby, or who shall build or alter any structure or use any land in violation of any statement or plan submitted and approved thereunder, or who shall build or alter any structure or use any land in violation of any statement or plan submitted and approved thereunder, or who shall knowingly assist therein, shall be liable to a fine of not more than \$2,000 or imprisonment not exceeding 15 days, or both such fine and imprisonment. Each day's continued violation shall constitute a separate and additional violation.

B. Except where specifically provided elsewhere, any corporation which shall violate any provision of the Code or any other regulation made under authority conferred thereby, or which shall build or alter any structure or use any land in violation of any statement or plan submitted and approved thereunder, or which shall knowingly assist therein, shall be liable to a special corporate fine of not more than \$10,000. Each day's continued violation shall constitute a separate and additional violation.

C. In addition to the foregoing provisions, the Village shall have such other remedies for any violation or threatened violation of the Code as are now or may hereafter be provided by law.

~ 1-13. Incorporation of provisions into Code.

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

~ 1-14. When effective.

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

Chapter 3

ARCHITECTURAL REVIEW BOARD

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 10-28-1991 as L.L. No. 4-1991. Amendments noted where applicable.]

GENERAL REFERENCES

Historical Review Board -- See Ch. 13.
Planning Board and Zoning Board of Appeals -- See Ch. 25.
Building construction -- See Ch. 47.
Subdivision of land -- See Ch. 118.
Zoning -- See Ch. 130.

~ 3-1. Purpose and legislative intent. [Amended 1-27-1997 by L.L. No. 3-1997]

A. It is the purpose of this chapter to preserve and promote the character and appearances and conserve the property values of the Village, the attractiveness of which is the economic mainstay of the community, by providing procedures for an architectural review of structures henceforth erected, reconstructed or altered in the Village and thereby to:

- (1) Encourage good quality of exterior building design and appearances to the site and surroundings of the structure;
- (2) Permit originality and resourcefulness in building design and appearance which are appropriate to the sites and surroundings;
- (3) Prevent such designs and appearances as are unnecessarily offensive to visual sensibilities.

B. The Village Board hereby finds inappropriateness or poor quality of design in the exterior appearance of buildings or land developments adversely affects the desirability of the immediate area and neighboring areas and, by so doing, impairs the benefits of occupancy of existing property in such areas, impairs the stability and value of both improved and unimproved real property in such areas, retards the most appropriate development of such areas, produces degeneration of property in such areas with attendant deterioration of conditions affecting the health, safety, morals and general welfare of the inhabitants thereof and creates an improper relationship between the taxable value of real property in such areas and the cost of municipal services provided therefore. It is the purpose of this chapter to prevent these and other harmful effects of such exterior appearance of buildings and land developments and thus to promote and protect the health, safety, morals and general welfare of the

community.²

~ 3-2. Creation and composition. [Amended 1-27-1997 by L.L. No. 3-1997]

There is hereby created a Board of Architectural Review (BAR) consisting of five members, all of whom shall be members of the Planning Board of the Village of Pomona. The term of each member of the Board of Architectural Review shall be coterminous with each such member's term as a member of the Planning Board. The Chairperson of the Board of Architectural Review shall be the same person who serves as Chairperson of the Planning Board.

~ 3-3. Meetings and procedures. [Amended 1-27-1997 by L.L. No. 3-1997]

Meetings of the Board of Architectural Review shall be held upon the referrals from the Planning Board, the Zoning Board of Appeals or the Building Inspector of the Village of Pomona. A majority of the BAR shall constitute a quorum for the transaction of business. The BAR shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The BAR shall have the authority, from time to time, to adopt, amend and repeal rules and regulations consistent with law and the provisions of this chapter governing its procedure and the transaction of its business and for implementing the standards and criteria set forth in ~ 3-5 of this chapter. The BAR shall have the authority to hire appropriate consultants and professionals for technical assistance.

~ 3-4. Review of permit applications. [Amended 1-27-1997 by L.L. No. 3-1997]

A. The BAR shall review all applications for building permits for nonresidential construction and all applications for building permits that would result in three or more residential structures substantially similar to each other that are proposed to be constructed within 500 feet of each other on the same street or road to which the lot for which the building permit is sought will have access. [Amended 5-19-1997 by L.L. No. 6-1997; 10-27-1997 by L.L. No. 12-1997; 7-26-2004 by L.L. No. 3-2004]

B. Applications for building permits which are referred to the BAR shall be accompanied by eight sets of scaled building plans, to be supplied by the applicant, showing all elevations and dimensions of all affected structures, a landscape plan and a site plan showing both existing and proposed contours at two-foot intervals, all significant physical features and all existing trees having a circumference of 25 inches or more at a height 4 1/2 feet above existing ground level at the base of the tree on

² Editor's Note: Former Subsection C, regarding the applicability of this chapter to subdivision plats filed after 10-28-1991, added 5-19-1997 by L.L. No. 6-1997, was repealed 7-26-2004 by L.L. No. 3-2004.

the uphill side, and whether or not it is proposed that such trees shall remain or be removed. [Amended 5-19-1997 by L.L. No. 6-1997; 11-25-2003 by L.L. No. 9-2003; 9-7-2004 by L.L. No. 4-2004]

C. The application shall be placed on the agenda for the next regularly schedule BAR meeting but in no event less than 15 nor more than 60 days after receipt of a complete application. The BAR may require the applicant to submit additional plans, renderings, date and any other document or information that it deems necessary to make a determination. The BAR shall approve, approve with conditions or disapprove the application. In the even the BAR approves with conditions or disapproves the application, the BAR shall issue written findings of fact and state the reasons for its decision in writing. Decisions of the BAR shall be transmitted to the Building Inspector and the applicant. [Amended 5-19-1997 by L.L. No. 6-1997; 7-26-2004 by L.L. No. 3-2004]

D. All applications to the BAR shall be accompanied by a fee as set forth in the fee schedule adopted by the Board of Trustees.³ [Amended 10-27-2003 by L.L. No. 8-2003]

~ 3-5. Standards and criteria.

A. Approval of any application referred to the Board shall be by a vote of at least a majority of the members of the Board of Architectural Review. [Amended 7-26-2004 by L.L. No. 3-2004]

B. In considering an application, the Board shall take into account natural features of the site and surroundings, exterior design and appearances of existing structures and the character of the district and its peculiar suitability for particular purposes, with a view to conserving the values of property and encouraging the most appropriate use of land. In so doing, the Board may consider the predominant features of surrounding structures, in order to establish a framework for evaluation for the proposed structure, such as the massing or footprint of surrounding houses, orientation to the street, roof type and roof pitch. [Amended 1-27-1997 by L.L. No. 3-1997; 7-26-2004 by L.L. No. 3-2004]

C. The Board may approve any application referred to it upon finding that the building or structure for which the permit was requested, if erected or altered in accordance with the submitted plan, would be in harmony with the purpose of this chapter; would not be visually offensive or inappropriate by reason of poor quality of exterior design, excessive similarity or striking visual discord in relation to the site or surroundings; would not mar the appearance of the area; would not impair the use, enjoyment and desirability and reduce the values of properties in the area; would not be detrimental to the character of the neighborhood; would not prevent the most appropriate development and utilization of the site or of adjacent lands; and would not adversely affect the functioning,

³Editor's Note: The fee schedule is on file in the Village offices.

economic stability, prosperity, health, safety and general welfare of the entire community.

D. In approving any application, the Board may impose reasonable and appropriate conditions and safeguards designed to prevent the harmful effects set forth in ~ 3-1, including conditions as to landscaping and modifications to the proposed structure. [Amended 1-27-1997 by L.L. No. 3-1997]

E. The Board may disapprove any application for a permit, provided that the Board has afforded the applicant an opportunity to confer upon and incorporate suggestions for change of the plan, and provided that the Board finds and states that the structure for which the permit was requested would, if erected as indicated, provoke one or more of the harmful effects set forth in ~ 3-1 by reason of:

(1) Excessive similarity to any other structure or structures located on the same street or corner thereof and within 150 feet of the site of the structure for which a building permit is requested, in respect to one or more of the following features of exterior design and appearance:

(a) Substantially identical facade, disregarding color.

(b) Substantially identical size and arrangement of either doors, windows, porticoes, porches or garages or other openings or breaks or extensions in the facade, including reverse arrangements.

(c) Other substantially identical features, such as, but not limited to, setbacks from street lines; heights, widths and lengths of elements of the building design; and exterior materials and treatments.

(2) Striking dissimilarity, visual discord or inappropriateness with respect to other structures located on the same street or a corner thereof and within 150 feet of the site of the structure for which a building permit is requested, in respect to one or more of the following features of exterior design and appearance:

(a) Facade, disregarding color.

(b) Size and arrangement of doors, windows, porticoes, porches or garages or other openings, breaks or extensions in the facade.

(c) Other significant design features, such as but not limited to heights, widths and lengths of elements of design, exterior materials and treatments, roof structures, exposed mechanical equipment, service and storage areas, retaining walls, landscaping, signs, light posts, parking areas and fences and service and loading areas.

(3) Visual offensiveness or excessive similarity or dissimilarity, incompatibility due to size, orientation and excessive impact upon the privacy of an adjacent property or existing residence or incompatibility of the proposed structure

with the terrain on which it is to be located, including but not limited to excessive divergences of the height or levels of any part of the structure from the grade of the terrain, excessive grading or loss of existing vegetation, excessive divergences in the height of any portion of the structure from the natural or finished grade and the treatment of exposed foundations. [Amended 1-27-1997 by L.L. No. 3-1997]

~ 3-6. No building permit for disapproved applications. [Amended 7-26-2004 by L.L. No. 3-2004]

The Building Inspector shall not issue a building permit for any application disapproved by the BAR as provided in ~ 3-5.

~ 3-7. Appeals. [Added 7-26-2004 by L.L. No. 3-2004⁴]

Any person aggrieved by a decision of the BAR may appeal such decision to the Board of Trustees of the Village of Pomona. Such appeal shall be filed within 30 days after the decision has been filed in the office of the Building Inspector. The Board of Trustees shall make a decision on said appeal within 60 days after receiving a formal application therefor.

⁴ Editor's Note: This local law also repealed former ~ 3-7, Review of BAR recommendations, as amended.

Chapter 5

CODE ENFORCEMENT

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

ARTICLE I

Authority of Board of Trustees

[Adopted 7-10-2000 by L.L. No. 5-2000]

~ 5-1. Empowerment of Board members.

Subject to appointment by the Mayor, as hereinafter provided, the duties of the members of the Board of Trustees shall include code enforcement, which shall mean that each of the members of the Board of Trustees, if appointed by the Mayor, shall be empowered to:

A. Determine whether any violation of any chapter of the Village Code, except for the Building Code, has been committed or exists.

B. Keep the Board of Trustees advised of all matters pertaining to the enforcement of the Code.

C. Make and keep all records necessary and appropriate to the office of the Code Enforcement Officer, including records of written complaints of violation of a Village Code chapter and the action taken on same.

D. Stop any person, on the proper showing of his or her credentials, whenever the Code enforcer has reasonable grounds to believe that a violation of the Village Code exists.

E. Notify the owner of property or the owner's agent or the person performing such work or the person or persons committing the violation of the Village Code to cease such activity immediately or to suspend such work immediately, by stop-work order, and suspend such work or activities until the stop-work order has been rescinded.

F. Issue and post written notices of violations and stop-work orders and order the remedying of any condition or omission that is found to be in violation of the Village Code.

G. Issue appearance tickets, as defined in the Criminal Procedure Law of the State of New York, for the violation of any section of the Village Code.

H. To perform other acts, consistent with the foregoing, for the purpose of carrying out the duties of enforcement of the Village Code.

~ 5-2. Appointment by Mayor.

At the annual meeting of the Village of Pomona Board of Trustees, held in April, the Mayor shall appoint either a person to fill the position of Assistant Village Attorney for Code Enforcement or the Mayor shall appoint a member of the Board of Trustees to assume the duties set forth in ~ 5-1 hereof. Such appointments shall be subject to approval by a majority vote of the Board of Trustees.

~ 5-3. Statutory authority for delegation of mayoral duties.

In the event that the Mayor chooses to appoint a member of the Board of Trustees to assume the duties of code enforcement, said appointment shall be deemed a delegation by the Mayor, under ~ 10, Subdivision (1)a(1), and ~ 10, Subdivision (4)(a), of the Municipal Home Rule Law of the State of New York, of his duties under ~ 4-400, Subdivision 1b, of the Village Law of the State of New York.

~ 5-4. Filling of vacancies.

In the event that the duties of code enforcement have been assigned by appointment of an employee or of a Trustee at the annual reorganization meeting of the Board of Trustees, and such position becomes vacant, the Mayor may appoint either another person to be an employee to enforce the Code of the Village of Pomona or the Mayor may appoint one of the members of the Board of Trustees. Such appointments shall be subject to approval by a majority vote of the Board of Trustees.

Chapter 6

DEFENSE AND INDEMNIFICATION

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 11-16-82 as L.L. No. 4-1982. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics -- See Ch. 9.

~ 6-1. Definitions.

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

EMPLOYEE -- Any person holding a position by election, appointment or employment in the service of the Village of Pomona, whether compensated or not, but shall not include an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative. The benefits of this chapter shall inure only to "employees" as defined herein and shall not enlarge or diminish the rights of any other party.

~ 6-2. Defense of employees authorized.

At the request of an employee and upon compliance by the employee with all of the provisions of this chapter, the Village of Pomona shall provide for the defense of an employee in any civil action or proceeding in any state or federal court, including actions under Sections 1981 through 1988 of Title 42 of the United States Code, arising out of any alleged act or omission which the Board of Trustees finds occurred while the employee was acting within the scope of his public service and in the discharge of his duties and was not in violation of any rule or regulation of the village at the time the alleged act or omission occurred.

~ 6-3. Indemnification.

A. At the request of an employee and upon compliance by the employee with all of the provisions of this chapter, the village shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in any state or federal court or in the amount of any settlement of a claim approved by the Village Board of Trustees, provided that the Board of Trustees finds that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of his public service and in the discharge of his duties and was not in violation of any rule or

regulation of the Village of Pomona at the time the alleged act or omission occurred and the damages were sustained.

B. The duty to defend or indemnify and save harmless prescribed by this chapter shall not arise where the alleged act or omission, injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee or where the civil action or proceeding is brought by or on behalf of the village or any other federal, state or municipal entity.

~ 6-4. Conditions of duty to defend or indemnify.

A. The duty to defend or indemnify and save harmless prescribed by this chapter shall be conditioned upon the following:

(1) The delivery by the employee to the Village Clerk, at the office of the Village Clerk, of the original or a copy of any summons, complaint, notice, petition, process, demand or pleading within ten (10) days after the employee is served with such document; and

(2) The full cooperation of the employee in the defense of such action or proceeding and in the defense of any action or proceeding against the Village of Pomona based upon the same act or omission and in the prosecution of any appeal.

B. Such delivery shall be deemed a request by the employee that the village provide for his defense pursuant to this chapter. In the event that the village shall assume an employee's defense and thereafter the employee fails to or refuses to cooperate in the formation or presentation of his defense, the court shall permit the village to withdraw its representation ten (10) days after giving written notice to the employee of its intention to discontinue such representation.

~ 6-5. Denial of benefit due to disciplinary proceedings.

In the event that the act or omission upon which the court action or proceeding against the employee is based was or is also the basis of a disciplinary proceeding by the village against the employee, representation by the village and indemnification by the village may be withheld:

A. Until such disciplinary proceeding has been resolved; and

B. Unless the resolution of the disciplinary proceeding completely exonerated the employee as to such act or omission.

~ 6-6. Commencement and prosecution of actions.

Every action or proceeding instituted hereunder, including an action brought to enforce a provision of Sections 1981 through 1988 of Title 42 of the United States Code, shall be commenced pursuant to the provisions of ~ 50-I of the General Municipal Law and within one (1) year and ninety (90) days. No action or

proceeding instituted hereunder, other than one instituted pursuant to Sections 1981 through 1988 of Title 42 of the United States Code, shall be prosecuted or maintained against the village or an employee unless notice of claim shall have been made and served upon the village in compliance with ~ 50-e of the General Municipal Law and within ninety (90) days after the claim arises.

~ 6-7. Representation by attorney.

Subject to the conditions set forth in this chapter, the employee shall be entitled to be represented by an attorney to be retained by the Board of Trustees. The Village of Pomona shall have no liability to represent, defend or hold harmless an employee who is represented by an attorney other than one retained by the Board of Trustees.

~ 6-8. Punitive or exemplary damages.

Nothing in this chapter shall authorize the Village of Pomona to represent, indemnify or save harmless an employee with respect to punitive or exemplary damages, fines or penalties or to money recovered from an employee pursuant to Article VII-A of the State Finance Law.

~ 6-9. Interpretation of provisions.

A. The provisions of this chapter shall not be construed to affect, alter or repeal any provision of the Workers' Compensation Law.

B. This chapter shall not in any way affect the obligation of any claimant to give notice to the Village of Pomona under any provision of law.

C. The provisions 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.

D. Except as otherwise specifically provided in this chapter, 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 employee of the village, nor any right to defense and/or 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.

~ 6-10. Purchase of liability insurance.

The Board of Trustees may, by resolution, undertake to purchase liability insurance for its employees to insure against acts or omissions covered by this chapter.

~ 6-11. Application of provisions.

The provisions of this chapter shall apply to all actions and proceedings pending upon the effective date thereof or thereafter instituted.

Chapter 8

EMERGENCIES, PROCEDURES FOR

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 9-24-1990 as L.L. No. 1-1990. Amendments noted where applicable.]

~ 8-1. Purpose.

This chapter was adopted in order to:

A. Provide for the protection of persons and property in the Village of Pomona in the event of a natural or man-made emergency or disaster, in accordance with applicable sections of the New York State Executive Law, Article 2B.

B. Establish procedures to alert the public and provide information and appropriate protective action and instructions, if necessary, and to provide for coordination and use of available municipal resources during an emergency.

C. Define the role and responsibilities of village officials and to define emergency functions and make assignments to municipal and volunteer staff.

D. Ensure coordination and cooperation with the efforts of the County of Rockland in accordance with the Rockland County Emergency Operations Plan, Section 2.

~ 8-2. Hazards; intent.

A. The hazards that pose the potential threats to the Village of Pomona include but are not limited to flooding, hazardous material, accidents, storms and nuclear power plant accidents.

B. This chapter is intended to cover a wide range of possibilities from slowly developing emergencies to disasters without warning. It is intended to cover disasters resulting from any hazards, whether of great magnitude or localized in their impact.

~ 8-3. Officials responsible; cooperation with county agencies.

A. Officials of the Village of Pomona are responsible for the protection and safety of the Village of Pomona and shall work in concert with the direction and control of Rockland County emergency management agencies. For continuity of government, the lines of succession of authority are as follows:

- (1) Mayor.

(2) Deputy Mayor.

(3) Senior Trustee, as defined by total number of years of service.

(4) Senior Trustee, as defined by total number of years of service.

B. In the event that a person in authority is required to assume the responsibility of a person listed higher on the above list of authority, the position held by such person shall continue and not be abolished as a result of such temporary promotion by reason of such emergency or disaster, it being the intention of this provision to implement the provisions of ~ 27 of the Executive Law of the State of New York.

C. In addition to coordination with the County of Rockland emergency agencies then having authority, the Village of Pomona shall cooperate with said county agencies, whether the emergency or disaster affects the Village of Pomona alone or also affects other villages or other towns in addition to the Towns of Haverstraw and Ramapo.

D. The operational procedures in the event of an emergency or disaster shall be coordinated through the County of Rockland Emergency Operations Center.

E. Dispatch of emergency equipment and resources will be accomplished in accordance with the County of Rockland Emergency Operations Plan.

~ 8-4. Scope of operations.

A. In the emergency or disaster, the Village of Pomona shall continue only those functions and services necessary to protect life and property in the Village of Pomona.

B. Emphasis shall be to meet basic human needs such as food, shelter and medical care and to resume basic services such as water, electricity and sanitation as soon as is reasonably possible.

C. A decision to implement protective actions in an emergency or disaster shall be made by the village official in authority pursuant to ~ 8-3 hereof or, in the event that none of the officials, in the order of authority, are available to make such a decision, by the County of Rockland Emergency Management Coordinator.

~ 8-5. Officials list.

A. The Village of Pomona shall provide to the County of Rockland Emergency Management Coordinator a list of all village officials with their business and home addresses and telephone numbers, all of which shall remain confidential and for the purpose of emergency contact only and shall be located at the County of Rockland Office of Emergency Services. Said list of telephone numbers and addresses shall be made current by the

Village of Pomona at least annually.

B. The Clerk of the Village of Pomona shall keep a record of a listing of the staff and organizational responsibility of the Rockland County Office of Emergency Services, which listing is required to be provided at least annually on or before January 15.

Chapter 9

ETHICS, CODE OF

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 10-20-1970. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification of employees – See Ch. 6.

§ 9-1. Purpose.

The complexity of modern government regardless of its level requires that public officers and employees maintain a standard of ethical conduct of the highest order. Nothing can take the place of personal integrity, character, a high moral sense and community vigilance. The primary purpose of a Code of Ethics is to define areas of conflict of interest. Properly administered, a Code of Ethics can engender public confidence in public officials and establish uniform guidelines. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Village of Pomona. These rules shall serve as a guide for official conduct of the officers and employees of the Village of Pomona. 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.

§ 9-2. Definitions.

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

IMMEDIATE FAMILY – Spouse, parent, child, step-parent, step-child, brother, sister, mother-in-law, father-in-law, son-in-law or daughter-in-law. [Added 2-26-2007 by L.L. No. 3-2007]

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 Pomona, 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.

§ 9-3. Standards of conduct.

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

- A. Gifts. He shall not, directly or indirectly, solicit any gift, or accept or receive any gift having a value of \$25 or more, whether in the form of money, services, loan,

travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his part.

- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- C. Representation before one's own agency. He shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or before 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 this 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 Pomona, 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 to 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 Pomona 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.
- I. All applicants before the Planning Board, Zoning Board of Appeals, Building Inspector or any other Village board or agency shall certify that they have no financial interest with any Village official or employee. If there is any financial relationship, it shall be disclosed to the Board of Ethics, who shall determine if there is any conflict of interest before any action by the Village board, agency or employee takes place. Where the applicant has subcontractors working for him, he also shall certify that

there is no financial interest between them and any Village official or employee or make such disclosure to the Board of Ethics, who shall determine if there is any conflict of interest before they may proceed with any work. [Added 2-8-1988 by L.L. No. 1-1988]

- J. No member of the immediate family of an elected official of the Village of Pomona shall be appointed to a full-time position or to a permanent part-time position exceeding 20 hours per month. [Added 2-26-2007 by L.L. No. 3-2007]

§ 9-4. Filing of claims not affected.

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 Pomona 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.

§ 9-5. Distribution of Code of Ethics.

The Mayor of the Village of Pomona shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Village of Pomona 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.

§ 9-6. Board of Ethics.

- A. There is hereby established a Board of Ethics, consisting of five members to be appointed by the Board of Trustees and who shall serve without compensation and at the pleasure of the Board of Trustees. A majority of such members shall be persons other than officers or employees of the Village of Pomona.

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

§ 9-7. Penalties for offenses.

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

Chapter 13

HISTORICAL REVIEW BOARD

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 12-15-86 as L.L. No. 3-1986. Section 13-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 47.

Zoning -- See Ch. 130.

~ 13-1. Legislative intent.

The purpose of this chapter is to promote the public welfare, to preserve the historical character of certain areas to be designated within the Village of Pomona, to prevent the impairment of or injury to their architectural and cultural value to the community and to provide that a reasonable degree of control may be exercised over the architectural design, construction, alteration and repair of buildings, signs or other structures erected in the areas designated, as within the purview of this chapter, in order that they may be in harmony with the style and spirit of the historical property presently situated therein.

~ 13-2. Creation; membership and terms; meetings.

A. The Village Board of Trustees is hereby authorized and empowered to create an Historical Review Board, which shall consist of six (6) members inclusive of the Village Historian who shall serve as an ex officio member. Said members shall be especially qualified by reason of training or experience in art or architecture or by reason of demonstrated interest in the history

and historical preservation of sites within the Village of Pomona. The members of the Board shall be appointed by the Board of Trustees, and the Historical Review Board shall elect a Chairman from its own members. The Board of Trustees may provide for compensation to be paid to said members, experts, clerks and a secretary and may provide for such other expenses as may be necessary and proper. The Board of Trustees is hereby authorized to make such appropriation as it may see fit for such expenses.

B. Of the five (5) members of the Historical Review Board to be appointed by the Board of Trustees, two (2) such members shall originally be appointed for one-year terms, two (2) shall originally be appointed for two-year terms, and one (1) shall originally be appointed to a three-year term. Thereafter all said members of the Historical Review Board shall be appointed to one-year terms respectively. If a vacancy shall occur otherwise than by the expiration of a term, it shall be filled by the Board of Trustees by appointment for the unexpired term.

C. Meetings of the Historical Review Board shall be held at such times as the Board may determine and at such other times at the call of the Chairman. Three (3) members of such Board shall constitute a quorum for the transaction of business. All meetings of such Board shall be open to the public, and the Board shall keep minutes of its proceedings, showing the vote of each member upon any question, and shall also keep records of its examinations and official actions.

D. The Board shall have the power to adopt, amend and repeal rules and regulations, after a public hearing by the Historical Review Board and subject to the approval of the Board of Trustees, governing its procedure and the transaction of business.

~ 13-3. Powers and duties.

A. The said Board shall have for its purpose the preservation of such buildings and structures in the Village of Pomona as, in the opinion of said Board, shall be deemed to have historical significance and value and which buildings, structures and areas should be preserved for the benefit of the people of the Village of Pomona.

B. The Historical Review Board is hereby authorized to recommend to the Board of Trustees the designation of certain areas or structures within the Village of Pomona which, in the opinion of said Board, shall have historical significance and value to the people of the village.

C. The Board of Trustees may in its discretion designate certain areas and/or structures within the Village of Pomona which in the opinion of said Board of Trustees shall have historical significance and value to the people of the village as historical areas and/or structures. The discretion of the Board of Trustees in so designating can only be exercised after due notice and public hearing as provided by law. Nothing herein contained shall be construed to require the Board of Trustees to act on recommendation of the Historical Review Board.

~ 13-4. Review of building permits.!Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.!EFN!

Every application for a building permit in the Village of Pomona within an historical area or upon an historical structure, as designated by the Board of Trustees as such, for construction, reconstruction, alteration or repair of any structure located therein shall be referred by the Code Enforcement Officer to the Historical Review Board. The Code Enforcement Officer shall not issue a building permit for such structure if any permit application has been disapproved by the Historical Review Board as provided in this chapter. The Code Enforcement Officer may approve any application for a permit approved by the Board with modifications when the modifications specified by the Board have been complied with. If the Board shall have approved an application for a building permit or if the Board has failed to act on an application for a building permit within forty-five (45) days after it has been referred to the Board, then the Code Enforcement Officer may issue a building permit.

~ 13-5. Appeals.

An officer, department or board of the village, or any person aggrieved by the action of the Historical Review Board in modifying and approving or disapproving an application for a building permit within a designated area and the Code Enforcement Officer for denying such permit because of such action by the Board, may take an appeal therefrom to the Zoning Board of Appeals in the same manner as provided by law for other appeals to the Zoning Board of Appeals.

~ 13-6. Exclusivity.

The foregoing provisions of this chapter shall be exclusive within a designated area.

Chapter 16

LOCAL LAWS, ADOPTION OF

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 2-20-73 as L.L. No. 1-1973. Sections 16-1, 16-3 and 16-4 amended and ~ 16-5 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

~ 16-1. Public hearing required; notice.⁵

No local law shall be adopted by the Board of Trustees of the Village of Pomona until a public hearing has been held thereon in its final form before such Board of Trustees not less than three (3) days after public notice has been given of the time and place of the holding of such public hearing. Such notice shall be given by the Village Clerk by causing the same to be published once in the official newspaper of the village. Such notice shall contain the title of the proposed local law and a brief explanatory statement thereof.

~ 16-2. Posting and publication.

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

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

~ 16-3. Posting of copy after adoption.⁶

The Village Clerk shall forthwith upon the adoption of a local law by the Board of Trustees post a copy thereof in a conspicuous place in his or her office.

~ 16-4. Filing of proof of notice and posting.⁷

Proof of publication of the notice of public hearing required by ~ 6-1 hereof and proof of the posting required by ~ 6-3 hereof shall be filed in the office of the Village Clerk.

~ 16-5. Publication and posting of zoning laws.⁸

A. Every zoning law and every amendment thereto, including any map incorporated therein, and all changes, amendments and supplements thereto or any portion thereof, adopted by the Board of Trustees, shall be entered in the minutes of the Board of Trustees and a copy thereof shall be filed in the office of the Village Clerk, and the title and a brief description of the contents thereof, together with a statement that the same is on record with the Village Clerk where it may be seen and examined, shall be published once in the official newspaper of the village and a copy of such local law or amendment, together with a copy of any map incorporated therein, shall be posted conspicuously at or near the main entrance to the office of the Village Clerk, and affidavits of such publication and posting shall be filed with the Village Clerk. Such local law shall take effect ten (10) days after such publication and posting, but such local law or amendment shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the Village Clerk and showing the date of its passage and entry in the minutes.

B. This section shall modify and supersede the provisions of ~ 7-706 of the Village Law in regard to the publication and posting of village zoning laws, including changes, amendments or supplements thereto.

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

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

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

~ 16-6. Numbering and filing.

Each local law shall be numbered consecutively beginning with No. 1 for each calendar year. When a local law is finally adopted, certified copies thereof shall be filed in accordance with requirements of the Municipal Home Rule Law.

Chapter 20

OFFICERS AND EMPLOYEES

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

ARTICLE I

Dismissal of Officials

[Adopted 2-22-1993 by L.L. No. 2-1993]

~ 20-1. Authority to dismiss.

The Mayor, with the consent of the Board of Trustees, may dismiss an appointed official of the Village of Pomona prior to the expiration of the term of such official, upon good cause.

~ 20-2. Hearing.

No such dismissal shall be effective except after a public hearing before the Board of Trustees at which said appointed public official shall have had an opportunity to be heard and an opportunity to confront any and all persons who may testify as to the facts upon which the dismissal is proposed to be made. At such hearing, the appointed public official shall have the right to be represented by counsel and to cross-examine witnesses.

~ 20-3. Definitions.

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

GOOD CAUSE -- Includes, but is not limited to, incompetence, insubordination, conviction of a crime, acts of moral turpitude and conduct, acts or omissions which indicate that the appointed official is unwilling or incapable of performing the duties of his or her office in a satisfactory manner.

~ 20-4. When effective; applicability.

This local law shall take effect immediately upon its filing with the Secretary of State of the State of New York and shall be applicable to all appointed public officials of the Village of Pomona holding such office on the effective date of this local law and to all appointed public officials of the Village of Pomona appointed thereafter.

~~ 20-5 through 20-9. (Reserved)

ARTICLE II

Village Engineer

[Adopted 8-18-2003 by L.L. No. 6-2003]

~ 20-10. Establishment of office.

Pursuant to the provisions of Paragraph c of Subdivision 2 of ~ 3-301 of the Village Law of the State of New York, there is hereby established the office of Village Engineer.

~ 20-11. Term of office.

The term of office of the Village Engineer shall be one official year.

~ 20-12. Powers and duties.

The Village Engineer shall be an officer of the Village and shall have all of the powers, duties, and obligations of a public officer pursuant to law.

~~ 20-13 through 20-14. (Reserved)

ARTICLE III

Residency Requirements

[Adopted 8-18-2003 by L.L. No. 5-2003]

~ 20-15. Residency of appointed officers.

Pursuant to the provisions of Subdivision 2 of ~ 3-300 of the Village Law of the State of New York, any appointed officer of the Village of Pomona is not required to be a resident of the Village of Pomona, but shall be a resident of the County of Rockland. All other requirements for eligibility to hold office shall be as provided by law.

Chapter 22

PARKS AND RECREATION COMMISSION

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 10-16-79 as L.L. No. 3-1979. Sections 22-1, 22-2, 22-4 and 22-6 amended and ~ 22-7 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

~ 22-1. Establishment and composition; appointment of members.⁹

Under the provisions of ~ 3-308 of the Village Law, there is hereby established a Parks and Recreation Commission. This Commission and its Chairman shall be appointed by the Mayor and said Commission shall consist of five (5) persons serving without pay. The terms of office shall be for three (3) years or until successors are appointed and qualified, except that the members of such Commission first appointed shall be appointed for such terms that no more than the terms of any two (2) members shall expire annually thereafter. Vacancies in such Commission occurring otherwise than by expiration of term shall be filled by the Mayor for the unexpired term.

~ 22-2. Organization; powers.¹⁰

Immediately after their appointment, the members of the Parks and Recreation Commission shall meet and organize by electing such officers other than the Chairman as may be necessary. The Commission shall have the power to adopt bylaws, rules and regulations for the proper conduct of public recreation for the village and for the operation of the parks owned by the village.

⁹Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

¹⁰Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

~ 22-3. Duties.

The Parks and Recreation Commission shall provide, conduct and supervise public playgrounds, playfields, indoor recreation centers and other recreation areas and facilities owned or controlled by the village. It shall have the power to conduct any form of athletic, play or cultural activity that will employ the leisure time of the people in a constructive and wholesome manner. It may conduct such activities on properties under its own control, on public properties with the consent of the authorities thereof and on private properties with the consent of the owners. It shall also promulgate rules and regulations concerning recreation activity and the operation and control of the parks of the village.

~ 22-4. Superintendent and other personnel.¹¹

The Village Board of Trustees shall be authorized to employ a Superintendent, who shall be a person properly trained and qualified for the supervision of the activities conducted under this chapter, and such other personnel as the Commission shall deem proper and recommend.

~ 22-5. Budget and funds.

Annually the Parks and Recreation Commission shall submit a budget to the Board of Trustees for its approval. The Commission may also solicit or receive any gifts or bequests of money or other personal property or any donation to be applied, principal or income, for either temporary or permanent use for playgrounds or other recreational purposes. All bills incurred by the Parks and Recreation Commission, however, shall be paid by the Board of Trustees upon the submission of the proper vouchers, in accordance with the budget approved by the Board of Trustees.

~ 22-6. Annual report.¹²

¹¹Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

¹²Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

The Parks and Recreation Commission shall make an annual report to the Board of Trustees by December 1 of each year and at such other times as the Board of Trustees may request.

~ 22-7. Capital improvements.¹³

The Parks and Recreation Commission shall make recommendations to the Board of Trustees from time to time for capital improvements.

¹³Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 25

PLANNING BOARD AND ZONING BOARD OF APPEALS

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 6-25-1968; amended in its entirety 2-8-1988 by L.L. No. 1-1988. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Salaries and compensation – See Ch. 30.

Subdivision of land – See Ch. 118.

Zoning – See Ch. 130.

§ 25-1. Planning Board.

- A. There is hereby established a Planning Board, consisting of five members to be appointed by the Board of Trustees.
- B. All members of the Planning Board shall be residents of the Village of Pomona and shall be appointed for terms of five years each. If a member ceases to be a resident of the Village of Pomona, his place shall be declared vacant by the Board of Trustees and a successor appointed by the Board of Trustees to fill his unexpired term.
- C. The Planning Board shall determine its own rules of conduct and procedure and shall have such powers and duties as provided by the Village Law and this Code.
- D. Notwithstanding the provisions of Subdivision 16 of § 7-718 of the Village Law of the State of New York and specifically overriding such subdivision, there are hereby established two offices of alternate members of the Planning Board and two offices of alternate members of the Zoning Board of Appeals for purposes of substituting for any member of the respective Board in the event such member is unable to attend a meeting or is unable to participate because of a conflict of interest. Alternates shall be appointed by the Mayor, subject to approval of the Board of Trustees, for two-year terms. [Added 4-23-2007 by L.L. No. 4-2007]

§ 25-2. Zoning Board of Appeals.

- A. There is hereby established a Zoning Board of Appeals, consisting of five members to be appointed by the Board of Trustees.
- B. All members of the Zoning Board of Appeals shall be residents of the Village of Pomona and shall be appointed for terms of five years each. If a member ceases to be a resident of the Village of Pomona, his place shall be declared vacant by the Board of Trustees and a successor appointed by the Board of Trustees to fill his unexpired term.
- C. The Board of Appeals shall determine its own rules of conduct and procedure.

§ 25-3. Certification and removal of Zoning Board of Appeals and Planning Board members.
[Amended 2-28-1994 by L.L. No. 1-1994]

- A. In addition to any and all other qualifications for holding office as a member of the Zoning Board of Appeals or Planning Board, all present members of said Boards shall attend training classes offered by the Rockland Municipal Planning Federation and complete such classes and receive certification from the Federation within two years from the effective date of this section. Members appointed after the effective date of this section shall be required to attend such classes and receive certification from the Federation within two years from the date for such appointment. Recertification of all members shall be required every two years thereafter from the date of initial certification.
- B. The Mayor of the Village of Pomona is hereby authorized to remove a member of the Zoning Board of Appeals or Planning Board for cause, after public hearing and an opportunity to be heard. Removal for cause shall include but not be limited to the following:
- (1) Failure of a member of the Zoning Board of Appeals or Planning Board to receive certification from the Rockland Municipal Planning Federation within two years after the effective date of this section or within two years after such member's appointment to the respective board, as the case may be.
 - (2) Failure of a member of the Zoning Board of Appeals or Planning Board to receive recertification from the Rockland Municipal Planning Federation every two years after the date of such member's first certification.
 - (3) Failure of a member of the Zoning Board of Appeals or Planning Board to attend a minimum of 80% of the scheduled meetings held by such member's respective board.

Chapter 30

SALARIES AND COMPENSATION

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 2-16-82 as L.L. No. 1-1982; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

~ 30-1. Compensation of Mayor and Trustees.

- A. The compensation of the Mayor, Deputy Mayor and Trustees of the Village of Pomona shall be established by including said salaries in the annual village budget pursuant to law.
- B. Such annual compensation will be payable in equal monthly installments.

~ 30-2. Compensation of Planning Board and Zoning Board of Appeals.

- A. The compensation of the members of the Planning Board and Zoning Board of Appeals shall be established by including said salaries in the annual village budget pursuant to law.
- B. Such compensation will be payable semiannually.

Chapter 32

TERMS OF OFFICE

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

GENERAL REFERENCES

Officers and employees -- See Ch. 20.

ARTICLE I

Mayor and Trustees

[Adopted 3-29-1999 by L.L. No. 4-1999¹⁴]

~ 32-1. Four-year term authorized.

Commencing at the beginning of the official year following the next general village election at which the offices of Mayor and Trustee are to be filled, and continuing thereafter, the terms of office of Mayor and of the Trustees shall be four years instead of two years.

~ 32-2. Biennial elections.

If this article becomes effective more than 30 days prior to the village general election of 2000 and after the village general election of 1999, village general elections shall

¹⁴ Editor's Note: This local law was subject to permissive referendum; see ~ 32-4.

henceforward be held biennially, in odd numbered years.

~ 32-3. Notice of adoption.

Pursuant to ~ 9-900, Subdivision 2, of the Village Law of the State of New York, the Village Clerk is hereby authorized and directed to post and publish a notice, within 10 days of the adoption of this article and contain an abstract of this article, which notice shall set forth the date of the adoption of this article concisely stating the purpose and effect hereof, and indicating that this article is subject to a permissive referendum.

~ 32-4. Permissive referendum; when effective.¹⁵

This article shall become effective, subject to permissive referendum, upon its being filed with in the office of the Secretary of State of the State of New York.

¹⁵Editor's Note: As of 45 days after adoption of L.L. No. 4-1999, no petition had been filed.

Chapter 36

ALARM SYSTEMS

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

GENERAL REFERENCES

Fire prevention — See Ch. 74.

Noise — See Ch. 96.

ARTICLE I

False Alarms

[Adopted 9-21-1992 by L.L. No. 3-1992]

§ 36-1. Legislative intent.

Local police departments of the Towns of Ramapo and Haverstraw have advised the Board of Trustees of the Village of Pomona that there are large numbers of false alarms emanating from burglar and fire alarm systems installed on private property and which automatically are communicated to the police departments of the Towns of Ramapo and Haverstraw. These false alarms unnecessarily require that the police respond in an emergency fashion to signals that should not have been activated, depriving other residents of the services of the police. It is not the intent of this article to discourage the use of automated equipment, but rather to encourage the use of properly maintained and well-functioning equipment, in order to preserve and protect the general health and welfare of the Village of Pomona and its residents.

§ 36-2. Definitions.

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

ALARM DEVICE — A mechanical, electrical or electronic device which, when activated, will transmit a signal which is intended to initiate a response from the police or fire department, whether the signal generated is audible, visible or electronic, and whether such signal is automatic or otherwise.

ALARM INSTALLER — Any person, firm, corporation or business entity which has installed and/or receives compensation for service or maintenance of a burglar or fire alarm device installed on property within the Village of Pomona.

ALARM USER — Any person, firm, corporation or business entity upon whose premises a burglar alarm or fire alarm device is installed and operative.

EXTERIOR DISENGAGEMENT DEVICE — A device accessible from the exterior of the premises in which an alarm device is installed which enables the disengagement of the alarm device from the exterior of the premises in the event that disengagement from the

interior of the premises is impossible or impractical, or which automatically disengages such alarm device after transmission of its signal for 15 minutes.

FALSE ALARM — A signal transmitted to the police or fire department indicating that a criminal act or emergency is occurring when in fact neither a criminal act nor an emergency is occurring, or which initiates a response from a police or fire department where no such response is necessary and when notice of such signal has been given to the Village Clerk. [Amended 11-27-2006 by L.L. No. 4-2006]

§ 36-3. Unlawful acts.

- A. False alarms. It shall be unlawful for any alarm user or alarm installer to permit or allow, whether intentionally or unintentionally, or whether due to a malfunction or otherwise, an alarm device to signal a false alarm.
- B. Exterior disengagement. It shall be unlawful for any alarm user or alarm installer to permit or allow the use or installation or maintenance of an alarm device unless such alarm device is equipped with or connected to an operable exterior disengagement device.

§ 36-4. Penalties for offenses. [Amended 11-27-2006 by L.L. No. 4-2006]

Any alarm user or alarm installer who is found guilty of a violation of this article shall be subject to the following penalties:

- A. For a first conviction: a written warning.
- B. For a second conviction within any twelve-month period: a fine not to exceed \$100.
- C. For a third conviction within any twelve-month period: a fine not to exceed \$250.
- D. For a fourth and each subsequent conviction within any twelve-month period: a fine not to exceed \$500 for each such conviction.

§ 36-5. Enforcement. [Amended 4-26-1999 by L.L. No. 5-1999; 11-27-2006 by L.L. No. 4-2006]

- A. The Town of Ramapo Police Department, having jurisdiction over that portion of the Village of Pomona which lies within the Town of Ramapo, shall have the right and authority to issue appearance tickets for the violation of any false burglar alarm which occurs within the Town of Ramapo portion of the Village of Pomona, and the Town of Haverstraw Police Department, having jurisdiction over that portion of the Village of Pomona which lies within the Town of Haverstraw, shall have the right and authority to issue appearance tickets for the violation of any false burglar alarm which occurs within the Town of Haverstraw portion of the Village of Pomona.
- B. In addition to the foregoing, the Code Enforcement Officer of the Village of Pomona shall have the right and authority to issue appearance tickets for the violation of any provision or section of this ar

Chapter 38

ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona: Art. I, 9-11-1989 as L.L. No. 5-1989. Amendments noted where applicable.]

ARTICLE I

General Provisions

[Adopted 9-11-1989 as L.L. No. 5-1989]

~ 38-1. Findings.

The legislative body of the Village of Pomona makes the following findings:

A. There have been many citizen complaints directed to village officials concerning the incidence of persons drinking alcoholic beverages in public areas of the village, including parks. It is found that in the places complained of, large quantities of refuse, beer cans, beer bottles, wine and liquor bottles and other litter have been found to accumulate, to litter the public roads and to be stuffed into catch basins and such public facilities.

B. Surrounding towns have passed laws prohibiting drinking in public places. The complaints indicate and the investigations show that such drinking very often is participated in by large groups of people and is associated with noise and rowdiness in addition to litter. With the prohibition of such activities in the surrounding towns, it is to be anticipated that persons who participate in this kind of activity are likely to continue such behavior in areas which have no law regulating this type of behavior.

C. It is also found that where this kind of drinking activity takes place, acts of vandalism have been found to

occur and damage to public and property has been sustained. The protection of the health, safety and welfare of the community requires action in the public interest to regulate such behavior. It is also found that persons possessing alcoholic beverages in open containers do so with the intent to drink the same.

~ 38-2. Possession or consumption in public prohibited.

A. No person shall have, possess, carry or transport liquor, wine, beer or other alcoholic beverages in or upon any public sidewalk, street, highway, parking lot or public park in the Village of Pomona in an open container such as a bottle, can, glass, cup or other receptacle suitable for carrying or containing a liquid, and no person shall drink or otherwise consume liquor, wine, beer or other alcoholic beverages in or upon any public sidewalk, street, highway, parking lot, shopping center, public park or other public place in the Village of Pomona.

B. Any person possessing an open container is presumed to intend to consume the same or to allow its consumption by another person.

~ 38-3. Exceptions.

A. If any organization desires to dispense alcoholic beverages on public property in the Village of Pomona, it must apply to the Village Board of the Village of Pomona for permission to do so not less than 15 days prior to the date that it desires to dispense said beverage. No fee shall be charged for the granting of this permission, and said permission, if granted, shall be contingent upon said organization securing a proper license from the appropriate Alcoholic Beverage Control Board to dispense alcoholic beverages on said property. This license shall be displayed to the Village Board, and said organization shall accept the obligation and responsibility for supervising and keeping good order and public peace at such event.

B. No alcoholic beverage shall be consumed other than on those premises described in the letter of permission issued by the Village Board.

~ 38-4. Presumptive evidence.

An open bottle or open container in which there is an alcoholic beverage in any vehicle shall be presumptive evidence that the same is in possession of all occupants thereof and in violation hereof, however, this article shall not apply to violations pursuant to ~ 1227 of the New York State Vehicle and Traffic Law.

~ 38-5. Penalties for offenses.

Any person violating any of the provisions of this article shall be punished, upon conviction, by a fine as per ~ 130-25, Penalties for offenses. In addition, each violation of this enactment shall constitute disorderly conduct, and each person violating the same shall be a disorderly person. Each day that a violation of or failure to comply with any provision of this enactment or any regulations promulgated hereunder by the Village Board occurs shall constitute a separate and distinct violation.

~ 38-6. Severability.

If any provision of this article shall be invalidated by any court, such provision shall be deemed severable and the remaining provisions shall continue in full force and effect.

~ 38-7. When effective.

This article shall take effect 10 days from the date of filing in the Office of the Secretary of State.

Chapter 40

ANIMALS

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

GENERAL REFERENCES

Noise generally -- See Ch. 96.

ARTICLE I

Animal Control

[Adopted 10-19-1982 by L.L. No. 5-1982; amended in its entirety 2-8-1988 by L.L. No. 1-1988]

~ 40-1. Control required; leashing; noise.

It shall be unlawful for any person owning, boarding, harboring or otherwise keeping or having in his or her custody an animal, within the limits of the Village of Pomona, to permit such animal (whether licensed or not) to be at large elsewhere than on the premises of the owner or on the premises of another person with the knowledge and consent of such other person unless said animal, when accompanied by the owner or other person on a public street, road or highway in the Village of Pomona, shall be on a leash or under the full and immediate control of the person in charge, or to keep an animal tied up or allow it to remain free in such a manner as to cause a nuisance in the area because of the animal's repeated and prolonged barking or other noise.

~ 40-2. Seizure of animals at large.

A. The duly appointed Animal Control Officer or any police officer shall seize and confine any animal found at large in violation of this article. The Animal Control Officer or police officer shall deliver such animal to a pound or shelter or to the Society for the Prevention of Cruelty to Animals (SPCA) and notify the Village of Pomona Clerk of the identity of the owner of the animal if the same can be established. If the animal's owner can be identified, the animal shall be held and maintained for a period of 10 days for redemption and thereafter may be placed for adoption or humanely destroyed.

B. The fact that an animal is without a current tag attached to its collar or harness, as provided in Article 7 of the Agriculture and Markets Law, shall be presumptive evidence that the animal is unlicensed.

~ 40-3. Redemption of impounded animals.

Any person claiming an animal from the pound or shelter or Society for the Prevention of Cruelty to Animals must produce a license for such animal, if required, and pay the cost of confinement.

A. If the animal is not licensed, a license, where required, must be provided and the owner will also be subject to a fine as follows:

- (1) Not to exceed \$10 for a first offense.
- (2) Not to exceed \$20 for a second offense.
- (3) Not to exceed \$30 for a third offense.

B. For a second offense and any subsequent offense, there shall be an additional charge of \$3 per day per animal.

~ 40-4. Complaints.

Any person aggrieved by any animal, as described in ~ 40-1 of this chapter, may, on his or her own motion, apply to any court having jurisdiction for all the relief the law provides.

~ 40-5. Vicious animals; attacks by animals.

A. Any animal running at large which is acting in a vicious manner, shows signs of rabies or is known to have been bitten by an animal having rabies may be destroyed by any officer without capturing or removing to the pound, in which case a full report thereof shall be immediately made to the Village Clerk, including the circumstances under which it was thought best to destroy the animal, and, if the animal is a licensed animal, a note thereof shall be entered against the name of said animal in the animal book and the owner shall immediately be notified by the Village Clerk.

B. If an animal shall attack a person who is peaceably conducting himself in any place where he may lawfully be, such person or any other person witnessing the attack may kill such animal while so attacking and no liability in damages or otherwise shall be incurred on account of such killing.

C. If an animal shall attack, chase or worry any domestic animal, as defined in ~ 107 of the Agriculture and Markets Law, while such domestic animal is in any place where it may lawfully be, the owner or caretaker of such domestic animal or any person witnessing the attack of such domestic animal may, for the purposes of preventing the killing or injury of such domestic animal, kill such animal while so attacking, chasing or worrying or while being pursued thereafter, and no liability in damages or otherwise shall be incurred on account of such killing.

D. Any person may make a complaint of such an attack upon a person or of such an attack, chasing or worrying of a domestic animal to the Village Clerk, Town Justice, Police Chief or Animal Control Officer, who shall inquire into the complaint upon written notice of not less than three days to the owner of an animal, if the owner be within the Village of Pomona. If satisfied from such inquiry that the animal is a dangerous animal, such Village Clerk, Town Justice, Police Chief or Animal Control Officer shall order the owner, if within the Village of Pomona (and, if not within the Village of Pomona, shall order any police officer), to kill the animal immediately; or, if such animal has bitten any person, shall order the owner of the animal or any police officer to confine the animal in the shelter of the Society for the Prevention of Cruelty to Animals for such time as is necessary to determine if the animal is suffering from rabies, and the cost of such confinement at such shelter shall be at the expense of the owner of said animal. If the owner fails to have the animal confined as required by such order, the Village Clerk, Town Justice, Police Chief or Animal Control Officer shall have the right to have such animal confined.

~ 40-6. Defecation on public and private property.

It shall be a violation of this chapter for any owner to allow or permit an animal to defecate or relieve itself on public property, which shall include the unpaved portions of Village of Pomona streets, or the private property of another, without having removed the fecal or other matter deposited by such animal.

~ 40-7. Interference with enforcement prohibited.

Any person or persons who shall hinder, molest or interfere with any officer or agent of the Village in the performance of any of the provisions of this chapter shall be deemed guilty of a violation of this chapter.

~ 40-8. Penalties for offenses.

Any person found guilty of violating any of the provisions of this chapter shall, upon conviction, be punished as provided in ~ 1-12 of Chapter 1, General Provisions, and the court having proper jurisdiction shall have the power to impose a fine for each offense, to be recovered in a civil action in the name of the Village.

~ 40-9. Actions to recover possession or value.

No action shall be maintained to recover the possession or value of an animal or for damages for injury or destruction of an animal not wearing a tag attached to a collar, as provided in this article.

~ 40-10. Enforcing official.

A. This article shall be enforced by an Animal Control Officer who shall be appointed by the Board of Trustees, which Animal Control Officer may be an existing duly appointed Animal Control Officer in either the Town of Ramapo or the Town of

Haverstraw, to serve at the will of the Board, and shall be paid such compensation as duly established for such services plus expenses, not exceeding, however, the amounts set forth in the budget therefor. Such Animal Control Officer shall have all necessary powers in enforcing this chapter and as provided in the applicable provisions of the Agriculture and Markets Law.

B. A contract, pursuant to ~ 120 of the Agriculture and Markets Law, for seizing and impounding animals may be entered into by the Village of Pomona as an alternative procedure herein.

ARTICLE II

Pit Bulls and Other Dangerous Animals

[Adopted 10-24-1988 by L.L. No. 5-1988]

~ 40-11. Keeping of certain animals. [Amended 7-22-2002 by L.L. No. 3-2002]

Except for animal shelters and veterinarians, operating in the ordinary course of their respective businesses and practices, it shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the Village of Pomona any pit bull dog, except in compliance with the standards and requirements of this chapter.

~ 40-12. Definitions.

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

PIT BULL DOG and OTHER DANGEROUS ANIMALS:

- A. The bull terrier breed of dog.
- B. The Staffordshire bull terrier breed of dog.
- C. The American pit bull terrier breed of dog.

D. The American Staffordshire terrier breed of dog.

E. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as "pit bulls," "pit bull dogs" or "pit bull terriers."

F. Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier; any other breed commonly known as "pit bulls," "pit bull dogs" or "pit bull terriers," or a combination of any of these breeds.

G. Any canine bred or used for fighting with other animals or with people.

H. Any animal that constitutes a physical threat to human beings or other animals or has a disposition or propensity or which is wild by nature and of a species which, due to size, vicious nature or other characteristics, constitutes a danger to human life, physical well-being or property or any animal which has been known to bite or attack a human being or other domestic animal, without provocation, one or more times.

~ 40-13. Registration and control of dangerous animals; penalties for offenses. [Amended 7-22-2002 by L.L. No. 3-2002]

Pit bull dogs and other dangerous animals (regulated animals) as defined in ~ 40-12, kept within the Village of Pomona, are subject to the following standards and requirements:

A. Regulated animals residing in the Village at the time of passage of this article must be registered with the Village by the owners within 10 days of passage of this article.

B. Leash and muzzle. No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or

other animals. No other type of regulated animal shall be permitted outside its pen, cage or kennel.

C. Confinement. All regulated animals shall be securely confined indoors or in a securely enclosed and locked pen, cage or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet. All structures erected to house regulated animals must comply with all zoning and building regulations of the Village. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. All such enclosures shall be surrounded by a double fence, each fence at least three feet apart from the other.

D. Confinement indoors. No regulated animals may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

E. Signs. All owners, keepers or harborers of regulated animals within the Village shall, within 10 days of the effective date of this article, display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog - Pit Bull." In addition, a similar sign is required to be posted on the kennel or pen of such animal. A similar sign shall be displayed by owners of other regulated animals.

F. Insurance. All owners, keepers or harborers of regulated animals must, within 10 days of the effective date of this article, provide proof to the Village of Pomona of public liability insurance in a single incident amount of \$500,000 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless 10 days' written notice is first given to the Village of Pomona.

G. Identification photographs. All owners, keepers or harborers of regulated animals must, within 10 days of the effective date of this article, provide to the Village Clerk two color photographs (two different poses) of the animal.

H. Reporting requirements. All owners, keepers or harborers of regulated animals must, within 10 days of the incident, report the following information in writing to the Village Clerk as required hereinafter:

(1) The removal from the Village or death of a regulated animal.

(2) The birth of offspring of a regulated animal.

I. (Reserved)

J. Animals born of regulated animals. All offspring born of regulated animals kept in the Village of Pomona must be registered pursuant to this chapter within nine weeks of the birth of such animal.

K. Irrebuttable presumptions. There shall be an irrebuttable presumption that any dog registered with the Village as a pit bull dog or any of those breeds prohibited by this article is in fact a dog subject to the requirements of this section.

L. Failure to comply. It shall be unlawful for the owner, keeper or harborer of a regulated animal registered with the Village of Pomona to fail to comply with the requirements and conditions set forth in this article. Any animal found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment. All fees and charges imposed for seizing such animal and for housing such animal shall be the responsibility of the owner.

M. Fines. In addition to the consequences set forth in ~ 40-13L for the failure to comply with Article II of this chapter, the owner, keeper, or harborer, as the case may be, of regulated animals, upon a finding by a court of failure to comply with said article, shall be guilty of a violation which shall be punishable by a fine of not less than \$100 nor more than \$250 for a first offense, and not less than \$250 nor more than \$500 for each successive offense. [Added 9-23-2002 by L.L. No. 5-2002]

Chapter 47

BUILDING CONSTRUCTION

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 5-28-68 as Art. IV of the Zoning Ordinance; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Historical Review Board -- See Ch. 13.

Unsafe buildings -- See Ch. 50.

Electrical Standards -- See Ch. 61.

Fees -- See Ch. 67.

Fire prevention -- See Ch. 74.

Flood damage prevention -- See Ch. 79.

Subdivision of land -- See Ch. 118.

Zoning -- See Ch. 130.

~ 47-1. Adoption of state standards.

The Board of Trustees of the Village of Pomona hereby adopts the New York State Uniform Fire Prevention and Building Code.

~ 47-2. Appointment of Code Enforcement Officer.

This chapter and the New York State Uniform Fire Prevention and Building Code shall be enforced by a Code Enforcement Officer, who shall be appointed annually, for a term of one

year, by the Board of Trustees. This chapter may also be enforced by the direct action of the Board of Trustees. The Code Enforcement Officer shall be a competent and qualified person who has demonstrated his familiarity with the provisions of the New York State Uniform Fire Prevention and Building Code, local soil and drainage conditions and the provisions of this chapter.

~ 47-3. Powers and duties of Code Enforcement Officer.

The Code Enforcement Officer shall:

A. Administer and enforce all of the provisions of laws, ordinances and regulations that apply to the construction, alteration, repair, removal and demolition of buildings and structures, the installation and use of materials and equipment therein and the location, use, occupancy and maintenance thereof and the use and occupancy of land.

B. Receive and examine applications for the erection, alteration, removal and demolition of buildings or structures or parts thereof, and examine the premises for which such applications have been received or such permits have been issued for the purpose of ensuring compliance with laws, regulations and ordinances governing building construction.

C. Issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such laws, ordinances or regulations. He shall make all inspections which are necessary and proper for the carrying out of his duties.

D. Keep permanent official records of all transactions and activities conducted by him, including all applications received, permits and certificates issued, fees charged and collected, inspection reports and notices and orders issued. All such records shall be public records open to public inspection.

E. Monthly submit to the Board of Trustees a written report and summary of all business conducted by his office. This report shall also enumerate violations of this chapter and action taken with respect thereto.

~ 47-4. Building permit required; application.

A. No person, firm, association or corporation shall commence the erection, construction, enlargement, removal, improvement, demolition, conversion or change in the nature of the occupancy of any building or structure or cause the same to be done without first obtaining a building permit from the Building Inspector for each such building or structure, except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature and no building permit shall be required for an auxiliary structure having an area of less than 144 square feet of floor area and having a height of 10 feet or less. [Amended 12-22-1997 by L.L. No. 14-1997]

B. Application for a building permit shall be made to the Code Enforcement Officer on forms provided by him as provided in ~ 130-22D of Chapter 130, Zoning.

C. No person, firm, association or corporation shall permit any project for the erection, construction, enlargement, removal, improvement, demolition, conversion or change in the nature of the occupancy of any building or structure to be abandoned, as the term "abandoned" is defined in ~ 47-6 herein. Any person, association or corporation permitting an abandonment of such project shall be guilty of a violation of this chapter. In the event of such a violation, the Building Inspector or the Code Enforcement Officer shall have the authority to apply to the Supreme Court of the State of New York, upon appropriate notice to the owner of the property on which the project is located, for an order directing the completion of the project in accordance with the plans, specifications and application for building permit or for an order directing the demolition of the partially completed construction. In the event of the failure of the owner of said property to comply with such order of the Supreme Court within the time set forth in such order, the Village of Pomona shall be authorized to demolish said abandoned project, and the cost of the same shall be a charge against said property. The right of the Village of Pomona to demolish said abandoned project shall be in addition to and not in lieu of those remedies available under law. [Added 4-28-1997 by L.L. No. 5-1997]

D. Upon the issuance of a building permit, the applicant shall post two notices of such issuance, on forms to be supplied by the Building Inspector, which notices shall be posted at the two corners of the lot for which the permit shall have been issued at the points at which the said lot abuts the street or road. In the event that the said lot does not abut a street or road which is dedicated, to be dedicated or which is otherwise used by the general public, the said two notices shall be posted at the street or road nearest the approved private access to the said lot. [Added 5-19-1997 by

~ 47-5. Issuance of building permits.

The Code Enforcement Officer shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. He shall approve or disapprove the application as provided in ~ 130-22D of Chapter 130, Zoning.

~ 47-6. Term of permit. [Amended 4-28-1997 by L.L. No. 5-1997]

Building permits shall be effective to authorize the commencing of and proceeding with the construction work in accordance with the application, plans and specifications on which such permit is based for a period of one year after the date of its issuance. In the event that the construction is not completed within said one-year period, the permit may be extended by application for an additional period of one year, which application must be made on or before the expiration of the initial one-year period. In the event that the construction has not been completed within said one-year extension period or in the event that no application is made for such extension and the construction remains incomplete for 120 days after the last date that the building permit was in force, the construction project shall be deemed abandoned.

~ 47-7. Revocation of permit.

The Code Enforcement Officer may revoke a building permit that has been previously issued and approved in the following instances:

A. Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.

B. Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.

C. Where he finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.

D. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Code Enforcement Officer.

E. Where there is or appears to be a violation of this chapter, the New York State Uniform Fire Prevention and Building Code or any other applicable law, ordinance or regulation.

~ 47-8. Stop-work orders. [Amended 9-25-2000 by L.L. No. 7-2000]

Whenever the Building Inspector or other person assigned to code enforcement has reasonable grounds to believe that work on any building, structure or lot is being or has been conducted in violation of any provision of the Building Code, state or federal laws or regulations, building laws, ordinances, local laws, regulations, rules or specifications of the Village of Pomona, whether under this chapter or under Chapters 118, 119 or 130 of this Code, or in violation of the requirements of an approved site plan or subdivision plat, including required drainage, grade or elevation plans, erosion control plans and other steep slope damage mitigation plans, or not in conformity with the provisions of any application, plans or specifications upon which a building permit, site development permit or any other type of permit was issued, or that such work is being conducted in a dangerous or unsafe manner, then the Building Inspector or other person assigned to code enforcement shall notify the owner of the property or the owner's agent or the person performing the work to suspend such remaining work on any building, structure or lot which is or could be affected by the violation, located within the plat or subdivision where the violation exists. If work remains to be performed on such buildings, structures or lots, the persons or parties to whom or which the stop-work order is addressed shall forthwith stop such work and suspend all building activities on the affected buildings, structures or lot(s) until the stop-work order is rescinded. Such stop-work order shall be in writing, shall list the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by personal delivery or by posting the same upon a conspicuous portion of the building, structure or lot mentioned in the stop-work order, and by sending a copy of same by registered mail to said person or party at the address furnished to the Village by said person or party upon the application to the Village for the permit under which the work is being performed.

~ 47-9. Right of entry.

The Code Enforcement Officer of the Village of Pomona, upon the showing of proper credentials and in the discharge of his duties, may enter upon any building, structure or premises at any reasonable hour, and no person shall interfere with or prevent such entry. Where permission to enter is not granted, the Code Enforcement Officer is authorized to apply to the Supreme Court for an order to enter.

~ 47-10. Certificates of occupancy.

A. This chapter is not intended to abrogate or annul any certificate of occupancy lawfully issued before the effective date of this chapter. Furthermore, 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 occupancy shall have been issued by the Code Enforcement Officer as provided in ~ 130-22E of Chapter 130, Zoning.

B. Before issuing a certificate of occupancy, the Code Enforcement Officer shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish or change the

use or occupancy; and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. There shall be maintained by the Code Enforcement Officer a record of all such examinations and inspections, together with a record of findings of violations of the law.

C. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable building laws, ordinances and regulations, and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Code Enforcement Officer shall issue a certificate of occupancy upon the form provided by him. If it is found that the proposed work has not been properly completed, the Code Enforcement Officer shall refuse to issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.

D. Deposit of escrow. [Added 1-6-1997 by L.L. No. 1-1997; amended 7-28-2003 by L.L. No. 4-2003]

(1) In the event of unusual and extraordinary circumstances, such as weather conditions, which make certain site improvements such as paving of driveways or planting of vegetation prior to the issuance of a certificate of occupancy impossible or impractical, the Building Inspector/Code Enforcement Officer may recommend to the Village Engineer that an escrow be posted to ensure the completion of all such site improvements. Based upon the Building Inspector/Code Enforcement Officer's recommendation, the Village Engineer shall furnish to the Building Inspector/Code Enforcement Officer a written list of all items of work to be completed, the reason each of said items cannot be completed prior to the issuance of a certificate of occupancy, an estimate of the cost of completion of each item and a date by which each such item shall be completed. The amount to be posted in escrow pursuant to this section shall be two times the amount determined by the Village Engineer as reasonably necessary to complete the items of work to be completed. Prior to, and as a condition for the issuance of a certificate of occupancy hereunder, the prospective homeowner and the builder shall agree in writing to such issuance and to the timetable established by the Village Engineer. For purposes of this section, the term "builder" shall mean an individual lot owner who causes a new structure to be constructed on his or her lot as well as a person or party which builds structures commercially. This subsection shall not apply to new additions to existing structures or to renovations of existing structures.

(2) In the event that the site work for which the escrow has been deposited is not complete to the satisfaction of the Village Engineer within the time specified by the Village Engineer, the Village shall have the right, but not obligation, to use the escrow deposit to pay for the completion of such work. In the event the cost of completion of such work exceeds the escrow deposit held by the Village, the builder shall reimburse the Village for all costs plus administrative costs incurred by the Village for the completion of such site work.

~ 47-11. Fees. [Amended 10-27-2003 by L.L. No. 8-2003]

Every application for a building permit or certificate of occupancy pursuant to this chapter shall be accompanied by payment of a fee as set forth in the fee schedule adopted by the Board of Trustees.¹⁶

¹⁶ Editor's Note: The fee schedule is on file in the Village offices.

Chapter 49

BUILDINGS, NUMBERING OF

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 9-21-1992 as L.L. No. 4-1992. Amendments noted where applicable.]

~ 49-1. Definitions.

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

BUILDING -- The principal building or buildings on each lot, and shall not be deemed to include any minor building.

~ 49-2. Determination of buildings to be numbered.

The Village Building Inspector is hereby authorized to decide which building or buildings on any particular lot shall be numbered.

~ 49-3. Duty of owners.

It shall be the duty of every owner of a building in the Village of Pomona to cause to be displayed thereon the street number of said building and at all times to maintain such number in compliance with the provisions of this chapter.

~ 49-4. Size and display of numbers.

A. The figure or figures comprising the number to be displayed on a building shall be at least three (3) inches in height and shall be placed on the front of said building in a prominent and conspicuous place and in such manner as to be plainly legible from the center of the street at all times between sunrise and sunset. The color of said figures shall be in sharp contrast to the color of their background; provided, however, that so far as the purpose or intent of this chapter is concerned, the front of a building shall be construed as that side of the building which faces the street on which the number or numbers of such building or premises have been allotted, and that the number or numbers shall be displayed on such side of such building or premises.

B. The numbers shall be so placed that they will not be obstructed by trees, shrubbery, porches or other extensions of the building.

C. Wherever practicable, said number shall be placed near some light or source of illumination so that it may be readily seen at night.

D. Where the building upon which the number is to be displayed is more than seventy-five (75) feet from the edge of the right-of-way (whether improved or not) of the street or road serving the building, the number shall, in addition to the other requirements of this chapter, be displayed on a sign readily visible from the road or street and in no event further back than twenty-five (25) feet from said road or street right-of-way.

~ 49-5. Display of other numbers prohibited.

Each separate building or dwelling shall be assigned a separate distinguishing number by the Village Board of the Village of Pomona in conformity with a uniform numbering system encompassing the entire village. The display of any house number other than the number assigned by the village is expressly prohibited.

~ 49-6. Notification of noncompliance; remedy by village.

A. Noncompliance deemed a violation. Any person, corporation, partnership or other entity owning a building within the Village of Pomona refusing or neglecting for sixty (60) days after notice from the Village Building Inspector to

place the proper designated number on said building shall be deemed in violation of this chapter.

B. Service of notice. The notice provided for in Subsection A may be given by personal service or by mailing a copy thereof to the last known address of the owner.

C. Numbering of buildings by village. In the event of the neglect or refusal of any owner, after notice, to cause said building to be properly numbered, the Building Inspector of the Village of Pomona may cause said building to be properly numbered.

D. Report; assessment of costs. The Building Inspector shall report the cost of numbering said building to the Village Board, and such board shall order the Assessor to assess the cost of the same upon such premises, and the Assessor shall include the same in the next assessment roll.

~ 49-7. Penalties for offenses.

Any person violating any of the provisions of this chapter shall, upon conviction, be punishable by a fine not to exceed two hundred fifty dollars (\$250.) or by imprisonment for a term not to exceed fifteen (15) days, or both.

~ 49-8. Notification to phone company.

All residents and/or property owners shall be required to notify NYNEX of their current and accurate address.

Chapter 50

BUILDINGS, UNSAFE

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 6-15-1971. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction – See Ch. 47.

Fire prevention – See Ch. 74.

§ 50-1. Definitions. [Added 2-8-1988 by L.L. No. 1-1988]

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

DANGEROUS OR UNSAFE BUILDING – Includes, but is not limited to:

- A. Any building, shed, fence or other man-made structure which is dangerous or unsafe to the public health and welfare because of its condition and which may cause or aid in the spread of disease or injury to the health of the occupants thereof or neighboring structures.
- B. Any building, shed, fence or other man-made structure which, because of faulty construction, age, lack of proper repair or any other cause, is especially liable to fire and constitutes or creates a fire hazard.
- C. Any building, shed, fence or other man-made structure which, by reason of faulty construction or any other cause, is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such structure.
- D. Any building, shed, fence or other man-made structure which, because of its condition or because of lack of doors or windows, is available to and/or frequented by children or other persons who are not lawful occupants of the structure. [Amended 6-25-2007 by L.L. No. 6-2007]

§ 50-2. Prohibited conditions. [Added 2-8-1988 by L.L. No. 1-1988]

It shall be unlawful to maintain or permit the existence of any dangerous or unsafe building in the Village of Pomona, and it shall be unlawful for the owner, occupant or person in charge or custody of any dangerous or unsafe building to permit same to remain in a dangerous or unsafe condition or to occupy such building or permit it to be occupied while it is or remains in a dangerous or unsafe condition. Any such dangerous or unsafe building is hereby declared to be a nuisance.

§ 50-3. Removal or repair required. [Amended 6-25-2007 by L.L. No. 6-2007]

The Building Inspector and/or the Code Enforcement Officer of the Village of Pomona are hereby authorized to enforce this chapter. When, in the opinion of the Building Inspector/Code Enforcement Officer, a structure is deemed to be a dangerous or unsafe building, he shall give written notice of such condition to the occupants thereof and to the last known owner of the premises as shown on the Village tax roll, which notice shall also order the repair, removal, securing or demolition of the structure.

§ 50-4. Notice and order. [Amended 2-8-1988 by L.L. No. 1-1988; 6-25-2007 by L.L. No. 6-2007]

A. The notice and order specified in § 50-3 above shall contain the following information and such other information as the Building Inspector/Code Enforcement Officer shall deem necessary:

- (1) The location of the structure, giving the tax lot and block and street address, if any.
- (2) A brief statement setting forth the particulars in which and the reasons why said structure is deemed unsafe or dangerous.
- (3) That correction of the condition must be made within a stated specified time period and, if not corrected within said time period, that an appearance ticket may be issued and/or the Board of Trustees may order the condition to be corrected and the cost thereof assessed against the property as a tax lien.

B. The notice and order shall be served in any one of the following ways:

- (1) By personal service upon the owner of the land as the same is shown on the last completed tax roll of the Village;
- (2) By mailing a copy of said notice and order to such owner at the address shown on the last completed tax roll of the Village by certified mail and by securing or affixing a copy of said notice and order upon the structure;
- (3) By delivery of a copy of said notice and order to any adult person occupying or residing in said structure and by securing or affixing a copy thereof upon the structure.

§ 50-5. Noncompliance with notice and order. [Amended 2-8-1988 by L.L. No. 1-1988; 6-25-2007 by L.L. No. 6-2007]

A. In the event correction of the condition stated in the notice and order is not made within the time specified in said notice and order, the Building Inspector/Code Enforcement Officer shall notify the Board of Trustees that a dangerous or unsafe building exists and shall transmit a copy of the notice and order to said Board with a statement that correction of the condition has not been made.

B. The Board of Trustees shall:

- (1) Schedule a hearing to determine if the structure specified in the notice and order is a dangerous or unsafe building.
 - (a) Notice of said hearing shall be given to the last known owner of the property at the address shown on the last completed tax roll by certified mail at least 10 days prior to the date of said hearing.
 - (b) The notice of hearing shall specify the conditions complained of and shall state that, in the event the Board of Trustees determines that the structure is a dangerous or unsafe building, the Board will order correction to be made and the cost thereof, including reasonable attorneys' fees, engineering fees, administrative costs and the cost of the work performed, will be charged against the property as a tax lien. The notice shall also state that the owner has a right to be heard at the hearing either in person or by submitting written testimony.
 - (2) At the conclusion of the hearing, the Board of Trustees shall issue findings of fact either determining that the structure is a dangerous or unsafe building or determining that the structure is not a dangerous or unsafe building. In either case, the Board shall state the factual reasons for the determination.
 - (3) If the Board determines that the structure is a dangerous or unsafe building, the Board shall direct the Village Clerk to obtain bids for correction of the conditions and shall authorize the work to be performed. The cost of said work, together with any administrative, legal and/or engineering costs incurred during the process of correcting the condition, shall become a lien upon and against the property affected and collected in the same manner and time as a Village tax.
- C. Any Village officer, employee or contractor shall have the right to enter upon the property to carry out the findings of the Board of Trustees.
- D. In addition to the procedure set forth in Subsection B above, or in lieu of said procedure, the Board of Trustees may direct the Building Inspector/Code Enforcement Officer to issue an appearance ticket for maintaining a dangerous or unsafe building and/or for noncompliance with the notice and order.

§ 50-6. Order to vacate. [Amended 2-8-1988 by L.L. No. 1-1988; 6-25-2007 by L.L. No. 6-2007]

If the Building Inspector/Code Enforcement Officer determines that there is actual or immediate danger of failure or collapse of the building or structure or for any other reason determines that the use or occupancy of the building or structure will endanger the life, limb or health of the occupants, he/she shall order the building or structure or any portion thereof to be vacated forthwith, by posting at each entrance to said building or structure a notice stating "This building/ structure is unsafe and use or occupancy is hereby prohibited by the Building Inspector/Code Enforcement Officer."

§ 50-7. Penalties for offenses. [Amended 2-8-1988 by L.L. No. 1-1988; 6-25-2007 by L.L. No. 6-2007]

Any person, firm or corporation or their agents who shall violate any provision of this chapter shall be subject to a penalty not to exceed \$2,000 or imprisonment for a period not to exceed 15 days, or both such fine and imprisonment. The remedies contained in this chapter shall not be exclusive but shall be in addition to any other remedy provided by law. Each day or any portion thereof during which a violation of this chapter exists shall constitute a separate and distinct violation.¹⁷

¹⁷ . Editor's Note: Former § 50-8, Posting of report; compensation of surveyors, and § 50-9, Assessment of costs and expenses, were repealed 6-25-2007 by L.L. No. 6-2007.

Chapter 61

ELECTRICAL STANDARDS

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

GENERAL REFERENCES

Building construction -- See Ch. 47.

~ 61-1. Purpose.

Since there is danger to life and property inherent in the use of electrical energy, this chapter is enacted to regulate the installation and alteration of wiring for electric light, heat or power and signal systems operating on fifty (50) volts or more in or on all real property within the Village of Pomona.

~ 61-2. Adoption of standards by reference.

All electrical installations heretofore mentioned shall be made in conformity with the requirements of the National Electrical Code, except when the provisions of this chapter or any other local law, ordinance or building code of the Village of Pomona shall differently prescribe, in which event compliance with the provisions of such local law, ordinance or building code shall be recognized as proper compliance with this chapter. The requirements of the National Electrical Code shall be those known as "National Fire Protection Association, Pamphlet No. 70," as approved and adopted by the American Standards Association.

~ 61-3. Electrical Inspector.

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

~ 61-4. Duties of Electrical Inspector.

A. It shall be the duty of the Inspector to report, in writing, to the Code Enforcement Officer, whose duty it shall be to enforce all the provisions of this chapter, all violations of or deviations from or omissions of the electrical provisions of the National Electrical Code and of all local laws, ordinances and the building code as referred to in this chapter insofar as any of the same apply to electrical wiring.

B. Inspections.

(1) The Inspector shall make inspections and reinspections of electrical installations in and on properties in the Village of Pomona upon written request of an authorized official of the Village of Pomona or as herein provided.

(2) The Inspector is authorized to make inspections and reinspections of electrical wiring installations, devices, appliances and equipment in and on properties within the Village of Pomona where he deems it necessary for the protection of life and property.

(3) In the event of an emergency, it is the duty of the Inspector to make electrical inspections upon the oral request of an official or officer of the Village of Pomona.

C. It shall be the duty of the Inspector to furnish written reports to the proper officials of the Village of Pomona and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection.

D. Certificate of compliance.

(1) The Inspector shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with this chapter.

(2) The Inspector shall direct that a copy of the certificate of compliance be sent to the Village of Pomona to the attention of the Code Enforcement Officer.

~ 61-5. Prohibited actions.

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

~ 61-6. Penalties for offenses.

Any person, firm or corporation who shall violate any of the provisions of this chapter or any rule or regulation made pursuant thereto shall, upon conviction thereof, be punished as provided in ~ 1-12 of Chapter 1, General Provisions.

~ 61-7. Nonapplicability.

The provisions of this chapter shall not apply to the electrical installations in mines, ships, railway cars, automotive equipment nor the installations or equipment employed by a railway, electrical or communication utility in the exercise of its function as a utility and located outdoors or in buildings used exclusively for that purpose. This chapter shall not apply to any work involved in the manufacture, assembly, test or repair of electrical machinery, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing as its principal business. It shall not apply to any building which is owned or leased in its entirety by the government of the United States or the State of New York.

~ 61-8. Construal; disclaimer of liability.

This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electrical wiring, devices, appliances or equipment for loss of life or damage to person or property caused by any defect therein, nor shall the Village of Pomona or the New York Board of Fire Underwriters or other authorized agency be deemed to have assumed any such liability by reason of any inspection made pursuant to this chapter.

Chapter 65

EXPLOSIVES

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 5-20-1996 by L.L. No. 3-1996.¹⁸ Amendments noted where applicable.]

GENERAL REFERENCES

Fees -- See Ch. 67.

Firearms -- See Ch. 70.

Fire prevention -- See Ch. 74.

Noise -- See Ch. 96.

~ 65-1. License required.

From the effective date of this chapter, it shall be unlawful for any person, firm or corporation to transport, store or use dynamite, powder or other explosives within the limits of the Village of Pomona, New York, without first obtaining a license therefor from the Village Clerk.

~ 65-1.1. Definitions. [Added 1-25-1999 by L.L. No. 1-1999]

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

BLASTING SITE -- The entire lot or property on which blasting is to be conducted.

¹⁸ Editor's Note: This local law repealed former Ch. 65, Explosives, adopted 6-16-1986 by L.L. No. 1-1986, as amended.

RESPONSIBLE PARTY -- An engineer or land surveyor,
licensed by the State of New York.

~ 65-2. Application; fee. [Amended 10-27-2003 by L.L. No. 8-2003]

An applicant for such license shall apply to the Village Clerk on a form provided by the Village Clerk. Such application shall be accompanied by the payment of a fee as set forth in the fee schedule adopted by the Board of Trustees.¹⁹

~ 65-3. Application requirements.

A. Said application shall be accompanied by proof of workers' compensation insurance and a certificate showing that the applicant is a holder of a New York State blasting license, indicating the date of the issuance of said license and the date of its expiration. A certified copy of said license shall satisfy this requirement. [Amended 1-25-1999 by L.L. No. 1-1999]

B. The applicant shall attach to the application a schedule of intended blasting, including a range within five hours and three days, the approximate location(s) depicted on a map drawn to scale and the size and number of charges intended to be detonated.

C. The applicant shall furnish a bond, in a form approved by the Village Attorney and in an amount approved by the Village Engineer, by which the Village of Pomona and any and all residents which may be affected

or damaged by blasting will be adequately protected against damage resulting from such blasting, or, in the alternative, the applicant shall furnish a liability insurance policy naming the Village of Pomona and any and all persons within a radius of 600 feet of the property lines of the property on which the blasting is to occur and who may be damaged by such blasting as additional insured, in the minimum sum of \$5,000,000, issued by an insurance carrier authorized to do business in the State of New York. Such bond or liability insurance policy shall be submitted simultaneously with the application. The application shall be deemed incomplete if not accompanied with such bond or insurance policy. [Amended 1-25-1999 by L.L. No. 1-1999]

¹⁹Editor's Note: The fee schedule is on file in the Village offices.

D. [Added 1-25-1999 by L.L. No. 1-1999] The applicant shall furnish a site plan prepared by a responsible party approved by the Village Engineer containing the following information:

(1) A survey of the blasting site and its relation to neighboring properties, together with buildings, roads, underground utilities and natural watercourses, if any, within 1,000 feet of the boundaries of said area. An inset map at a reduced scale may be used, if necessary and helpful.

(2) The location of any well, and the depth thereof, located within 500 feet of the blasting site.

(3) The location of any public or private sewage disposal system, any part of which is within 500 feet of the blasting site.

E. The applicant shall furnish the name, address and telephone number of the person in charge of the proposed blasting operations. [Added 1-25-1999 by L.L. No. 1-1999]

~ 65-4. Proof of necessity for blasting. [Amended 1-25-1999 by L.L. No. 1-1999]

No such license shall be issued until the applicant has demonstrated by written report prepared by a responsible party approved by the Village Engineer, such as an engineer or land surveyor licensed in the State of New York, to the satisfaction of the Village Engineer that blasting is required and that blasting can be accomplished without danger or damage to person or property. The Village Engineer shall certify to the Village Clerk that he has found such blasting to be required prior to the issuance of such license.

~ 65-5. License term; extension.

No license shall be effective for longer than 60 days. Upon certification by the Village Engineer that blasting is required beyond the original sixty-day period of any license, the Village Clerk may issue an extension of said license for additional periods of 30 days.

~ 65-6. Revocation of licenses.

The Village Clerk is hereby empowered to revoke forthwith any license issued under this chapter upon said Village Clerk's receipt of a written statement by the Village Engineer or Code Enforcement Officer that this chapter is being violated.

~ 65-7. Preblasting requirements.

A. Prior to commencement of blasting, the applicant shall furnish the Village Engineer with a written report prepared by a source independent of the application and the owner of the property on which the blasting is intended, such as an engineer licensed by the State of New York, of the area within a six-hundred-foot radius of the blasting site(s), including a preblasting survey of existing conditions, with photographs, if required by the Village Engineer.

B. The applicant shall provide a minimum of 14 days' and a maximum of 30 days' notice to the public of said intended blasting location by publishing the address of the site and dates on which blasting will commence and cease in the official newspaper designated by the Board of Trustees for legal notice; by certified mailings to owners of property abutting the property on which the blasting is to occur and within a six-hundred-foot radius of the blast site, as measured from property line to property line, listing the name, phone number and physical street address of the blasting company, location of the blasting site, dates on which blasting is to commence and cease, hours and days of operations and notice of where maps and site plans and permits are on file; and by four posters located on the perimeter of the blasting site on poster forms to be furnished by the Village Clerk. [Amended 1-25-1999 by L.L. No. 1-1999]

C. The applicant shall submit a traffic control plan to the Village Engineer, which must be approved prior to commencement of blasting.

D. The Village Engineer or the Code Enforcement Officer shall inspect the blasting site prior to commencement of blasting.

~ 65-8. Hours of operation,

No blasting shall be permitted in the Village of Pomona, except between the hours of 9:00 a.m. and 4:00 p.m., excluding Saturdays, Sundays and public holidays (when Village Hall is closed), when no blasting shall be permitted at any time.

~ 65-9. Ground blast and air blast standards.

During the hours when blasting is permitted, peak article velocity and overpressure produced by any blast at a distance measured by the distance from the blast to the closest structure or building not owned or used by the entity conducting the blast shall not exceed 0.75 inch per second for frequencies less than 40 hertz (Hz) or 2.0 inches per second for frequencies of 40 hertz or more. In addition, air pressure levels emanating from such blasts shall not exceed 131 decibels (dB) for a high pass filter of 0.1 hertz or 128 decibels for a high pass filter of two hertz or 125 decibels for a high pass filter of six hertz. The applicant shall be responsible for placement and operating of measuring devices at generally accepted engineering standards.

~ 65-10. Recordkeeping requirements.

A. It shall be the responsibility of any person, firm or organization which engages in blasting to maintain verified records of the place, date, time and amount of the charge set for each blast and also to monitor and maintain a permanent record of all blasts with measurements at distances indicated in ~ 65-7 and 65-9. Such person, firm or corporation shall, not less than quarterly and upon demand, provide to the Village Engineer all such records and other proof of compliance to the standards established by this chapter. Seismograph and air pressure readings of blasts shall be taken by a person regularly or routinely employed in the processes of seismograph readings and competent to qualify as an expert witness as to the results.

B. Monitoring of blast.

(1) The person, firm or corporation conducting the blast is not required to monitor a blast if such blast is designed such that the maximum charge per delay (expressed in pounds) does not exceed the following:

(D/60) x (D/60)

Where D (expressed in feet) is the distance from the blast site to the closest structure or building not owned or used by the entity conducting the blast.

(2) A contemporaneous log of all such blasts must be maintained, and proof of compliance with the standard maximum charge per delay shall be furnished to the Village upon demand.

~ 65-11. Exemption from maximum charge standards.

The person, firm or corporation conducting a blast is not required to meet the standards of maximum charge per delay set forth in ~ 65-10 if the entity monitors the blast and meets the standards of ground vibrations and air pressure levels set forth in ~ 65-9.

~ 65-12. Illegal blasting operations.

A. Any failure to comply with the recordkeeping requirements established by ~ 65-10 and any blasting which exceeds the ground blast and air blast standards established by ~ 65-9 shall constitute an offense punishable as provided in ~ 65-13.

~ 65-13. Penalties for offenses.

The violation of any of the provisions of this chapter or failure to comply therewith shall be a misdemeanor and be punishable by a fine which shall not exceed \$500 or imprisonment not exceeding three months, or both such fine and imprisonment; and for such offenses which are continuing offenses, each day such violation shall continue to exist shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of the prohibited conditions by any other means available to the Village Board of the Village of Pomona. In the case of violation of any provision of this chapter by a corporation, the sentence to be imposed shall conform to the provisions of ~ 80.10 of the Penal Law and the fines provided for therein. In addition to the above, the person or corporation found guilty of any such violations shall be ineligible to apply for or receive a license under this chapter for five years after the date of such filing.

~ 65-14. Conditions precedent to issuance of license to transport or store explosives.

The Board of Trustees of the Village of Pomona may, in addition to all other remedies contained herein, enforce this chapter by injunction.

~ 65-15. Overnight storage of explosives prohibited.

No explosives of any kind shall be stored at any site within the Village of Pomona overnight.

Chapter 67

FEES

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 6-22-1992 by L.L. No. 1-1992;²⁰ amended in its entirety 10-27-2003 by L.L. No. 8-2003. Subsequent amendments noted where applicable.]

~ 67-1. Schedule of fees and charges.

All fees and charges shall be paid in accordance with the fee schedule adopted by the Board of Trustees.²¹

~ 67-2. Schedule of fees and charges for professional consultants.

A. The Planning Board, Zoning Board of Appeals, Board of Architectural Review and the Board of Trustees, in review of any applications as described within the Code of the Village of Pomona, may refer any such application to such engineering, planning, environmental, landscape, architectural or other appropriate professional or technical consultant as such Board shall deem necessary to enable it to review such application as required by law. The fees charged by such consultants shall be in addition to the fees set forth in the fee schedule adopted by the Board of Trustees²² and such other fees as may be required by law and shall be reimbursed to the Village by the applicant. At the time an application is filed with the Village Clerk, the applicant shall deposit an escrow in the amount set forth in the fee schedule in addition to the application fee set forth in said fee schedule. Consultants' fees shall be charged against said escrow deposits. Escrows shall be replenished by the applicant, as needed, upon notification thereof by the Village Clerk. Any

²⁰ Editor's Note: This local law superseded former Ch. 67, Fees, as last amended 2-8-1988 by L.L. No. 1-1988.

²¹ Editor's Note: The fee schedule is on file in the Village offices.

²² Editor's Note: The fee schedule is on file in the Village offices.

amounts remaining in said escrow accounts shall be reimbursed to the applicant at the conclusion of the application process.

B. Site inspection fees for subdivisions shall be paid prior to signing of any subdivision and shall be in the amount set forth in the fee schedule adopted by the Board of Trustees. Engineering and other consultants' fees incurred by the Village for inspections in connection with site plans and building permits shall be reimbursed to the Village by the property owner. Prior to the signing of any site plan or the issuance of a building permit, as the case may be, the property owner shall deposit with the Village Clerk an escrow in the amount set forth in the Village fee schedule. Consultants' fees shall be charged against said escrow deposit. Escrows shall be replenished by the property owner as needed, upon notification thereof by the Village Clerk. Any amounts remaining in the escrow account shall be reimbursed to the property owner upon completion of all required work on said property.

C. No application shall be placed on the agenda of the respective Board unless the application fee and escrow have been paid by the applicant. In the event the escrow deposit is insufficient to reimburse the Village for the aforesaid consultants' fees, said fees shall be billed to the applicant sent by regular mail to the applicant's last known address. In the event said fees are not paid within 60 days of the date of such notice of payment due, the Board of Trustees shall hold a public hearing, upon 10 days' notice to the applicant, to determine if said fees shall become a lien on the real property which is the subject of the application. In addition, the Board of Trustees may authorize legal action to recover said fees.

Chapter 70

FIREARMS

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 10-21-69. Sections 70-2, 70-3 and 70-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

~ 70-1. Legislative intent.

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

~ 70-2. Discharge prohibited.²³

No person shall fire or discharge or cause to be fired or discharged any pistol, rifle, shotgun or any type of firearm within the boundaries of the Village of Pomona, except as authorized by state law.

²³Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

~ 70-3. Exceptions.²⁴

The prohibitions contained in this chapter shall not apply to any officer of law while engaged in the protection of the safety of the people of the State of New York.

~ 70-4. Penalties for offenses.²⁵

Any person violating this chapter shall be punished as provided in ~ 1-12 of Chapter 1, General Provisions.

~ 70-5. Other remedies.

Nothing contained in ~ 70-4 above shall prevent the Board of Trustees of the Village of Pomona from maintaining an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any of the provisions of this chapter or any rule or regulation promulgated hereunder.

²⁴Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

²⁵Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I

Chapter 74

FIRE PREVENTION

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 4-5-1982 by L.L. No. 3-1982; amended in its entirety 5-22-2000 by L.L. No. 3-2000. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems -- See Ch. 36.
Building construction -- See Ch. 47.
Numbering of buildings -- See Ch. 49.
Unsafe buildings -- See Ch. 50.
Explosives -- See Ch. 65.

~ 74-1. Purpose.

A. The intent of this chapter is to prescribe minimum requirements necessary to establish a reasonable level of life safety and property protection from the hazards created by fire and explosion.

B. This chapter is designed to supplement and expand upon the requirements of the New York State Uniform Fire Prevention and Building Code. Should there be a discrepancy between this chapter and the New York State Uniform Code, the more restrictive provision shall apply.

~ 74-2. Applicability.

The provisions of this chapter shall apply equally to new and existing conditions, except for the requirements for sprinkler and fire alarm systems in existing premises. When existing premises are renovated, converted or added to, and the cost of such addition, conversion, or renovation equals or exceeds 50% of the replacement cost of the premises, such premises shall be brought into full compliance with all provisions of this chapter. Existing conditions not in strict compliance with the terms of this chapter may be permitted to continue where the exceptions do not constitute a distinct hazard to life or property. The Board of Appeals shall have the authority to grant a waiver for the existing condition upon the written application of the person owning the installation concerned.

~ 74-3. Appeals.

The Bureau of Fire Prevention shall function as a Board of Appeals for all matters covered by this chapter. The Bureau of Fire Prevention shall consist of the Fire Inspector, the Building Inspector and the Deputy Mayor. All appeals shall be made in writing to the Bureau of Fire Prevention,

~ 74-4. Fire inspector.

This chapter shall be enforced by the Fire Inspector or Assistant or Deputy Fire Inspectors of the Village of Pomona.

~ 74-5. Penalties for offenses.

A. The following fines and other penalties are hereby imposed, in addition to the punishments imposed by other statutes, laws or ordinances, on every person violating any of the requirements or other provisions of this chapter:

(1) A fine not to exceed one thousand dollars per day, or imprisonment not exceeding one year, or both.

(2) A sentence to pay a fine which is imposed on a corporation for an offense defined in this chapter shall be in conformity with ~ 80.10 of the Penal Law of the State of New York.

B. The continuation of a violation of the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

~ 74-6. Right of entry.

The Fire Inspector or Assistant or Deputy Fire Inspectors may at all reasonable hours enter any building or premises for the purpose of making any inspection or investigation which, under the provisions of this chapter, may be deemed necessary.

~ 74-7. Inspection.

A. It shall be the duty of the Fire Inspector or Assistant or Deputy Fire Inspectors to inspect all buildings and premises, except single-family and two-family dwellings, as often as may be necessary for the purpose of ascertaining and causing to be corrected any condition liable to cause a fire, contribute to the spread of a fire, interfere with fire-fighting operations or endanger life or any violation of the provisions or intent of this chapter or any other ordinance or law affecting fire safety.

B. The Fire Inspector or Assistant or Deputy Fire Inspectors shall investigate the cause, origin and circumstances of every fire occurring in the Village of Pomona which is of an unknown cause or of a suspicious nature or involves the loss of life or injury to persons or has caused substantial property damage. Such investigation shall be made as soon as possible upon the occurrence of any such fire and, if it appears that the fire is the result of arson, the Fire Inspector shall immediately notify the proper authorities designated by law to investigate such matters.

~ 74-8. Exemption from liability.

A. The Fire Inspector, Deputy or Assistant Fire Inspectors charged with the enforcement of this chapter, while acting for the Village of Pomona, shall not thereby be rendered liable personally and are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed in the lawful discharge of duties and under the provisions of this chapter shall be defended by the

legal representative of the Village of Pomona until the final termination of the proceedings. The Fire Inspector or any subordinates of the Fire Inspector shall not be liable for costs in any action, suit or proceeding, that may be instituted in pursuance of the provisions of this chapter, and any official, officer or employee acting in good faith and without malice shall be free from any liability for acts performed under any of the provisions or by reason of any act or omission in the performance of the official duties in connection herewith.

B. The Village of Pomona shall not be liable under this chapter for any damage to persons or property by reason of the inspection or reinspection of buildings, structures or equipment authorized herein or failure to inspect or reinspect such buildings, structures or equipment or by reason of the approval or disapproval of any building, structure or equipment authorized herein.

~ 74-9. Exit requirements.

A. Adequate exits shall be provided in all buildings, structures and premises within the Village of Pomona to ensure safe egress in case of fire or other emergency. The location, number, type and other considerations of exits shall be provided in accordance with requirements of the New York State Uniform Fire Prevention and Building Code and the most current edition of the National Fire Protection Association Life Safety Code (NFPA 101).

B. No furnishings, decorations or other objects shall be placed so as to obstruct exits, access thereto, egress therefrom or visibility thereof.

C. Exit lights, emergency lighting and panic hardware shall be provided in accordance with the requirements listed in Table I²⁶ (to the extent that the uses and buildings listed in Table I are permitted uses and buildings in the Village of Pomona).

~ 74-10. Electrical fire safety.

All electrical appliances, fixtures and wiring shall be installed in accordance with the current edition of the National

²⁶ Editor's Note: Table I is located at the end of this chapter.

Electrical Code (NFPA 70). All electrical appliances, fixtures and wiring shall be maintained so as to be neither a fire hazard nor a source of ignition for combustible or hazardous substances, materials or devices.

~ 74-11. Smoking.

Where smoking is considered a fire hazard, the Fire Inspector or Assistant or Deputy Fire Inspectors shall be authorized to order the owner in writing to post "NO SMOKING" signs in conspicuous designated locations where smoking is prohibited. In areas where smoking is permitted, noncombustible ashtrays shall be provided.

~ 74-12. Outdoor fires.

A. Outdoor fires include all fires burning outdoors with the exception of fires used to cook food in approved and/or recognized grills or stoves.

B. All outdoor fires are prohibited, with the exception of live burn drills conducted by the Fire Department, fires for religious purposes or for other purposes as specifically approved by the Fire Inspector. Prior approval from the Rockland County Health Department and a permit from the Fire Inspector are required for all outdoor fires. Any other person, firm or corporation starting, maintaining or having control over an outdoor fire shall be in violation of this chapter.

~ 74-13. Fire lanes and fire zones.

A. The Fire Inspector or Assistant or Deputy Fire Inspector, in cooperation with the Chief of Police and the Fire Chief, is authorized, pursuant to the authority granted under ~ 1660-a of the Vehicle and Traffic Law of the State of New York and ~ 130, Subdivision 5 of the Town Law of the State of New York, to determine and establish appropriate fire lanes and fire zones at parking areas, driveways, private streets and roadways of all premises except one- and two-family dwellings.

B. Fire lanes shall be provided for all buildings that are set back more than 100 feet from a public road or exceed 30 feet in height and are set back over 50 feet from a public road. Where

buildings are protected throughout with an approved automatic sprinkler system, the provisions of this section may be modified by the Fire Inspector.

C. Fire lanes shall not be less than 20 feet of unobstructed width, able to withstand live loads of fire apparatus and have a minimum of 13 feet six inches of vertical clearance.

D. Fire zones and fire lanes shall be marked with freestanding signs that have the words "NO STANDING - NO PARKING - FIRE LANE (or ZONE)" and appropriate yellow pavement markings installed in conformance with the New York State Uniform Traffic local law requirements.

E. No motor vehicle shall park, stand or remain unattended in an established fire zone or fire lane. Fire zones and lanes shall be maintained free of all obstruction at all times.

F. More restrictive provisions for fire lanes may be imposed by the Fire Inspector.

~ 74-14. Key boxes.

A. When a structure is protected by an automatic fire alarm system or fire suppression system and access to or within the structure is unduly difficult because of secured openings and where immediate access is necessary for lifesaving or fire-fighting purposes, the Fire Inspector may require a key box to be installed in an approved location.

B. All new business, mercantile, industrial, storage, assembly, institutional and three-or-more-story multiple residences constructed, altered or changed in use after the effective date of this chapter shall have installed a key box in an approved location. Such key boxes shall be installed prior to the issuance of a certificate of occupancy.

C. The key box shall be of the type approved by the Fire Inspector and, in order to maintain uniformity throughout Rockland County, order forms for said key box must be obtained from the Fire Inspector.

D. The key box shall contain:

(1) Keys to locked points of ingress, whether on the interior or exterior of such structures.

(2) Keys to locked mechanical rooms.

(3) Keys to locked electrical rooms.

(4) Keys to elevator controls.

(5) Keys to other areas as directed by the Fire Inspector or Fire Chief.

(6) The layout of the building, showing the locations of the above.

(7) Other information as requested by the Fire Inspector or Fire Chief.

~ 74-15. Fire protection markings.

A. Premises identification. New and existing buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. The numbers should be at least four inches in height and, if possible, made of a reflective material for night time visibility.

B. Shaftways to be marked. Every outside opening accessible to the Fire Department that opens directly on any hoistway or shaftway communicating between two or more floors in a building shall be plainly marked with the word "SHAFTWAY" in red letters at least six inches high on a white background; such warning signs shall be so placed as to be readily discernible from the outside of the building.

C. Stairway marking. Stairways serving four or more stories shall be provided with signs indicating floor level, roof access and no roof access and reentry locations in accordance with the National Fire Protection Association Life Safety local law (NFPA 101).

D. Identification of lightweight construction.

(1) Upon inspection and identification of a building, other than a one- or two-family dwelling, of truss, wood I-beam or other lightweight-type construction, the owner/occupant shall be notified by the Fire Inspector of the requirements of this chapter.

(2) Upon notification, the owner/operator will be required to permanently affix an approved 12 inches by 18 inches reflective truss construction identification logo on the building. The exact location shall be identified by the Fire Inspector. The identification logos shall be properly installed within 10 days of receipt of written notice.

(3) The Fire Inspector should notify the local Fire Chief of any building with lightweight construction. This information should be provided to the Rockland County Fire Control Center to be included in the Rockland County computer dispatch system database.

~ 74-16. Vacant buildings.

A. Every person owning or having control of any vacant building shall remove all combustible waste and refuse therefrom and lock, barricade, or otherwise secure all windows, doors and other openings in the building to prohibit entry by unauthorized persons.

B. Buildings that are vacant shall maintain all required fire detection and suppression systems in service.

~ 74-17. Open flame cooking outside multiple residences.

The use of grills, barbecues or other devices for cooking food utilizing propane or producing an open flame shall be prohibited within 10 feet of any building used as a multiple dwelling. The storage of propane or any other fuel used for such devices inside any building shall also be prohibited.

~ 74-18. Security gates.

Where the use of security gates is permitted, such gates shall provide unobstructed view of at least 50% of the door(s), window(s) or other building opening which is protected by the security gate when the security gate is in place.

~ 74-19. Sprinklers.

A. In accordance with Table 1,²⁷ all buildings and structures occupied for purposes other than residential buildings with less than six units that exceed 5,000 square feet of total floor area, or a place of assembly with an occupant load of more than 100 persons, except assembly spaces used expressly for religious purposes, shall be fully protected by an automatic sprinkler system.

B. All sprinkler systems shall be installed and maintained in accordance with the most current edition of the National Fire Protection Association Standard for Sprinkler Systems (NFPA 13) or the appropriate NFPA Standard for special occupancies.

C. All sprinkler system components shall be tested and inspected in accordance with the National Fire Protection Association Standard for the Inspection Testing and Maintenance of Water-Based Fire Protection Systems (NFPA 25). Copies of all service, repair, inspection and testing reports shall be forwarded to the Fire Inspector within 10 days of such service, repair, inspection or testing.

D. Color coding of siamese connections. In order to ensure that firefighters utilize the proper siamese connection, all siamese connections and/or the protective covers installed on the siamese connection shall be color coded as follows:

(1) Red: siamese supplying a standpipe (fire hose) system.

(2) Green: siamese supplying a sprinkler system.

(3) Yellow: siamese supplying a combination standpipe and sprinkler system.

²⁷Editor's Note: Table I is located at the end of this chapter.

~ 74-20. Fire detection systems.

A. All buildings and structures other than one-family and two-family residences shall be equipped with fire detection and alarm systems as described in Table I.²⁸ A sprinkler system with a water flow device monitored to immediately send an alarm to the Fire Department shall be considered a fire detection system.

B. Where a 110-volt (hard-wired) smoke detector is required to be installed in any building (including a one- or two-family dwelling) by the New York State Uniform Fire Prevention and Building Code or any other applicable regulation, such smoke detector shall be equipped with a battery back-up to ensure operation of the smoke detector in the event of a power interruption.

C. All fire detection and alarm systems shall be installed and maintained in accordance with the most current edition of the National Fire Protection Association Fire Alarm Code (NFPA 72). Copies of all service, repair, inspection and testing reports shall be forwarded to the Fire Inspector within 10 days of such service, repair, inspection or testing.

D. The Fire Inspector shall be notified in writing prior to the installation of any fire alarm or fire detection system. Such notification shall consist of plans sufficient to determine compliance with the fire local law.

E. Fire alarm or fire detection systems shall have an annunciation or remote located at or near the main entrance of the building. Such annunciation shall show the location and type of alarm. A floor plan of the protected premises shall also be provided at location. The location of any annunciator or panel not clearly visible upon entry of the main entrance of a building shall be marked with a sign.

F. Upon activation of a fire alarm, the persons in charge of a premises shall cause the premises to be evacuated unless an evacuation plan preapproved by the Fire Inspector and Fire Department is in place. In such case, the provisions of the plan shall be followed.

G. No fire system shall be reset from an alarm condition unless approved by the Fire Inspector or Fire Department Officer-in-Charge. A sign stating such shall be provided on all fire alarm panels capable of resetting an alarm.

²⁸Editor's Note: Table I is located at the end of this chapter.

H. The owner or responsible party of any premises containing a fire alarm or fire detection system shall ensure that a qualified technician is available to respond within two hours of notification to initiate needed repair or service of the system.

I. If the fire alarm system signal transmission to the alarm receiving station is not tested on a daily basis, all dedicated phone lines used for the purpose of transmitting fire alarm signals shall be equipped with a visual/audio signal on the exterior of the building to operate in the event of a failure or disablement. It shall be the sole responsibility of the property owner to maintain all dedicated fire alarm system phone lines active at all times.

J. A red name plate with one-inch white letters shall be located below the visual/audio signal with the following information:

- (1) Name of the alarm company.
- (2) Telephone number of the alarm company.

~ 74-21. Portable fire extinguishers.

Portable fire extinguishers, installed and maintained in accordance with National Fire Protection Association Standard No. 10, the Standard for Portable Fire Extinguishers, shall be provided in all occupancies as required by Table I.²⁹

~ 74-22. Extinguishing systems.

A. Protection of cooking equipment and ductwork.

(1) All commercial cooking appliances, exhaust removal systems, ductwork and related equipment shall be protected by an automatic fire extinguishing system installed and maintained in compliance with current applicable National Fire Protection Association Standards.

²⁹ Editor's Note: Table I is located at the end of this chapter.

(2) These systems shall be inspected by an approved service firm on a semiannual basis. To ensure proper inspection, a uniform inspection form, provided by the Fire Inspector, shall be utilized, with a copy of the completed form forwarded to the Fire Inspector within 10 days of the inspection.

B. Special extinguishing systems. Wherever deemed necessary for the protection of a special hazard, the Fire Inspector may require the installation of a special extinguishing system. Any such special extinguishing system shall be installed and maintained in accordance with the most current applicable National Fire Protection Association Standards.

~ 74-23. Access to fire protection equipment.

A. The parking of any vehicle within 15 feet of any fire hydrant or Fire Department siamese connection shall be prohibited.

B. No shrubs, dumpsters or other items that may obstruct the view of and/or access to any fire hydrant or Fire Department siamese connection shall be permitted.

~ 74-24. Strobe lights.

A. In order to notify responding firefighters of conditions within a building or structure equipped with sprinkler systems, fire alarm systems or containing hazardous materials or other hazards to firefighters, identification strobe lights shall be installed on the exterior of the building as follows:

(1) Red strobe light: located above the Fire Department siamese connection of a sprinklered building to indicate activation of the water flow alarm.

(2) Yellow strobe light: installed to indicate activation of a pull station, smoke detector, heat detector or other alarm device.

(3) Blue strobe light: installed to indicate the presence of hazardous materials, conditions or other dangers to firefighters.

B. The exact location of such lights shall be determined by the Fire Inspector.

~ 74-25. Hazardous materials.

Where identification of buildings and structures containing hazardous materials is required in accordance with the New York State Uniform Fire Prevention and Building Code, the National Fire Protection Association Hazardous Materials Identification System (NFPA 704) shall be utilized.

~ 74-26. Certificates of compliance.

A. An annual certificate of compliance to ensure compliance with all requirements of this chapter and the New York State Uniform Fire Prevention and Building Code shall be required for all uses and occupancies of property other than one- or two-family dwellings. Such certificate does not take the place of any other permits or certificates required by law. It shall not be transferable, and any change in the use or occupancy of premises shall require a new certificate.

B. Before a certificate of compliance may be issued, a Fire Inspector or Deputy or Assistant Fire Inspector shall make such inspections or tests as are necessary to assure that the provisions of this chapter and the New York State Uniform Fire Prevention and Building Code are being complied with.

C. Any certificate of compliance required under the provisions of this section shall be issued by the Building Department upon approval of the Fire Inspector, and such certificate shall be posted or displayed in a conspicuous place on the premises.

D. The Village of Pomona may require applicants to submit written applications, supplying, under affidavit, such information needed for fire protection purposes as requested by the Fire Inspector and/or Fire Department.

E. Fees for certificates of compliance for new or changed uses, and annual inspection fees payable each year for the specific uses subject to inspection by the Fire Inspector, shall be established from time to time by resolution of the Village Board of Trustees.

Chapter 79

FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 6-15-87 as L.L. No. 1-1987. Sections 79-8 and 79-10 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 47.

Subdivision of land -- See Ch. 118.

Zoning -- See Ch. 130.

ARTICLE I

Findings, Purpose and Objectives

~ 79-1. Findings.

The Board of Trustees of the Village of Pomona, New York, finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Pomona 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.

~ 79-2. 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.

F. Qualify for and maintain participation in the National Flood Insurance Program.

~ 79-3. Objectives.

The objectives of this chapter are to:

A. Protect human life and health.

B. Minimize the 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.

H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II

Definitions

~ 79-4. Terms defined.

A. 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.

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

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

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

AREA OF SPECIAL FLOOD HAZARD -- The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1--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 equaled or exceeded in any given year.

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

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

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

CELLAR -- Same as "basement."

COASTAL HIGH-HAZARD AREA -- The area subject to high-velocity waters, including but not limited to hurricane wave wash. The area is designated on a FIRM as Zone V1--V30, VE, V0 or V.

DEVELOPMENT -- Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations, located within the area of special flood hazard.

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

FLOOD or FLOODING -- A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

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 HAZARD BOUNDARY MAP (FHBM) -- An official map of a community issued by the Federal Emergency Management Agency where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

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

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

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

FLOODWAY -- Same as "regulatory floodway."

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

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

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

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

MANUFACTURED HOME -- A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

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

MOBILE HOME -- Same as "manufactured home."

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

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

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

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

REGULATORY FLOODWAY -- The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in ~ 79-12B of this chapter.

SAND DUNES -- Naturally occurring accumulations of sand in ridges

or mounds landward of the beach.

START OF CONSTRUCTION -- The initiation, excluding planning and design, of any phase of a project, 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 of construction" means affixing of the manufactured home to its permanent site.

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

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

(1) Any project for the improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which is solely necessary to assure safe living conditions; or

(2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

ARTICLE III

General Provisions

~ 79-5. Territorial applicability.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the Village of Pomona, New York.

~ 79-6. Basis for establishing areas of special flood hazard. [Amended 5-22-1995 by L.L. No. 3-1995]

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) Index No. 360688 0003B, whose effective date is April 15, 1982.

(2) A scientific and engineering report entitled "Flood Insurance Study, Village of Pomona, New York, Rockland County" dated October 15, 1981.

(3) Flood Boundary and Floodway Map (single panel) No. 360688 0001, whose effective date is April 15, 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 Hall, Old Route 202 & Camp Hill Road, Pomona, New York 10970 in the office of the Village Clerk of the Village of Pomona, New York.

~ 79-7. Interpretation; conflict with other laws.

A. This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

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

~ 79-8. Penalties for offenses. [Amended 2-8-1988 by L.L. No. 1-1988]

No structure will 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 be punished as provided in ~ 1-12 of Chapter 1, General Provisions. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Code Enforcement Officer of the Village of Pomona, New York, from taking such other lawful action as is 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.

~ 79-9. 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 Pomona, 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

~ 79-10. Designation of local administrator. [Amended 2-8-1988 by L.L. No. 1-1988]

The Code Enforcement Officer of the Village of Pomona, New York, is hereby appointed as the local administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

~ 79-11. Development permit required.

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in ~ 79-6. Application for a development permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing: the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

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

(1) Elevation, in relation to mean sea level, of the proposed lowest floor, including basement or cellar, of all structures.

(2) Elevation, in relation to mean sea level, to which any nonresidential structure will be floodproofed.

(3) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in ~ 79-13C(1).

(4) Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in ~ 79-14B.

(5) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Construction stage. Upon placement of the lowest floor or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land

surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

~ 79-12. Duties and responsibilities of local administrator.

The duties of the local administrator shall include but are not limited to:

A. Permit application review. He shall:

(1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.

(2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required.

(3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.

(a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.

(b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

(4) Review all development permit applications for compliance with the provisions of ~ 79-13E, Encroachments.

B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with ~ 79-6, Basis for establishing areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to ~ 79-13D(4), in order to administer ~ 79-14, Specific standards, and ~ 79-15, Floodways.

C. Information to be obtained and maintained. He shall:

(1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.

(2) For all new or substantially improved floodproofed structures:

(a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and

(b) Maintain the floodproofing certifications required in ~ 79-13 and 79-14.

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

D. Alteration of watercourses. He shall:

(1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.

(2) Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM boundaries.

(1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

(2) Base flood elevation data established pursuant to ~ 79-6 and/or Subsection B of this section, when available, shall be used to accurately delineate the area of special flood hazards.

(3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

F. Stop-work orders.

(1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties prescribed in ~ 79-8 of this chapter.

(2) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order issued by the local administrator. Disregard of a stop-work order shall be subject to the penalties prescribed in ~ 79-8 of this chapter.

G. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the development permit or the approved variance.

H. Certificate of compliance.

(1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof, hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure, until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.

(2) All other development occurring within the designated flood hazard area will have, upon completion, a certificate of compliance issued by the local administrator.

(3) All certifications shall be based upon the inspections conducted pursuant to Subsection G above and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

ARTICLE V

Flood Hazard Reduction Provisions

~ 79-13. General standards.

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

A. Anchoring.

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

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

B. Construction materials and methods.

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

(1) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.

(2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(3) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of floodwaters.

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments, including proposals for manufactured home parks and subdivisions, greater than either fifty (50) lots or five (5) acres.

E. Encroachments.

(1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazards set forth in ~ 79-12A(3). This may require the submission of additional technical data to assist in the determination.

(2) In all areas of special flood hazard in which base flood elevation data is available pursuant to ~ 79-12B or 79-13D(4) and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.

(3) In all areas of special flood hazard where floodway data is provided or available pursuant to ~ 79-12B, the requirements of ~ 79-15, Floodways, shall apply.

~ 79-14. Specific standards.

In all areas of special flood hazard where flood elevation data has been provided as set forth in ~ 79-6, Basis for establishing areas of special flood hazard, and ~ 79-12B, Use of other base flood and floodway data, the following standards are required:

A. Residential construction. New construction and substantial improvements of any residential structure shall:

(1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.

(2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

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

(b) The bottom of all such openings shall be no

higher than one (1) foot above the lowest adjacent finished grade.

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

B. Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

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

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

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

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

(2) If the structure is to be floodproofed:

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

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

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

C. Construction standards for areas of special flood hazard without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation as may be determined in ~ 79-12B or two (2) feet above the highest adjacent grade where no elevation data is available.

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

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

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

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

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

~ 79-15. Floodways.

Located within areas of special flood hazard are areas designated as floodways (see definition, ~ 79-4B). The floodway

is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 79-6 and 79-12B, all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

ARTICLE VI

Variance Procedure

§ 79-16. Appeals board.

A. The Zoning Board of Appeals as established by the Village of Pomona, New York, shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the local administrator 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 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 of 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.

(12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

E. Upon consideration of the factors of Subsection D above and the purposes of this chapter, the 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.

~ 79-17. Conditions for variances.

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (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 ~ 79-16D(1) through (12) have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the contributing structures procedures set forth in the remainder of this section.

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 is 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:

(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.

(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 local laws 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 that the cost of flood insurance will be commensurate with the increased risk resulting from such lowest floor elevation.

Chapter 82

GAMES OF CHANCE

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 7-15-80 by resolution. Amendments noted where applicable.]

~ 82-1. Issuance of licenses by town.

The Village of Pomona hereby authorizes the Town of Ramapo to issue licenses to any duly authorized organization within the territorial limits of the Town of Ramapo and the Village of Pomona for the purpose of licensing such organization to conduct games of chance, pursuant to the authority granted in ~ 187 of the General Municipal Law and in accordance with and pursuant to the Games of Chance Ordinance enacted by the Ramapo Town Board on October 12, 1976,³⁰ and pursuant to the regulations of the New York State Racing and Wagering Board.

³⁰Editor's Note: The Ramapo Games of Chance Ordinance is on file in the office of the Clerk of the Town of Ramapo.

Chapter 85

GARBAGE, RUBBISH AND REFUSE

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona: Art. I, 2-8-1988 as L.L. No. 2-1988; Art. II, 10-24-1988 as L.L. No. 7-1988. Amendments noted where applicable.]

ARTICLE I

Solid Waste Collection

[Adopted 2-8-1988 as L.L. No. 2-1988]

~ 85-1. Garbage collection contracts authorized. [Amended 8-11-1988 by L.L. No. 3-1988³¹]

The Village of Pomona shall enter into a contract or contracts, after bidding as provided by the General Municipal Law of the State of New York, for a period of not less than one nor more than three years, with private solid waste carriers, for the collection of solid waste from the residents of the Village of Pomona and shall contract for the disposal of solid waste on such terms and conditions as the Board of Trustees shall determine.

~ 85-2. Solid waste collection and disposal charge. [Amended 3-27-1989 by L.L. No. 1-1989³²]

The cost of such solid waste collection and the cost of disposal of solid waste shall be included in the general budget of the Village of Pomona and shall be charged against all taxable real property located in the Village of Pomona in and as a

³¹ Editor's Note: This local law also repealed former ~ 85-1, Inclusion of portion of village in garbage collection district, and renumbered ~ 85-2 through 85-5 as ~ 85-1 through 85-4.

³² Editor's Note: This local law also provided for the deletion of ~ 85-3, as amended 8-11-1988, and the renumbering of ~ 85-4 as ~ 85-3.

component of the Village of Pomona real property tax bill.

~ 85-3. Commission on Solid Waste created; membership; powers and duties.

There is hereby created and established a commission, to be known as the "Village of Pomona Commission on Solid Waste."

A. Said Commission shall consist of three members to be appointed by the Mayor with the consent of a majority of the Board of Trustees.

B. One such member shall be a member of the Board of Trustees of the Village of Pomona.

C. The term of office of the first Commissioners appointed pursuant to this article shall be as follows: one Commissioner shall be appointed for a term expiring June 30, 1989; one Commissioner shall be appointed for a term expiring June 30, 1990; and one Commissioner shall be appointed for a term expiring June 30, 1991. At the expiration of the term of each Commissioner, a successor shall thereafter be appointed for a term of three years, it being the intention of this article that the terms be so staggered that not more than one Commissioner's term shall expire in any one year.

D. Each Commissioner shall be compensated at an annual rate to be determined by resolution of the Board of Trustees simultaneously with the appointment of each Commissioner; provided, however, that there shall be no compensation paid to the Commissioner who is a member of the Board of Trustees of the Village.

E. The duties and powers of the Village of Pomona Commission on Solid Waste shall be as established by the Board of Trustees of the village by written regulations. The Commission shall recommend to the Board of Trustees regulations for its operations and procedures and for the collection and recycling of solid waste within 60 days of the initial appointment of the Commissioners and, thereafter, shall make such recommendations as, from time to time, it shall deem appropriate.

F. The Mayor, with the consent of the majority of the Board of Trustees, shall have the power to remove a Commissioner or Commissioners for excessive absences from Commission meetings and for such other reasons as the regulations shall provide. In

the event of such removal, the Mayor, with the consent of a majority of the Board of Trustees, shall appoint a successor to fill the unexpired term of the removed Commissioner.

~ 85-4. (Reserved)

ARTICLE II

Dumping

[Adopted 10-24-1988 as L.L. No. 7-1988]

~ 85-5. Dumping of trash and debris on public property prohibited.

It shall be unlawful for any person, partnership or corporation or any employee thereof to dump or otherwise place upon property owned by the Village of Pomona or any other public entity situated in the Village of Pomona any leaves, grass or other debris or trash.

~ 85-6. Penalties for offenses.

A violation of this article shall be punishable as follows:

A. For a first offense, the fine to be imposed shall be no less than \$50 and no more than \$100.

B. For a second offense, the fine to be imposed shall be no less than \$250 and no more than \$500.

C. For a third and subsequent offense, the fine to be imposed shall be no less than \$1,000 and no more than \$2,000.

Chapter 91

LITTERING

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 6-26-1989 by L.L. No. 2-1989. Amendments noted where applicable.]

~ 91-1. Title.

This chapter shall be cited and may be referred to hereinafter as the "Littering Law of the Village of Pomona."

~ 91-2. Legislative intent.

It is the intention of the Village Board of the Village of Pomona by the adoption of this chapter to prevent the maintenance of any parcel of real property in the Village of Pomona in a cluttered or unclean condition which renders it aesthetically offensive or creates the potential for a public nuisance or a public health hazard.

~ 91-3. Word usage; definitions.

A. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

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

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

LANDSCAPE VEHICLE -- Any vehicle, as defined by the Vehicle and Traffic Law of the State of New York, licensed to operate on the highways of the State of New York and used, for commercial purposes, with or without a trailer, to transport landscape tools, mowers, clippers, seed, shrubbery, trees and other landscape tools and materials, but the term shall not include a vehicle used solely by a person, firm or corporation to perform landscaping within the confines of his or its own property, whether owned or leased. [Added 6-23-2003 by L.L. No. 2-2003]

LITTER -- Garbage, refuse and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare. This includes the abandoning of vehicles or the stripping and junking of any vehicles, and the deposit of snow in public streets and rights-of-way. [Added 6-23-2003 by L.L. No. 2-2003]

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

PERSON -- Any individual, firm, partnership, association, corporation, company or organization of any kind.

PUBLIC PLACE -- All publicly owned property, including any and all streets, culs-de-sac, sidewalks, highways, basements, boulevards, alleys or other public ways; any and all public parks, squares, spaces, ground, buildings and school property; posts, hydrants, trees, street lamps, utility poles and traffic signs; and anything affixed thereto and thereover.

REFUSE -- All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, leaves, grass clippings and other products of the work of commercial landscape contractors, dead animals, abandoned automobiles, automobile parts and solid market and industrial wastes. "Refuse" shall not mean compost piles. [Amended 6-23-2003 by L.L. No. 2-2003]

RUBBISH -- Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood,

glass, bedding, crockery and similar materials.

SNOW-FLOWING VEHICLE -- Any vehicle, as defined in the Vehicle and Traffic Law of the State of New York, licensed to operate on the highways of the State of New York and used, for commercial purposes, to plow snow, but the term shall not include a vehicle used solely by a person, firm or corporation to plow snow within the confines of his or its own property, whether owned or leased, nor shall it include a vehicle used solely by a governmental entity to plow snow on public roads, highways and thoroughfares. [Added 6-23-2003 by L.L. No. 2-2003]

VILLAGE -- The Village of Pomona.

~ 91-4. Littering prohibited. [Amended 8-26-1991 by L.L. No. 3-1991; 6-23-2003 by L.L. No. 2-2003]

A. No person shall throw, deposit or place or permit to be deposited or scattered in or upon any street, lot, sidewalk or other public place or upon any private property within the Village any litter or other material of any kind, except in public or private receptacles for collection. Receptacles or material for collection shall not be placed at curbside before the weekend preceding the collection date.

B. No person shall plow, shovel, sweep or pile snow, ice or other materials in or beyond the right-of-way of any street or public highway or cause such to be done so as to interfere with the safety and convenience of public travel.

C. No person shall park or leave its landscape vehicle in the right-of-way of any street or public highway or cause such to be done so as to interfere with the safety and convenience of public travel.

D. No person shall dump, deposit or cast off clippings, leaves, and other landscape debris, in a public park or in the right-of-way of any street or public highway or cause such to be done so as to cause a health hazard by providing fertile ground for vermin, unpleasant odors and unsightly accumulations.

~ 91-5. Manner of placement in receptacles.

Persons placing litter in public or private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, lot, sidewalk or other public place or upon any private property.

~ 91-6. Responsibilities of owners and automotive establishments.

A. The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in private receptacles for collection.

B. All gas stations, service stations, auto repair shops and stores engaged in the sale of auto parts and/or the repair of motor vehicles shall construct a durable container, shed or solidly fenced-in area for the storage of all miscellaneous motor vehicle parts, such as tires, mufflers, batteries, etc., such list not meant to be all inclusive. No storage outside these areas shall be permitted. The container and its location must be approved by the Code Enforcement Officer or his representative and be at least six feet in height and its contents not visible from the street.

~ 91-7. Sweeping litter into public areas prohibited; owners to clean sidewalks.

No person shall sweep into or deposit in any gutter, street or other public place within the Village the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property or places of business shall keep the sidewalk in front of their premises free of litter.

~ 91-8. Litter in parks.

No person shall throw, deposit or place or permit to be deposited or scattered in or upon any park property or upon any pond, lake, stream or other body of water in a park or elsewhere within the Village any litter or other material of any kind. All such material is to be deposited in public receptacles, where available, and, where receptacles are not available, litter is to be removed from the park by the person responsible for its presence and properly disposed of elsewhere. All litter or other such material shall be placed in receptacles in such a manner as

to prevent it from being carried or deposited by the elements upon any part of the park or upon any street or other public place.

~ 91-9. First notice.

The Code Enforcement Officer, as designated in ~ 47-2 of the Code of the Village of Pomona, shall have the power, right and authority to serve a notice of violation upon the owner or the agent thereof of any property which is determined to be in violation of this chapter, which notice shall be served personally or by certified mail, return receipt requested, upon the last known owner of said property, as shown on the last complete tax assessment roll of the town. The notice shall give such owner 10 days after service of the notice to correct such violation, during which time the owner shall properly remove or cause to be removed such litter or other material from said property.

~ 91-10. Second notice; correction by Village; recovery of costs.

A. In the event that all such litter or other material shall not be removed within the time specified in the notice to remove, the Village Board shall hold a hearing, upon five days' public notice, to determine whether the continued deposit of such nuisance constitutes a public health hazard. Notice of such hearing shall be given to the owner of the property in the manner specified in ~ 91-9 above, at least five days prior to such hearing.

B. If, after such hearing, the Village Board deems the continued deposit of such materials to be aesthetically offensive or to constitute a public nuisance or a public health hazard, it shall give notice of such findings, by certified mail, addressed to the owner of record of such property at the address shown on the last complete tax assessment roll. Such notice shall further state that if a period of at least 10 days elapses from the service thereof and the violation has not been fully corrected, the Village Board will cause the violation to be corrected and that the entire expense of such correction shall be assessed against such property.

C. If a period of at least 10 days elapses from the service of the notice required by Subsection B hereinabove and the violation has not been fully corrected, the Village Board shall proceed to take whatever action is necessary to cause the litter or other material to be removed from such property. The

total expense of such removal shall be assessed against such property by the Village Board in the manner provided in Subsection D below.

D. The Village Board shall serve personally or by certified mail upon the owner of record of such property, at the address shown on the last complete tax assessment roll, a written notice, stating that at a time and place specified therein, it will assess the expense of such removal against such property. Such notice shall be served at least eight days previous to the time specified therein. If directed against a corporation, it may be served upon the corporation at its principal place of business, upon an agent of the corporation within the Village or upon the Secretary of State of the State of New York. Notice served upon the Secretary of State shall be served at least 12 days previous to the time specified therein. At the time and place so specified, the Village Board shall hear the parties interested, and shall thereupon finally determine the assessment, stating therein the name of each owner and the amount so assessed. The amount so assessed shall constitute a lien on the real property on which it is levied until paid or otherwise canceled pursuant to law and shall be collected in the manner fixed by law for the collection of Village taxes.

~ 91-11. Appearance tickets.

The Code Enforcement Officer, as designated in ~ 47-2 of the Code of the Village of Pomona, shall have the power, right and authority to issue an appearance ticket as the same is defined in Article 150 of the Criminal Procedure Law of the State of New York, for violations of this chapter.

~ 91-12. Penalties for offenses.

A. Any person who shall refuse or neglect to comply with the conditions of any notice as is provided for by this chapter shall be guilty of a violation of this chapter.

B. In the case of continuing violation of this chapter, each week that such violation exists shall constitute a separate and distinct violation.

C. In addition to all other remedies provided for herein, the Village Board may also enforce this chapter by injunction or by any other remedy available to it by virtue of the judicial process.

D. A violation of this chapter shall be punishable by a fine of \$500. [Added 9-25-2000 by L.L. No. 6-2000; amended 6-23-2003 by L.L. No. 2-2003]

Chapter 96

NOISE

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 2-20-73 as L.L. No. 2-1973. Sections 96-3I and N and 96-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Discharge of firearms -- See Ch. 70.

~ 96-1. Legislative findings and purpose.

It is found and declared that:

A. The making and creation of loud, unnecessary or unusual noises within the limits of the Village of Pomona is a condition which has existed for some time and the extent and volume of such noises is increasing.

B. The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the Village of Pomona.

C. The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the Village of Pomona and its inhabitants.

D. The causing or performance of any noise prohibited herein which occurs in any one day shall be considered as a separate violation of this chapter. Each day during which the prohibited activity continues shall be considered a new violation.

~ 96-2. Noise prohibited.

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the village.

~ 96-3. Enumeration of prohibited noises.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive:

A. Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the village except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device or the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

B. Radios, phonographs, etc. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the

peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to be

plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section. [Amended 11-22-1999 by L.L. No. 6-1999]

C. Loudspeakers; amplifiers for advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure or to a candidate in an election campaign.

D. Yelling, shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 10:00 p.m. and 8:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling or other type of residence or of any persons in the vicinity. [Amended 11-22-1999 by L.L. No. 6-1999]

E. Animals, birds, etc. The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort or repose of any persons in the vicinity.

F. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal-combustion engine or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

G. Defect in vehicle or load. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

H. Loading, unloading or opening boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

I. Construction or repairing of buildings or maintenance of property. The erection (including excavating), demolition, alteration or repair of any building, and the performance of any construction work, tree removal, debris removal, operation or maintenance of equipment, including landscape maintenance equipment, air wrenches and other noise-producing power tools, and any equipment which amplifies sound, other than between the

hours of 7:00 a.m. and 8:00 p.m., Monday through Friday, or between 8:00 a.m. and 6:00 p.m., Saturday and Sunday, except in the case of urgent necessity in the interest of public health and safety. [Amended 2-8-1988 by L.L. No. 1-1988; 11-22-1999 by L.L. No. 6-1999]

J. Schools, courts, churches or hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court when the same is in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution or disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

K. Hawkers or peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

L. Drums; instruments. The use of any drum or other instrument or device for the purpose of attracting attention, by creation of noise, to any performance, show or sale.

M. Metal rails, pillars and columns: transportation thereof. The transportation of rails, pillars or columns of iron, steel or other material over and along streets and other public places upon carts, drays, cars, trucks or in any other manner, so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

N. Pile drivers, hammers, etc. The operation between the hours of 6:00 p.m. and 7:00 a.m. weekdays and any time on Saturday or Sunday of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noises.³³

O. Blowers. The operation of any noise-creating blower or power fan or any internal-combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

³³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

~ 96-4. Penalties for offenses.³⁴

Any person who violates any provision of this chapter shall, upon conviction, be punished as provided in ~ 1-12 of Chapter 1, General Provisions.

³⁴Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 101

PARKS

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona: Art. I, 8-26-1991 as L.L. No. 2-1991. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and Recreation Commission -- See Ch. 22.

Alcoholic beverages in parks -- See Ch. 38, Art. I.

ARTICLE I

Hours

[Adopted 8-26-1991 as L.L. No. 2-1991]

~ 101-1. Legislative intent.

The Board of Trustees has determined that the public parks of the Village of Pomona have been subjected to vandalism and have been the scene of rowdy gatherings of persons who, under the influence of alcohol or otherwise, cause damage to public property and create a general nuisance to village residents residing in the area of said parks. Therefore, the intent and purpose of this article is to safeguard public property and reduce nuisances by regulating and restricting the times during which public parks may be used.

~ 101-2. Definitions.

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

PUBLIC PARK -- Each and every park owned and maintained by the Village of Pomona and administered by the Village of Pomona Recreation Commission.

~ 101-3. Time restrictions.

It shall be unlawful for any person to enter, remain in, use or be present in a Village of Pomona public park between sunset on any given day and sunrise on the following day, except by special permit of the Village Board for municipal purposes.

~ 101-4. Penalties for offenses.

Any person found guilty of violating this article shall be subject to a fine of not less than \$50 and not more than \$1,000.

Chapter 103

PEDDLERS, SOLICITORS AND CANVASSERS

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 10-24-2005 by L.L. No. 5-2005. Amendments noted where applicable.]

GENERAL REFERENCES

Fees -- See Ch. 67.

Noise -- See Ch. 96.

~ 103-1. Intent.

It is the intent of this chapter to protect the residents of the Village from potential abusive and unscrupulous acts by street vendors and persons engaging in door-to-door soliciting and selling of goods, wares and merchandise by requiring such persons to register and be permitted by the Village. This chapter is not intended to be a taxation or revenue-raising measure.

~ 103-2. Definitions.

For the purposes of this chapter, the following words are hereby defined as follows:

CANVASSER -- Any person, either principal or agent, who represents a nonprofit organization, in any street or public place or by going from house to house and who predominantly seeks contributions, fund-raisers, solicits memberships, disseminates information or conducts activities which would not be characteristic of a peddler or solicitor.

ESTABLISHED PLACE OF BUSINESS -- A permanent building, store or depository in which or where the person transacts business and deals in goods, wares, merchandise or services in the ordinary and regular course of business.

PEDDLER -- Any person who, in any street or public place or by going from house to house on foot or from any vehicle, sells or barter or offers for sale or barter or carries or displays for sale or barter any goods, wares, merchandise or services. For the purpose of this chapter, the entity which engages a person as his or her agent for the purposes of peddling or soliciting is also considered a "peddler" within the meaning of this chapter and is subject to all of the provisions herein.

PERSON -- Any individual, firm, partnership, corporation, unincorporated association, and any principal or agent thereof.

SOLICITOR -- Any person, either principal or agent, traveling either by foot or by any conveyance from place to place, from house to house, from street to street or any combination thereof, who takes or offers to take orders for the sale of any goods, wares or merchandise, including books or periodicals, for future delivery, or for the performance of future services, whether or not such person collects advance payments for such sale or services.

~ 103-3. Permit required.

It shall be unlawful for any person to engage in the business of peddler or solicitor as defined herein without having first obtained and having in force and effect a permit therefor issued by the Village Clerk-Treasurer.

~ 103-4. Exemptions.

Nothing contained in this chapter shall be deemed to apply to any of the following:

- A. A sale conducted pursuant to an order of any court.
- B. A wholesaler selling articles to dealers or merchants who have an established place of business within the Village.

C. Provided that such person has completed the application for a permit and has met all other requirements set forth in this chapter, there shall be no fee for such permit for an honorably discharged member of the Armed Forces of the United States who is the holder of a license issued pursuant to ~ 32 of the General Business Law of the State of New York.

D. The peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities on their own land, provided that they have otherwise complied with any licensing and health and safety requirements of any other competent governmental body or agency and the sale takes place from a stationary location upon property owned or leased by the seller of such goods.

E. Any person selling goods, wares, merchandise or services regularly to those who are his or her established customers, patrons or purchasers.

F. Any candidate running for office, or his or her representatives, or any persons involved in the election process.

~ 103-5. Application for permit; fee.

A. Any person desiring a permit as herein provided shall file with the Village Clerk-Treasurer a written application, duly verified by the applicant, upon forms provided by the Village. Such application shall include but not be limited to the following information:

(1) The name, address, telephone number, date of birth, social security number and motorist identification number of such person and the name, address and telephone number of the corporation, firm, association, club, partnership or any other organization represented by such person.

(2) A description of the type of goods, wares or merchandise which the applicant wishes to sell or solicit orders for or the type of service the applicant wishes to sell or solicit orders for.

(3) A description of the vehicle which the applicant intends to use in carrying out his or her business or occupation.

(4) Name and address of the owner of the vehicle and a

copy of the registration.

(5) Copy of the applicant's driver's license or, if the applicant does not have a driver's license, the applicant's photo identification.

(6) County Health Department permit number, if a food vendor.

(7) Whether the applicant has ever been convicted of a crime and, if so, under what name, with a listing of such conviction, including crime jurisdiction, date and sentence imposed.

(8) A list of the streets and roads where the applicant intends to solicit or peddle and the dates and time of day the applicant intends to solicit or peddle.

B. The application shall be accompanied by three photographs of the applicant, two inches by two inches in size, taken within 30 days prior to the date of filing of the application, full face on a white background.

C. A fee in accordance with the Fee Schedule of the Village of Pomona, except that canvassers and veterans of the Armed forces of the United States who are licensed pursuant to General Business Law ~ 32 shall not be required to pay the application fee.

~ 103-6. Issuance or denial of permit; conditions of permit.

A. The Village Clerk-Treasurer and the appropriate Police Department shall investigate all applications.

B. The Village Clerk-Treasurer may deny any application for cause, after written notice, including but not limited to the following reasons:

(1) Fraud, misrepresentation or false statement in the application for the permit.

(2) Fraud, misrepresentation or false statement made

in the course of carrying out the applicant's trade, business or occupation.

(3) Any violation of this chapter.

(4) Conviction of a felony or a misdemeanor which, in the judgment of the Village Clerk-Treasurer or the Chief of Police, renders the applicant unfit or undesirable for door-to-door peddling or solicitation.

(5) Carrying out of the applicant's business, trade or occupation in an unlawful manner or in such a way as to breach the peace or to constitute a threat to the health, safety or welfare of the public.

C. The permit shall be in effect for the dates set forth in the application.

D. The permit shall be carried on the person of the permittee at all times while engaging in peddling or soliciting and shall be exhibited by the permittee to any person on demand. A picture of the permittee shall appear on the permit issued by the Clerk-Treasurer.

E. The permit shall not be transferable or assignable.

F. Any applicant who has had a permit denied or revoked by the Village Clerk-Treasurer may appeal to the Village Board of Trustees, in writing, within 30 days of the receipt of the denial or revocation. The Village Board of Trustees will thereafter hold a public hearing within 45 days after receipt of such appeal. The decision of the Board, together with findings of fact, shall be transmitted to the applicant within 30 days after the close of such hearing.

~ 103-7. Canvasser registration.

A. It shall be unlawful for any person to engage in the business of canvasser, as defined in this chapter, without having first registered with the Village Clerk-Treasurer upon forms provided by the Village. Such registration shall include, but not be limited to, the following information:

(1) The name, address and telephone number of the organization, firm, club, association, corporation or partnership.

(2) The name, address, telephone number, date of birth and social security number of the persons who will represent the organization by going door-to-door within the Village.

(3) Proof of registration with the Department of State Offices of Charities Registration and/or the Attorney General Charities Bureau.

(4) A copy of the literature to be distributed.

(5) The dates and times canvassing is to take place.

(6) The date and state of incorporation, together with a copy of the Articles of Incorporation.

B. The canvassing organization shall provide each canvasser with an identification card which shall include the canvasser's name and photograph, along with the name of the organization.

~ 103-8. Prohibited acts.

A. Peddlers and solicitors who have received permits from the Village and canvassers who have registered with the Village shall not:

(1) Enter upon private property for the purpose of soliciting, peddling or canvassing before the hour of 10:00 a.m. or after the hour of 8:00 p.m. except upon the express invitation of the householder or occupant of the property;

(2) Resort to deceptive acts or practices, physical or verbal abuse, threats, intimidation or harassment in the course of soliciting, peddling or canvassing;

(3) Peddle, solicit or canvass on private or public property which has displayed a sign bearing the words "No Peddling, Soliciting or Canvassing" or words of like intent, nor

shall any peddler, solicitor or canvasser remain on the premises after the owner or occupant thereof shall have requested that such peddler, solicitor or canvasser leave the premises;

(4) Create, erect or maintain any booth or stand or place any barrels, boxes, crates or other obstructions on any street, public place or private property for the selling or exposing for sale of any goods, wares or merchandise.

B. Such permit or registration shall include the right to use only one vehicle or conveyance in carrying out the business for which the permit or registration was issued.

C. Such permit or registration shall not be construed to supersede any applicable federal, state or local laws, rules or regulations.

~ 103-9. Revocation of permit.

Permits issued pursuant to this chapter may be revoked by the Village Clerk-Treasurer for cause, after written notice, including but not limited to the same reasons for denying an application as set forth in ~ 103-6 and 103-8. Upon revocation, the permittee may appeal the revocation to the Village Board of Trustees in accordance with ~ 103-6.

~ 103-10. Record keeping.

The Village Clerk-Treasurer shall keep an accurate record of all permits and registrations applied for, issued, denied and revoked pursuant to this chapter.

~ 103-11. Penalties for offenses.

A person who violates any provision of this chapter shall be guilty of a violation, punishable by a fine not to exceed \$500 and/or imprisonment not to exceed 15 days, except that a second or subsequent violation of any provision of this chapter during any twelve-month period shall be punishable by a fine not to exceed \$1,000 and/or imprisonment not to exceed 15 days. Each day on which any violation continues shall constitute a separate

offense.

Chapter 106

RECORDS, PUBLIC ACCESS TO

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

GENERAL REFERENCES

Fees -- See Ch. 67.

~ 106-1. Purpose and scope.

A. The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.

B. These regulations provide information concerning the procedures by which records may be obtained.

C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law,³⁵ as well as records otherwise available by law.

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

³⁵ Editor's Note: See Art. 6 of the Public Officers Law.

~ 106-2. Designation of records access officer; duties.

A. The Board of Trustees is responsible for ensuring compliance with the regulations herein and designates the following persons as records access officer: Village Clerk and Deputy Village Clerk.

B. The records access officer is responsible for ensuring appropriate agency response to public requests for access to records. The designation of the records access officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.

C. The records access officer shall ensure that personnel:

(1) Maintain an up-to-date subject matter list.

(2) Assist the requester in identifying requested records, if necessary.

(3) Upon locating the records, take one of the following actions:

(a) Make records available for inspection.

(b) Deny access to the records in whole or in part and explain in writing the reasons therefor.

(4) Upon request for copies of records, take one of the following actions:

(a) Make a copy available upon payment of or an offer to pay the established fees, if any, in accordance with ~ 106-8.

(b) Permit the requester to copy these records.

(5) Upon request, certify that a record is a true copy.

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

(a) The Village is not the custodian for such records; or

(b) The records of which the Village is a custodian cannot be found after diligent search.

~ 106-3. Location of records.

Records shall be available for public inspection and copying at the Village Clerk's office.

~ 106-4. Hours for public inspection.

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

~ 106-5. Requests for access to records.

A. A written request may be required, but oral requests may be accepted when records are readily available.

B. A response shall be given within five business days of receipt of any request reasonably describing the record or records sought.

C. A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.

D. If the records access officer does not provide or deny access to the record sought within five business days of receipt of a request, he or she shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records

is neither granted nor denied within 10 business days after the date of acknowledgment of receipt of a request, such failure may be construed as a denial of access that may be appealed.

~ 106-6. Subject matter list.

A. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in his or her possession, whether or not records are available pursuant to ~ 87, Subdivision 2, of the Public Officers Law.

B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.

C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

~ 106-7. Denial of access to records; appeals.

A. Denial of access to records shall be in writing, stating the reason therefor and advising the requester of the right to appeal to the body established to hear appeals.

B. If requested records are not provided promptly, as required in ~ 106-5D of this chapter, such failure shall also be deemed a denial of access.

C. The Mayor shall hear appeals for denial of access to records under the Freedom of Information Law.

D. The time for deciding an appeal by the person designated to hear appeals shall commence upon receipt of a written appeal identifying:

(1) The date of the appeal.

(2) The date and location of the request for records.

(3) The records to which the requester was denied access.

(4) Whether the denial of access was in writing or due to failure to provide records promptly as required by ~ 106-5D.

(5) The name and return address of the requester.

E. The person designated to hear appeals shall inform the requester of his decision in writing within 10 business days of receipt of an appeal.

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

~ 106-8. Fees. [Amended 10-27-2003 by L.L. No. 8-2003]

Fees for certification and/or copying of records shall be as set forth in the fee schedule adopted by the Board of Trustees.³⁶

~ 106-9. Public notice.

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

³⁶Editor's Note: The fee schedule is on file in the Village offices.

Chapter 108

SATELLITE ANTENNAS

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 1-23-1995 as L.L. No. 1-1995. Amendments noted where applicable.]

~ 108-1. Definitions.

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

ANTENNA -- Any type of antenna or device for receiving signals or transmissions from space or otherwise through the atmosphere, including a satellite television antenna.

SATELLITE TELEVISION ANTENNA -- An apparatus capable of receiving communications from a transmitter or transmitter relay located in planetary orbit.

USABLE SATELLITE SIGNAL -- A satellite signal which, when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or by way of cable television.

~ 108-2. Installation restrictions.

No person shall cause, suffer or permit the erection and/or maintenance of any exterior parabolic dish or other radio, television or satellite television antenna or device, the purpose of which is to receive television, radio and/or microwave or other electrical signals from space satellites or any other source except as set forth herein.

A. Any such exterior satellite television antenna or other type of antenna shall be placed within the property line setbacks as set out in the Zoning Code (Chapter 130). No more than one satellite television or any other type of antenna of a size greater than 36 inches in diameter if circular, or 114 inches in circumference if elliptical, shall be located on any lot. [Amended 7-28-2003 by L.L. No. 3-2003]

B. No satellite television antenna or other antenna of a size greater than 36 inches in diameter if circular, or 114 inches in circumference if elliptical, shall be located in any front yard. [Amended 7-28-2003 by L.L. No. 3-2003]

C. No installations shall be allowed over or upon an easement.

D. Satellite television antennas and other antennas shall be located, where possible, in an area which will most mitigate their observation from surrounding properties.

E. Satellite television antennas and other antennas may only be painted black, beige, grey, brown or dark green. The paint shall not be fluorescent or reflective. [Amended 7-28-2003 by L.L. No. 3-2003]

F. Freestanding satellite television antennas and other antennas shall not exceed 15 feet in height above ground level, nor shall any antenna exceed 10 feet in diameter. Any such antenna installed on a roof shall not exceed 10 feet in height above the roof apex. The height of a satellite television antenna shall be measured vertically to the highest point of the antenna when positioned in its most vertical position.

G. Where a satellite television antenna or other antenna is to be installed on a pitched roof, it shall, whenever possible, be installed on that side of the pitched roof not facing any public or private road. Where such antenna must, for reception or other purposes, be installed on a front, side or flat roof, it shall be installed on that portion of the roof which is least visible from any public or private road.

H. A freestanding satellite television or other antenna shall be screened on all sides visible to the public or adjoining property owners, when possible and practicable in light of the purchase and installation cost of the equipment. Said cost for screening shall not exceed 20% of the total cost to purchase and install such equipment. Said screening shall be accomplished through the use of architectural features, earth berms, landscaping or other screening which will harmonize with the

character of the property and surrounding area. No such screening shall be required if its effect is to significantly block or interfere with the reception of a usable satellite signal or other audio-visually transmitted signal.

I. Any antenna greater than three feet in diameter or greater than five feet in height shall be considered a structure as defined in ~ 130-4 of Chapter 130, Zoning, and shall require a building permit issued by the Building Inspector.

J. With roof-installed antennas of a size greater than 36 inches in diameter if circular, or 114 inches in circumference if elliptical, the Building Inspector shall make the determination as to whether any support system is appropriate and sufficient. [Amended 7-28-2003 by L.L. No. 3-2003]

~ 108-3. Building permit.

A. For those antennas requiring a building permit issued by the Building Inspector, the application for such building permit shall be accompanied by an initial application fee in an amount to be determined by the Village Board of Trustees, which fee is designed to reasonably offset the administrative costs of administering the provisions of this chapter. Completed applications for permits shall be signed by the property owner and submitted to the Building Inspector, with the requisite fee, for review.

B. All installations shall be accomplished under the permit in a good, workmanlike manner and shall be installed so as to assure no problems resulting from wind, electrical or other factors that will give rise to an unsafe condition.

C. In the event that a usable satellite television antenna signal or other type of antenna signal cannot be obtained by locating the antenna as provided for under the provisions of this chapter, and if the applicant can show proof that a usable signal can only be obtained in some other location on the property, then the Building Inspector may grant an applicant an adjustment in setback requirements or other dimensional requirement of up to 20% of the permitted distances.

~ 108-4. Appeals.

A. In the event that the aforesaid twenty-percent adjustment is still insufficient to adequately permit reception of a usable satellite television or other antenna signal, then the Building Inspector can refer the applicant to the Zoning Board of Appeals for purposes of seeking a variance from the requirement of this chapter. In that event, the Zoning Board of Appeals application fee shall be waived.

B. Where there are practical difficulties or unnecessary hardships in the matter of carrying out the strict letter of this chapter, the Zoning Board shall have the power to pass upon any application required herein to vary or modify any of the regulations or provisions contained herein so that the spirit of this chapter shall be observed and the public safety and welfare secured and substantial justice done. In no event is this chapter intended to conflict with existing regulations of the Federal Communications Commission.

Chapter 110

SEWERS

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 4-19-77 as L.L. No. 1-1977. Sections 110-1, 110-6, 110-7, 110-8, 110-20, 110-26, 110-27, 110-28, 110-30A(1) and (2), 110-33, 110-35, 110-42, 110-43, 110-44 and 110-46 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 47.

Sewage disposal in flood hazard areas -- See Ch. 79.

Street excavations -- See Ch. 115, Art. I.

ARTICLE I

Definitions

~ 110-1. Terms defined.

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

BOARD OF SEWER COMMISSIONERS -- The Board of Sewer Commissioners appointed by the Board of Trustees in accordance with ~ 3-308 of the Village Law and charged with administering the sewerage system of the Village of Pomona.

BOD (denoting "biochemical oxygen demand") -- The quantity of oxygen utilized in the biochemical oxidation of organic matter

under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

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

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

CODE ENFORCEMENT OFFICER -- The Code Enforcement Officer of the Village of Pomona.³⁷

DISCOLORATION -- An intensity of color in the untreated waste which is less than 80% luminance as determined by the spectrophotometric method defined by Standard Methods, and shall also mean such color as will, in combination with domestic wastes, not be susceptible to removal by secondary treatment methods used for domestic wastes.

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

HEALTH OFFICER -- The Health Officer or the person duly licensed by the Public Health Law, State of New York, or other applicable law, and performing the duties of Health Officer of this municipality.

INDUSTRIAL WASTE -- Any liquid, gaseous, solid or waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources, which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards adopted in the Public Health Law.

JOINT REGIONAL SEWERAGE BOARD -- The Board governing the Joint Sewerage Project.

MUNICIPALITY -- The Village of Pomona.

³⁷ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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

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

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

PRIVATE SEWAGE DISPOSAL SYSTEM -- Those septic tanks, cesspools, sewage disposal devices or subsurface drainage systems in connection with the foregoing serving or designed to serve residential, business or commercial structures and any establishment producing industrial wastes.

PROPERLY SHREDED GARBAGE -- The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than $\frac{1}{2}$ inch in any dimension.

PUBLIC SEWER -- A sewer which is owned or controlled by municipal or public authority.

SANITARY SEWAGE -- The liquid and intermixed solid wastes from homes or other structures, exclusive of industrial wastes or storm- and surface waters and drainage.

SANITARY SEWER -- A sewer which carries sanitary sewage and to which storm- , surface and ground waters are not intentionally admitted.

SEWAGE -- A combination of sanitary sewage and industrial waste, together with such ground- , surface and storm waters as may be present.

SEWAGE TREATMENT PLANT -- Any arrangement of devices and structures used for treating sewage.

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

SEWER -- A pipe or conduit for carrying sewage.

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

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

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

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

B. The term "shall" is mandatory; "may" is permissive.

ARTICLE II

Use of Public Sewers Required

~ 110-2. Dumping of sewage or wastes prohibited.

It shall be unlawful for any person to place, deposit or permit to be deposited on public or private property within the Village of Pomona or in any area under the jurisdiction of said municipality any sanitary sewage or industrial waste, except as provided in this chapter.

~ 110-3. Use of alternative facilities restricted.

It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage, except as hereinafter provided.

~ 110-4. Discharge into natural or man-made outlets restricted.

It shall be unlawful to discharge to any natural or man-made outlet any sewage or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

~ 110-5. All premises to be connected. [Amended 5-3-79 by L.L. No. 1-1979]

A. All buildings or premises located within the area serviced by a public sewer shall be connected to such public sewer. Those buildings or premises within such area serviced by a public sewer which have privy vaults, cesspools, septic tanks, private sewage systems or similar facilities must terminate such septic use or private sewage connection and connect to such public sewer within six months after being notified in writing that public sewer connection for such building and premises is available, except that any septic system in proper working order may continue to operate as long as it remains in proper working order; provided, however, that the sewer use charges as specified in Article V of this chapter and as reduced by the applicable amount charged by the Joint Regional Sewerage Board are paid in accordance with this chapter. As soon as such septic system fails to operate properly or begins to malfunction, then such septic system must be discontinued and the property connected to the public sewer system in accordance with the procedures outlined in this chapter.

B. Below-grade sewer users. The owners of all buildings or premises located within the area serviced by a public sewer, which buildings or premises are below the grade of the sewer line located for such premises, may elect as follows:

(1) To continue to use the septic system presently used by such building or premises, as long as the septic system operates properly. During this period the premises shall be exempt from all sewer use charges. In the event, however, that the septic system fails to operate properly or begins to malfunction, then the building or premises must be connected to the public sewer system and the premises shall be exempt from sewer charges for a period of five years from the date of the commencement of such services.

(2) To connect such building or premises to the public sewer, in which event the premises shall be exempt from sewer charges for a period of five years from the date of the commencement of such services.

C. The Board of Sewer Commissioners shall cause a notice to be published in the official newspaper of the Village requiring the owners or occupants of any and all property fronting or abutting on any street or portion thereof in or upon which any public sewer is about to be laid or is being laid or has been laid by the said Board to make and lay connection pipes to and from the sewer mains in said street or any portion thereof in front of each separate piece of property and, where directed by said Board, as in this section or in other sections of this chapter provided, within such time and in such manner and under such inspection as said Board shall prescribe; and whenever any such owner or occupant shall have defaulted in making such connection with said sewer mains opposite the lands and premises owned or occupied by him, as directed in and required by said printed notice therefor, in the manner and within the time specified, the said Board shall have power and authority to so make, extend and complete the same to the property line of the lands and premises so owned or occupied opposite thereto and in front thereof and to connect the same with any existing connecting pipes in front thereof. The actual expense thereof, including all labor done and materials used in doing and completing the same, shall be assessed by the Trustees of the Village upon each separate piece of property opposite which the same shall be done and completed, and shall be a lien and liens on said premises and lots of land respectively. The same shall be collected in the same manner as other local assessments or assessments for local improvements, as provided by the special Charter of the Village or the general Village laws of the state, as the case may be. When so collected, the amount thereof shall be paid into the Sewer Fund of the Village, except that any septic system in proper working order may continue to operate as long as it remains in proper working order. As soon as such septic system fails to operate properly or begins to malfunction, then such septic system must be discontinued and the property connected to the public sewer system in accordance with the procedures outlined in this chapter.

D. The Board of Sewer Commissioners shall also have authority to determine the manner and conditions under which said building sewers shall be installed and maintained and shall have authority to install and maintain said building sewers and to adopt such uniform service charges as it deems just for each building sewer so connected with the public sewer and extending to the street or right-of-way lines, regardless of the location of said public sewer within said street or right-of-way lines and regardless of the soil, rock or other physical conditions within said street or right-of-way lines. Notice shall be served pursuant to Subsection C hereinabove.

E. Such uniform service charge as the Board may adopt shall be any percentage of the cost up to but not exceeding the average actual cost of installing such building sewers as before described. Such percentage of the average actual cost of installing such building sewers as may not be charged shall be borne by the Village. Should the owner of property so connected default, the Board shall act in the manner prescribed in Subsection C hereinabove.

F. The said Board shall have authority to apply such percentage of the average actual cost of installing such building sewers as the Village may pay to such other building sewer connection for the same property or properties as in the judgment of the Board may be advisable.

~ 110-6. Disconnection and abandonment of old facilities.³⁸

When such public sewer connection is completed, existing sewage disposal facilities, including privy vaults, cesspools, septic tanks, private sewage systems or similar facilities, shall immediately be disconnected, filled in where required and made as safe as possible and abandoned, under the inspection and approval of the Code Enforcement Officer.

~ 110-7. Nonavailability of public sewer.³⁹

Where a public sewer system is not available, the building or premises may be connected to such private sewage disposal system complying with the provisions of this chapter and in accordance with the requirements of the Rockland County Health Department until such time as a public sewer system becomes available to such building and premises.

~ 110-8. Notice to connect.⁴⁰

Before proceeding to make any such connection, the Code Enforcement Officer or such other official or department of the municipality as may hereafter be designated by the municipality shall cause notice of such contemplated installation or connection to be given to the owner of any properties affected thereby. The notice shall contain a description of the property affected, sufficiently definite in terms to identify it, as well as a description of the required connection and notice that unless the connection shall be completed within 30 days after the service thereof, the municipality will proceed to make such connection or cause the same to be done pursuant to the authority

³⁸Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³⁹Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁴⁰Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

of ~ 110-5 hereinabove. The notice shall be served by certified mail.

~ 110-9. Record of costs.

When any such sewer connection shall be made by the municipality, a true and accurate account of the cost and expense shall be kept and apportioned to the property or the properties thereby connected with the sewers, and a true statement of such costs under oath shall be furnished by such official or department of the municipality as may hereafter be designated by the municipality and filed with the Village Clerk. The municipality shall examine the same and, if properly made, shall confirm it and file such statement with the Village Clerk of the municipality. The Village Clerk shall record the cost of the installation of the sewer connection in the same book in which he records other assessments.

~ 110-10. Charges a lien on property.

Every such sewer connection charge shall bear interest and penalties from the same time and at the same rate as assessments for local improvements in the municipality, and from the time of confirmation shall be a first and paramount lien against the respective property or properties so connected with the sewer to the same extent as assessments for local improvements and shall be collected and enforced in the same manner.

~ 110-11. Validity of charges.

No such charge for sewer connections shall be invalid by reason of any error or omission in stating the name of the owner or owners of properties affected by such sewer connections, nor for any other informality, where such property or real estate has actually been improved by such sewer connection.

~ 110-12. Grounds for waiving requirements.

A. The Board of Trustees of the Village of Pomona, by resolution duly adopted, after public hearing within 10 days' written notice to owners within 200 feet of the applicant's

property, may waive the provisions of this Article requiring connection with the sanitary sewer system upon the following grounds:

(1) Where said municipality finds evidence of substantial hardship because of unusual physical conditions; or

(2) Where it is found that the operation of the present septic tank system is adequate.

B. The said waiver shall be for a period to be determined by the Board, such period not to exceed three years.

~ 110-13. Regulations promulgated by Board of Sewer Commissioners.

All connections and operations of sewers provided for herein shall be made pursuant to such rules, regulations and standards as the Board of Sewer Commissioners shall promulgate, which shall be a public record in the office of the Village Clerk.

ARTICLE III

Private Sewage Disposal Systems

~ 110-14. When permitted.

Where a public sanitary sewer is not available under the provisions of Article II, ~ 110-5 hereinabove, or connection is waived pursuant to Article II, ~ 110-12 hereinabove, the building sewer shall be connected to a private sewage disposal system complying with the Public Health Law and Rockland County Sanitary Code, as well as the rules and regulations of the Board of Sewer Commissioners of the Village of Pomona.

~ 110-15. Type, capacity and location.

The type, capacities, location and layout of a private sewage disposal system shall comply with all requirements of the Department of Health of the State of New York and the Rockland County Sanitary Code, as well as the rules and regulations of the Board of Sewer Commissioners of the Village of Pomona.

~ 110-16. Abandonment.

At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Article II, ~ 110-5, a direct connection shall be made to the public sewer in compliance with this chapter, and the use of any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned within 30 days of the making of such connection. The private sewage disposal system shall be cleaned of sludge and filled with clean dirt or bank-run gravel.

~ 110-17. Responsibility for maintenance.

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

~ 110-18. Additional requirements.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the appropriate municipal agencies.

ARTICLE IV

Building Sewers and Connections

~ 110-19. Unauthorized tampering with sewer prohibited.

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

from the Board of Sewer Commissioners.

~ 110-20. Building sewer permits. [Amended 2-8-1988 by L.L. No. 1-1988; 10-27-2003 by L.L. No. 8-2003]

There shall be one class of building sewer permit for both residential and nonresidential service. The owner or his/her agent shall make application on forms provided by the Village. The permit application shall be supplemented by such plans, specifications, insurance requirements or other information required by the Village. A sewer permit and inspection fee in the amounts set forth in the fee schedule adopted by the Board of Trustees⁴¹ shall be paid at the time the application is filed.

~ 110-21. Installation costs.

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

~ 110-22. Independent building sewer required.

A separate and independent building sewer shall be provided for each dwelling, building and property referred to in Article II, ~ 110-5, and the building drain shall be connected thereto.

~ 110-23. Construction standards and specifications.

The building sewer shall be extra-heavy cast-iron soil pipe, United States Department of Commerce Commercial Standard Cs 188-59, Class 2400 asbestos-cement pipe, ASTM C428, or other recognized, similar suitable material approved by the Board of Sewer Commissioners. All standards or specifications shall be those current at the time of passage of this chapter. Joints shall be tight and waterproof. Pipe shall be uniformly bedded on a tamped granular material. The building sewer shall be installed

⁴¹Editor's Note: The fee schedule is on file in the Village offices.

in a separate trench not less than five feet horizontally from any underground water service pipe. Cast-iron pipe with leaded joints may be required by the Board of Sewer Commissioners where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground or at a depth providing less than a three-foot cover under driveways or roadways, the building sewer shall be of cast-iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the Board of Sewer Commissioners. The inside diameter of the building sewer shall in no event be less than five inches, and the slope of such five-inch pipe shall not be less than 1/4 inch per foot. Under special circumstances, larger pipe with lesser slopes which will provide a minimum velocity of two feet per second will be permitted only on approval of the Board of Sewer Commissioners. Pipe shall be laid as nearly as possible in a straight line. Approved cleanouts, set at an angle of 45°, shall be used at changes of grade or line and at fifty-foot intervals where the building sewer is over 100 feet long. Changes in direction shall be made only with properly curved pipe and fittings. The sewer shall not be laid within three feet of or parallel to any bearing wall, which might thereby be weakened.

~ 110-24. Elevation; sump pumps.

A. Whenever practicable, the building sewer for new construction shall be brought to the building at an elevation below the basement floor. In existing buildings where no plumbing facilities are provided in the basement, the building sewer may be above the cellar floor. The amount of earth cover shall be sufficient to afford protection from frost.

B. In all existing buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by a sump pump. This pump shall be a submersible, heavy-duty, nonclog type with a nonclog enclosed pump impeller. The pump shall be capable of passing two-and-one-half-inch spheres. A suction tripod shall be provided of sufficient height to provide proper suction entrance for the liquids and solids to be pumped. The pump casing, impeller and tripod shall be of cast iron. The motor shall be submersible, oil-filled, totally enclosed, ball-bearing type with adequate thrust capacity for the pump. It shall be equipped with a stainless steel shaft and an expansion diaphragm. Conduits and fittings shall be attached to the motors with watertight connection. Said pump and its installation shall be approved by the Board of Sewer Commissioners. An overflow, approved by the Board of Sewer Commissioners, shall be provided to permit temporary discharge to an approved subsurface disposal system in the event of pump failure. A standby pump may be required as determined by the Board of Sewer Commissioners.

C. The Board of Sewer Commissioners may adopt other and additional regulations not inconsistent with the standards set forth herein.

~ 110-25. Connections of downspouts or drains prohibited.

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

~ 110-26. Connection standards. [Amended 2-8-1988 by L.L. No. 1-1988]

The connection of the building sewer into the public sewer shall conform to the requirements of the Building Code or other applicable rules and regulations of the municipality and the Board of Sewer Commissioners and the Rockland County Plumbing Code. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Code Enforcement Officer before installation.

~ 110-27. Inspection. [Amended 2-8-1988 by L.L. No. 1-1988]

The applicant for the building sewer permit shall notify the Code Enforcement Officer when the building sewer is ready for inspection and connection to the public sewer and shall leave the entire sewer uncovered until such inspection is made and approval granted. The connection shall be made under the supervision of the Code Enforcement Officer, Village Engineer or other representative of the Board of Sewer Commissioners.

~ 110-28. Excavations; guarding and restoration of surface.⁴²

All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other

⁴² Editor's Note: Amended 2-8-1988 by L. L. No. 1-1988.

public property disturbed in the course of work shall be restored in a manner satisfactory to the Code Enforcement Officer. No person shall perform any of the work set forth in this chapter for any other person in the municipality unless he shall be a licensed plumber or other person approved by the Code Enforcement Officer. Such person shall first file an individual surety bond in the penal sum of \$5,000, payable to the municipality in such form and on such conditions as shall be approved by the Village Attorney of the Village of Pomona, for the faithful compliance with this chapter and all other local laws pertaining to the work.

~ 110-29. Sewer connection provided by municipality.

A sewer connection will be provided by the municipality between an existing fronting public sewer and the curb or right-of-way. The joint made between the sewer connection provided by the municipality and the building sewer provided by the owner shall be secure and watertight. Standard approved fittings with flexible joints shall be used for the connection. The building sewer for all buildings shall be connected to the public sewer at the curblineline or right-of-way.

ARTICLE V

Sewer Use Charges

~ 110-30. Charges established.

A. Sewer use charges are payable in advance of sewer connection. In new construction such sewer use charge must be paid at the time that application is made for a certificate of occupancy. All sewer use charges are on an annual basis, payable in advance on June 1 of each and every year, and shall be billed as a separate, itemized charge on the Village of Pomona tax bill and shall be payable with such Village of Pomona Village taxes in advance of the year for which such charges are levied. All initial sewer connections not previously paid for shall pay a proportionate sewer use charge.

(1) Sewer use charges for residential premises, as established in the Village fee schedule⁴³ are payable in advance on June 1 of each and every year. A proportionate charge times

⁴³Editor's Note: The fee schedule is on file in the Village offices.

the number of months remaining until the annual June 1 billing date shall be paid in advance for any connection made. [Amended 2-8-1988 by L.L. No. 1-1988; 10-27-2003 by L.L. No. 8-2003]

(2) Sewer use charges for premises other than residential, where permitted by the Village of Pomona and the Joint Regional Sewerage Board, shall be as established in the Village fee schedule, per building units of use as determined by the Joint Regional Sewerage Board. A proportionate charge times the number of building units times the number of months remaining until the annual June 1 billing date shall be paid in advance for any connection made. [Amended 2-8-1988 by L.L. No. 1-1988; 10-27-2003 by L.L. No. 8-2003]

B. All sewer use charges, except for the initial sewer use charges upon connection, must be paid by June 30 of each and every year. All payments after June 30 of each and every year shall carry a penalty of one-half of one percent ($\frac{1}{2}$ of 1%) per month or portion thereof until the sewer use charge is paid.

~ 110-31. Areas where charges not applicable. [Amended 9-18-79 by L.L. No. 2-1979]

The provisions of ~ 110-30 hereinabove are not applicable in the following areas:

A. Those areas of the Village of Pomona presently being serviced by public sewerage facilities under the jurisdiction of the Town of Haverstraw Sewer District No. 1. Such areas shall comply with the sewer charges levied by such Town of Haverstraw Sewer District No. 1, as well as all other requirements of such Town of Haverstraw Sewer District No. 1. [Amended 2-8-1988 by L.L. No. 1-1988]

B. All areas of the Village of Pomona located within the Town of Ramapo which are not serviced by public sewers and which were

previously determined as not being included within the areas to be serviced by public sewers.

ARTICLE VI

Sewer Use

~ 110-32. Prohibited discharges.

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

~ 110-33. Use of storm sewers.⁴⁴

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to an outlet approved by the Code Enforcement Officer or the Village Engineer.

~ 110-34. Enumeration of prohibited wastes.

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

A. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

B. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two milligrams per liter as CN in the wastes as discharged to the public sewers.

C. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

D. Solid or viscous substances in such quantities or of such size as to be capable of causing obstruction to the flow in

⁴⁴Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

sewers or other interference with the proper operation of the sewage works, such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

~ 110-35. Wastes subject to additional standards.⁴⁵

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

A. Any liquid or vapor having a temperature higher than 150° C.

B. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter, or containing substances which may solidify or become viscous at temperatures between thirty-two degrees and one hundred fifty degrees Fahrenheit (32° and 150° F.) [zero degrees and sixty-five degrees centigrade (0° and 65° C.)].

C. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.76 horsepower metric) or greater shall be subject to the review and approval of the Code Enforcement Officer or Village Engineer.

D. Any waters or wastes containing strong acid iron-pickling wastes or concentrated plating solutions, whether neutralized or not.

⁴⁵Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

E. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Board of Sewer Commissioners for such materials.

F. Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations as exceed the limits established by the Board of Sewer Commissioners as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.

G. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Board of Sewer Commissioners in compliance with applicable state or federal regulations.

H. Any waters or wastes having a pH in excess of 9.5.

I. Materials which exert or cause the following:

(1) Unusual concentrations of inert suspended solids, such as but not limited to fuller's earth, lime slurries and lime residues, or of dissolved solids, such as but not limited to sodium sulfate.

(2) Excessive discoloration, such as but not limited to dye wastes and vegetable tanning solutions.

(3) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of wastes constituting slugs, as defined herein.

J. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment process employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

~ 110-36. Pretreatment of certain wastes.

A. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in ~ 110-35 hereinabove and which may have a deleterious effect upon the sewage works process, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Board of Sewer Commissioners may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

(3) Require control over the quantities and rates of discharge; and/or

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

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

~ 110-37. Grease, oil and sand interceptors.

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

~ 110-38. Maintenance of treatment or flow-equalizing facilities.

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

~ 110-39. Control manhole; meters.

When required by the Village Engineer, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer, to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with the plans approved by the Village Engineer. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

~ 110-40. Measurements, tests and analyses.

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

~ 110-41. Special arrangements not precluded.

Nothing in this Article shall be construed as preventing any special agreement or arrangement between the Village of Pomona and any industrial concern whereby an industrial waste of unusual

strength or character may be accepted for treatment subject to payment therefor by the industrial concern in accordance with applicable provisions of law. Any such agreement shall be reviewed by the Joint Board and a report made prior to entering into such agreement. The Joint Board may initiate such an agreement for approval by the Village of Pomona.

ARTICLE VII

Protection From Damage

~ 110-42. Penalties for tampering with equipment.⁴⁶

No unauthorized person shall maliciously or with willful and wanton negligence break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provision shall be subject to the same penalties as imposed by Article IX, ~ 110-46 and 110-47.

ARTICLE VIII

Enforcement

~ 110-43. Right of entry.⁴⁷

The Village Engineer, Code Enforcement Officer and other duly authorized employees of the municipality, including agents of the Joint Regional Sewerage Board bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The Village Engineer or Code Enforcement Officer, or their representatives, shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries, beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

⁴⁶Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁴⁷Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

~ 110-44. Use of easements for inspection or repair.⁴⁸

The Village Engineer, Code Enforcement Officer, Village Attorney, Board of Sewer Commissioners and other duly authorized employees of the Village of Pomona, including agents of the Joint Regional Sewerage Board bearing proper credentials and identification, shall be permitted to enter all private properties through which the municipality holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

ARTICLE IX

Violations

~ 110-45. Written notice of violations.

Any person found to be violating any provision of this chapter, except Article VII, shall be served by the municipality with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

~ 110-46. Penalties for offenses.⁴⁹

Each and every person, partnership, firm or corporation violating any of the provisions of this chapter shall be punished as provided in ~ 1-12 of Chapter 1, General Provisions. Each day that a violation is permitted to exist shall constitute a separate offense.

⁴⁸Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁴⁹Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

~ 110-47. Liability for damages.

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

~ 110-48. Other remedies.

Nothing herein shall prevent the use of any other remedy available, including a civil action, equitable action or injunction, as provided for in the Public Health Law of New York, Rockland County Sanitary Code or other applicable provision of law.

Chapter 112

SIGNS ON PUBLIC PROPERTY

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 11-22-2004 by L.L. No. 8-2004. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks -- See Ch. 115.

Zoning -- See Ch. 130.

~ 112-1. Findings.

The Board of Trustees hereby determines that the uncontrolled posting or display of signs on public roads and highways has the potential for creating safety hazards in that such signs may obstruct traffic and create visual obstructions for drivers and pedestrians, and that such posting or display on any public property may interfere with the public's use of such property and generally is aesthetically offensive.

~ 112-2. Definitions; word usage.

For the purpose of this chapter, the following terms, phrases, words and their derivatives shall have the meaning given herein. The word "shall" is always mandatory and not merely directory.

PERSON -- Any individual, firm, partnership, association, corporation, company or organization of any kind.

POLITICAL SIGN -- Any sign or advertisement, the import of which asks or suggests that the viewer vote for or against, or any sign which announces, a candidate seeking any political or elective office, or the import of which asks or suggests that the viewer vote for or against, or announces, a ballot issue.

PUBLIC PROPERTY -- All publicly owned property, including but not limited to highways, streets, roads, sidewalks, rights-of-way, easements, public grounds and buildings and parks, including any trees, hydrants, street lamps, or traffic signs situated on said property, and anything affixed thereto or thereover.

SIGN -- Any bill, poster, placard, announcement, handbill, flyer, painting, drawing, structure or other similar configuration or object in any form whatsoever, or any part thereof, which contains printed or written matter in words, symbols or pictures, or in any combinations thereof.

TEMPORARY SIGN -- A sign erected for a relatively short period of time, which period shall be terminated by the work or event to which it refers. Except for political signs, no sign erected for more than 15 days shall be deemed temporary.

~ 112-3. Signs on public property prohibited.

Except as provided in ~ 112-4 below, it shall be unlawful for any person to construct, install, deposit, maintain, place, leave, post or display any sign on, over or into any public property within the Village of Pomona.

~ 112-4. Exceptions.

A. A temporary sign may be installed a minimum of five feet away from the edge of pavement of a street or road within the Village of Pomona, except that no sign shall be installed at any intersection, nor for a distance of less than 10 feet from the edge of pavement in any direction from any intersection.

B. Any sign posted or erected pursuant to and in discharge of any governmental function or required by any law or governmental regulation shall be permitted to be posted on public property.

~ 112-5. Removal by Village official.

The Code Enforcement Officer or any other Village officer or employee authorized to enforce the Village Code shall have authority to remove from public property any sign that is in violation of any of the provisions of this chapter.

~ 112-6. Penalties for offenses.

Any person who shall violate any provision of this chapter shall be guilty of a violation. Each and every violation of this chapter shall be punishable by a fine not to exceed \$500. Each day's continued violation shall constitute a separate violation.

~ 112-7. Severability.

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

Chapter 114

STORMWATER MANAGEMENT

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

GENERAL REFERENCES

Flood damage prevention -- See Ch. 79.

Sewers -- See Ch. 110.

Subdivision of land -- See Ch. 118.

ARTICLE I

Illicit Discharges

[Adopted 3-27-2006 by L.L. No. 1-2006]

~ 114-1. Purpose and intent.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Village of Pomona through the regulation of nonstormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and New York State law. This article establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES general permit for municipal separate storm sewer systems. The objectives of this article are:

A. To meet the requirements of the SPDES general permit for stormwater discharges from MS4s, Permit No. GP-02-02 or as amended or revised;

B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;

C. To prohibit illicit connections, activities and discharges to the MS4;

D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article; and

E. To promote public awareness of the hazards involved in the improper storage and/or discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment, snow and ice control materials, and other pollutants into the MS4.

~ 114-2. Definitions.

Whenever used in this article, unless a different meaning is stated in a definition applicable to only a portion of this article, the following terms will have meanings set forth below:

BMPs (best management practices) -- Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT -- The Federal Water Pollution Control Act (33 U.S.C. ~ 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY -- Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised and any land disturbance requiring a municipal, New York State, or federal permit. These activities include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DISCHARGER -- Any person who owns or is in control of real or personal property that discharges, directly or indirectly, any material into the MS4.

HAZARDOUS MATERIALS -- Any material, including any substance, waste or combination thereof, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLICIT CONNECTIONS -- Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:

A. Any conveyances which allow any nonstormwater discharge, including treated or untreated sewage, process wastewater, and wash water, to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE -- Any direct or indirect nonstormwater discharge to the MS4, except as exempted in ~ 114-5 of this article.

INDIVIDUAL SEWAGE TREATMENT SYSTEM -- A facility, including septs, cesspools and similar facilities serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

INDUSTRIAL ACTIVITY -- Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

MS4 -- Municipal separate stormwater sewer system.

MUNICIPALITY -- The Village of Pomona.

MUNICIPAL SEPARATE STORMWATER SEWER SYSTEM -- A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- A. Owned or operated by the Village of Pomona;
- B. Designed or used for collecting or conveying stormwater;
- C. Which is not a combined sewer; and
- D. Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2

NONSTORMWATER DISCHARGE -- Any discharge to the MS4 that is not composed entirely of stormwater. This includes any pollutants, as well as but not limited to trash, yard waste, or pet waste.

NYSDEC -- The New York State Department of Environmental Conservation.

PERSON -- Any individual, association, organization, partnership, firm, corporation or other entity owning the property or having control of the property.

POLLUTANT -- Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil and industrial, municipal and agricultural waste and ballast discharged into water or any substance which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.

PROPERTY -- Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips and all chattel.

SMO (Stormwater Management Officer) -- An employee, the Municipal Engineer or other public official(s) designated by the

Village of Pomona to enforce this article. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices and designate certain responsibilities pursuant to this article to other employees or agents of the municipality.

SPDES (State Pollutant Discharge Elimination System)
GENERAL PERMIT FOR STORMWATER DISCHARGES FROM CONSTRUCTION
ACTIVITY GP-02-01 -- A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES (State Pollutant Discharge Elimination System)
GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE
STORMWATER SEWER SYSTEMS GP-02-02 -- A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to operators of small municipal separate stormwater sewer systems (MS4s) to authorize them to discharge to waters of the United States in accordance with the conditions and requirements set forth within the Permit GP-02-02.

SPDES (State Pollutant Discharge Elimination System)
STORMWATER DISCHARGE PERMIT -- A permit issued by the NYSDEC that authorizes the discharge of pollutants to waters of the state.

SPECIAL CONDITIONS --

A. DISCHARGE COMPLIANCE WITH WATER QUALITY STANDARDS
-- The condition that applies where a municipality has been notified by NYSDEC that the discharge of stormwater authorized under its MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure that future discharges do not cause or contribute to a violation of water quality standards.

B. LISTED WATERS -- The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.

C. TMDL (total maximum daily load) STRATEGY -- The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4

discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

D. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges -- Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STORMWATER -- Rainwater, snowmelt, drainage and uncontaminated groundwater.

303(d) LIST -- A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by NYSDEC as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TMDL -- Total maximum daily load.

TOTAL MAXIMUM DAILY LOAD -- The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

WASTEWATER -- Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

~ 114-3. Responsibility for administration.

The Stormwater Management Officer(s) [SMO(s)] shall administer, implement, and enforce the provisions of this article.

~ 114-4. Severability.

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

~ 114-5. Discharge prohibitions.

A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in ~ 114-5A(1). The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this article, unless the NYSDEC or the municipality has determined them to be contributors of pollutants which could negatively impact water quality: water line flushing or other potable water sources; landscape irrigation or lawn watering; existing diverted stream flows; rising groundwater; groundwater infiltration to storm drains; pumped groundwater, foundation or footing drains; crawl space or basement sump pumps; air-conditioning condensate; irrigation water; springs; water from individual residential car washing; natural riparian habitat or wetland flows; dechlorinated/debrominated swimming pool, spa and pond discharges; residential street, driveway, home or deck wash water; water from fire-fighting activities; and any other water source not containing pollutants. Such exempt discharges shall be allowed only if uncontaminated.

(2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this article.

(3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a written notification to the SMO prior to the time of the test.

(4) Any discharge permitted under a SPDES permit,

waiver, or waste discharge order issued to the discharger and administered under the authority of the NYSDEC, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4. The discharger shall be required to file a copy of said written approval with the MS4 prior to the discharge.

B. Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of any illicit connections to the MS4 is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

~ 114-6. Prohibition against failing individual sewage treatment systems.

No persons shall operate a failing individual sewage treatment system in areas tributary to the municipality's MS4. A failing individual sewage treatment system is a system which has one or more of the following conditions:

- A. The backup of sewage into a structure.
- B. Discharges of treated or untreated sewage onto the ground surface.
- C. A connection or connections to a separate stormwater sewer system.
- D. Liquid level in the septic tank above the outlet invert.
- E. Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.

F. Contamination of off-site groundwater that can reasonably be attributed to the individual sewage treatment system.

~ 114-7. Prohibition against activities contaminating stormwater.

A. Activities that are subject to the requirements of this section are those types of activities that:

(1) Cause or contribute to a violation of this article.

(2) Cause or contribute to the municipality being subject to the special conditions as defined in ~ 114-2, Definitions, of this article.

B. Such activities include failing individual sewage treatment systems as defined in ~ 114-6, improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

C. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

~ 114-8. Prevention, control and reduction of stormwater pollutants by use of best management practices.

A. Best management practices. Where the SMO has identified illicit discharges, as defined in ~ 114-2, or activities contaminating stormwater as defined in ~ 114-7, the municipality may require implementation of best management practices (BMPs) to control those illicit discharges and activities.

(1) The owner or operator of a commercial or industrial establishment shall provide, at his/her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs and shall keep and maintain records and logs of the inspection and maintenance of the BMPs

and make them available for inspection by the MS4 for a period of three years.

(2) Any person responsible for a property which is, or may be, the source of an illicit discharge or an activity contaminating stormwater, as defined in ~ 114-7, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4, including the record-keeping requirements described in ~ 114-8A(1).

(3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

B. Individual sewage treatment systems; response to special conditions requiring no increase of pollutants or requiring a reduction of pollutants. Where individual sewage treatment systems are contributing to the municipality's being subject to the special conditions as defined in ~ 114-2 of this article, the owner or operator of such individual sewage treatment systems shall be required to:

(1) Maintain and operate individual sewage treatment systems as follows:

(a) Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within 10 inches of the bottom of the outlet baffle or sanitary tee;

(b) Avoid the use of septic tank additives;

(c) Avoid the disposal of excessive quantities of detergents, kitchen wastes (including oil and grease), laundry wastes, and household chemicals; and

(d) Prohibit the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items.

(e) Most tanks should be pumped out every two to three years. However, pumping may be more or less frequent depending on use. Inspection of the tank for cracks, leaks and

blockages should be done by the septage hauler at the time of pumping of the tank contents.

(2) Repair or replace individual sewage treatment systems as follows:

(a) In accordance with 10 NYCRR Appendix 75A and Article IV of the Rockland County Sanitary Code.

(b) A professional engineer licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:

[1] Relocating or extending an absorption area to a location not previously approved for such.

[2] Installation of a new subsurface treatment system at the same location.

[3] Use of alternate system or innovative system design or technology.

(c) A written certificate of compliance shall be submitted by the design professional to the municipality at the completion of construction of the repair or replacement system. A written certificate of approval shall be issued by the Rockland County Health Department after inspection of the construction of the repair or replacement system.

~ 114-9. Suspension of access to MS4; illicit discharges in emergency situations.

A. If it is necessary for the SMO to take action, the SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter, in writing, of the reasons for the suspension. If the person fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons. All costs and expenses incurred by the SMO to remedy the situation, including proper disposal, shall be assessed to the owner of the property. If the

property owner fails to pay same, it may become a lien against the property, subject to a hearing a minimum of 10 days prior to the imposition of the tax lien.

B. Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this article may have his/her MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify such person, in writing, of the proposed termination of its MS4 access and the reasons therefor. The person may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the person has taken steps to prevent its recurrence. Access may be denied if the SMO determines, in writing, that the illicit discharge has not ceased or is likely to recur. A person commits a violation if the person reinstates MS4 access to property terminated pursuant to this section, without the prior approval of the SMO.

~ 114-10. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit shall be required by the municipality in a form acceptable to the NYSDEC prior to the allowing of discharges to the MS4.

~ 114-11. Access to properties; monitoring of discharges.

A. The SMO or his/her designee shall be permitted to enter and inspect all properties subject to regulation under this article as often as may be necessary to determine compliance with this article. If a person has security measures in force that require proper identification and clearance before entry into his/her premises, the person shall make the necessary arrangements to allow access to the SMO.

B. All persons shall allow the SMO ready access to all parts of the property for the purposes of inspection, sampling, examination and copying of records as may be required to implement this article.

C. The municipality shall have the right to set up on any property subject to this article such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the property's stormwater discharge.

D. The municipality has the right to require the properties subject to this article to install monitoring equipment as is reasonably necessary to determine compliance with this article. The property's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the person at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

E. Unreasonable delays in allowing the municipality access to a property subject to this article is a violation of this article. A person who is the operator of a property subject to this article commits an offense if the person denies the municipality reasonable access to the property for the purpose of conducting any activity authorized or required by this article.

F. If the SMO has been refused access to any part of the property from which stormwater is discharged and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

~ 114-12. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a property or operation, or responsible for emergency response for a property or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies, the municipality, and the responsible MS4 of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the municipality and responsible MS4 in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

~ 114-13. Enforcement; penalties for offenses.

A. Notice of violation. When the municipality's SMO finds that a person has violated a prohibition or failed to meet a requirement of this article, the SMO may order compliance by written notice of violation by certified mail and/or posting of the property to the responsible person. Such notice may require, without limitation:

(1) The elimination of illicit connections or discharges;

(2) That violating discharges, practices, or operations shall cease and desist;

(3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(4) The performance of monitoring, analyses, and reporting;

(5) Payment of a fine and reimbursement of any costs and/or expenses incurred by the municipality relating to the violation; and

(6) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(7) The municipality shall also have the right to issue an appearance ticket for said violation.

B. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine not exceeding \$1,000 or imprisonment for a period not to exceed 15 days, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$1,000 nor more than \$2,500 or imprisonment for a

period not to exceed 15 days, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$2,500 nor more than \$5,000 or imprisonment for a period not to exceed 15 days, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed offenses. Each week's continued violation shall constitute a separate additional offense.

~ 114-14. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the SMO to the Village Board of Trustees within 15 days of its issuance, which Board shall hear the appeal within 30 days after the filing of the appeal and, within five days of making its decision, file its decision in the office of the Municipal Clerk and mail a copy of its decision by certified mail to said person.

~ 114-15. Corrective measures after appeal.

A. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within five business days of the decision of the municipal authority upholding the decision of the SMO, then the SMO may request the person's permission for access to the subject property to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the person.

B. If refused access to the subject property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the person.

~ 114-16. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of

this article, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

~ 114-17. Alternative remedies.

A. Where a person has violated a provision of this article, he/she may be eligible for alternative remedies in lieu of a penalty, upon recommendation of the Village of Pomona's Attorney and concurrence of the SMO, where:

- (1) The violation was unintentional.
- (2) The discharger has no history of previous violations of this article.
- (3) Environmental damage was minimal.
- (4) The discharger acted quickly to remedy the violation.
- (5) The discharger cooperated in investigation and resolution.

B. Alternative remedies may consist of one or more of the following:

- (1) Attendance at compliance workshops.
- (2) Storm drain stenciling or storm drain marking.
- (3) River, stream or creek cleanup activities.

~ 114-18. Violations deemed public nuisance.

In addition to the enforcement processes and penalties

provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare and is declared and deemed a nuisance and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

~ 114-19. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Chapter 115

STREETS AND SIDEWALKS

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

GENERAL REFERENCES

Transportation of explosives -- See Ch. 65.

Littering -- See Ch. 91.

Streets in subdivisions -- See Ch. 118.

Vehicle and traffic regulations -- See Ch. 124.

Street specifications -- See Ch. A134.

ARTICLE I

Excavations and Openings

[Adopted 10-16-1979 as L.L. No. 4-1979]

~ 115-1. Permit required.

It shall be unlawful for any person, corporation or public service corporation to open or cause to be opened, by cutting or digging the surface or soil in, any street, highway or public ground in the Village of Pomona for any purpose whatsoever without first securing a street opening permit from the Village Engineer and paying the fees prescribed herein below or without complying with the provisions of this article.

~ 115-2. Application for permit.

Any person seeking to cut, dig or open the surface or soil in any street, highway or public ground in the Village for any purpose must complete a street opening permit application, which shall include detailed plans and specifications indicating the location, purpose and extent of such street opening. Such application must be filed with the Village Engineer.

~ 115-3. Fee and bond requirements. [Amended 2-8-1988 by L.L. No. 1-1988; 10-27-2003 by L.L. No. 8-2003]

The fee for a street opening permit shall be as set forth in the fee schedule adopted by the Board of Trustees.⁵⁰ In addition, a cash bond in the amount set forth in said fee schedule shall be deposited at the time the application is filed, to cover any damage to Village streets or property and to guarantee restoration of the street opening in accordance with Village requirements.

~ 115-4. Issuance of permits.

Street opening permits shall be issued by the Village Engineer of the Village of Pomona, after completion and filing of the application and the payment of all fees, when in his estimation the Village has sufficient information concerning the purpose and approved procedure for the street opening. The permit so issued will be numbered and must be conspicuously displayed at the site of the street opening. After the completion of the street opening, the original permit shall be returned to the Village Engineer before any deposit is released.

~ 115-5. Restoration of surface.

All openings shall be carefully backfilled, tamped, puddled and paved by the applicant after notification to the Village Engineer and after giving such Village Engineer the opportunity to inspect the restoration work. The Village Engineer shall indicate on the permit that he has inspected the restoration work. The deposit will be retained by the Village until the frost has left the ground in the spring following the winter after the restoration has been completed. Any further repairs which may be necessary due to settlement, frost or spring thawing must be done by the applicant. If such work is not done by the applicant, the Village will do such necessary work and use the deposit to pay for labor

⁵⁰ Editor's Note: The fee schedule is on file in the Village offices.

and material required to correct the restoration. Any balance remaining will be returned to the applicant. If the restoration work done by the Village exceeds the deposit, the applicant will be required to make up the balance.

~ 115-6. Emergency street openings.

In the event of an emergency because of pipe breakage, street cave-in or pipe blockage where immediate attention is required, street openings may be made by calling the Village Clerk or the Village Engineer and notifying either of them of such emergency. A street opening permit, however, must be obtained as soon as practicable and in no case more than 24 hours from the time of such emergency street opening.

ARTICLE II

Public Improvements Charges

[Adopted 4-25-1994 as L.L. 2-1994]

~ 115-7. Charge established for lots in incomplete subdivisions.

Each lot in an incomplete subdivision in the Village of Pomona which benefits by the expenditure of Village funds used to complete public improvements on streets or roads on which such lots front or which such lots abut, and for which the completion of public improvements had been assured by a letter of credit which became or becomes worthless by reason of the failure of the issuing bank, or which is dishonored by any government agency which succeeds to or takes over such failed bank, shall be subjected to a charge equal to the proportional share of such Village expenditures attributable to such lot.

~ 115-8. Determination of charge.

The proportional share attributed to each such lot shall be determined by dividing the total expenditure of Village funds for such purpose by the number of lots directly benefitted by such expenditure. A directly benefitted lot shall be a lot which fronts on or abuts a private subdivision street or road for which public improvements were completed by Village of Pomona funds because of the inefficiency of a letter or letters of credit issued by a failed bank.

~ 115-9. Payment required prior to issuance of permits or certificates.

A directly benefitted lot, as defined in this Article, shall not be eligible for the issuance of a building permit or a certificate of occupancy until the proportional share of such Village expenditures attributable to such lot shall have been paid.

~ 115-10. Application for waiver.

The owner of a benefitted lot may apply to the Board of Trustees of the Village of Pomona for a waiver of the provisions of this Article. The Board of Trustees may grant a waiver if it finds that the strict enforcement of this Article will work a hardship or result in a basic unfairness. The Board of Trustees shall grant such a waiver if it finds that, at the time that a building permit or certificate of occupancy was granted on a benefitted lot which is actually occupied as a residence, there was in effect and on file with the Village Clerk a valid letter of credit or other security assuring the completion of public improvements on the lot which is the subject of the application for waiver.

~ 115-11. Applicability.

This Article shall apply to all Village expenditures to complete public improvements in residential subdivisions made since January 1, 1993.

Chapter 118

SUBDIVISION OF LAND

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 1-18-1969; amended in its entirety 2-8-1988 by L.L. No. 1-1988. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

- Planning Board – See Ch. 25.
- Building construction – See Ch. 47.
- Electrical standards – See Ch. 61.
- Fees – See Ch. 67.
- Flood damage prevention – See Ch. 79.
- Sewers – See Ch. 110.
- Streets and sidewalks – See Ch. 115.
- Zoning – See Ch. 130.
- Street specifications – See Ch. A134.

ARTICLE I

General Provisions

§ 118-1. Authority of Planning Board to approve plats.

Pursuant to the provisions of § 7-728 of the Village Law, the Board of Trustees authorizes the Planning Board to review and approve or disapprove subdivision plats showing lots, blocks or sites, with or without roads, within the area of the Village.

§ 118-2. Compliance required. [Amended 4-23-2007 by L.L. No. 5-2007]

- A. Land within the Village of Pomona may be subdivided into lots, blocks or sites, with or without streets or highways, only if approved by the Planning Board in accordance with the procedures and requirements as set forth in this chapter and only if the approved plat is filed in the office of the County Clerk, County of Rockland. Construction, excavation, filling, regrading, clearing of vegetation or other similar activities related to a proposed subdivision shall not be commenced until a subdivision shall have been approved by the Planning Board and filed with the County Clerk.
- B. In addition to the requirements of this chapter, every application for subdivision approval shall be in compliance with all other requirements of the Village Code, including but not limited to the provisions of Chapter 126 of this Code.

§ 118-3. Resubdivision.

A resubdivision, as defined herein, is subject to the same procedure, rules and regulations as are applicable to a subdivision.

§ 118-4. Policy; general requirements. [Amended 2-28-1994 by L.L. No. 1-1994]

It is declared to be the policy of the Village to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the Village. Land to be subdivided shall be of such character that it can be used safely for building or development purposes without danger to health or peril from fire, flood or other menace and without resulting in significant damage to the ecology of the area in which it is located. Proper provision shall be made for drainage, water, sewerage, electric, telephone, gas and other needed improvements. The proposed streets shall compose a convenient and safe system and shall be properly related to potential streets on adjoining properties. Streets shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air and to facilitate fire and police protection. Where the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Village, it can require that the same be shown by the developer on the subdivision plat. The Planning Board shall require access to undeveloped lands when possible.

§ 118-5. Building permits.

No permit shall be issued for the erection of any building within a proposed subdivision until said subdivision has been duly approved by the Planning Board and filed in the office of the County Clerk.

§ 118-6. Modification of regulations.

Where the Planning Board finds that, because of the special circumstances of a particular case, extraordinary hardship may result from strict compliance with these regulations, it may modify the regulations so that substantial justice may be done and the public interest secured; provided, however, that any such modification will be consistent with the spirit and intent of these regulations and all Village laws. In permitting any such modification, the Planning Board shall attach such conditions as are, in its judgment, necessary to secure substantially the objectives of the standard or requirement so modified.

§ 118-7. Amendments.

- A. These regulations may be amended by the Planning Board, after public hearing and subject to the approval of the Board of Trustees. Notice of the time, place and purpose of such hearing shall be given by publication in the official Village newspaper at least five days prior to the date on which it is to be held. A copy of the proposed amendment shall be placed on file in the office of the Village Clerk, where it shall be available for public inspection during normal working hours for at least five days before such hearing.
- B. Applicability. Amendments adopted by the Planning Board shall take effect on the date of approval by the Board of Trustees or at such time as provided in the local law approving and adopting such amendments.

§ 118-8. Adoption of regulations.

In order that land may be subdivided in accordance with the authority, jurisdiction and policy as set forth above, these regulations are hereby adopted.

ARTICLE II

Definitions

§ 118-9. Terms defined.

For the purpose of these regulations, certain words and terms used herein are defined as follows (except where specifically defined herein, all words and terms shall carry their customary meaning):

BOARD OF TRUSTEES – The Board of Trustees of the Village of Pomona, New York.

BOULEVARD[Added 2-22-1999 by L.L. No. 3-1999] – Two roads or streets so situated that they are separated only by an land area or median:

- A. Having a substantially constant width for the length of the two roads or streets which it separates; and
- B. Which is insufficient to satisfy the bulk requirements of this Code for a building lot.

BUILDING LOT – Any lot upon which a principal building can be constructed in conformance with the requirements of the Zoning Law.⁵¹

CALIPER – The diameter of a tree trunk, generally measured in inches, at a height of three feet above ground level.

CODE ENFORCEMENT OFFICER – The Code Enforcement Officer of the Village of Pomona or his duly authorized representative.

CONSTRUCTION PLANS – The maps and engineering drawings, described in §§ 118-29 and 118-31 of this chapter, accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with these regulations.

EASEMENT – Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

ENGINEER or LICENSED PROFESSIONAL ENGINEER – A person licensed as a professional engineer by the State of New York.

LOT – A parcel of land not divided by streets.

MAJOR SUBDIVISION – Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of four or more lots, or any size subdivision requiring any new street or extension of municipal facilities.

MASTER OR COMPREHENSIVE PLAN – A comprehensive plan, prepared by the Planning Board pursuant to § 7-722 of the Village Law, which indicates the general locations recommended for various functional classes of public works, places and

⁵¹ . Editor's Note: See Ch. 130, Zoning.

structures and the general physical development of the Village, and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

MINOR SUBDIVISION – Any subdivision containing not more than three lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Master Plan, Official Map, Zoning Law or these regulations.

OFFICIAL MAP – The map established by the Board of Trustees pursuant to § 7-724 of the Village Law, showing streets, highways, parks and drainage, both existing and proposed.

PLANNING BOARD OR BOARD – The Planning Board of the Village of Pomona.

PLAT – A drawing, in final form, as described in § 118-30 of this chapter, showing a proposed subdivision and containing all of the information required by these or other applicable regulations and certified by a licensed land surveyor or registered engineer.

PRELIMINARY PLAT – A drawing or drawings, clearly marked "preliminary plat," showing the salient features of a proposed subdivision, submitted to the Planning Board for purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

PROTECTED TREE – Any tree of historical value as determined by resolution of the Board of Trustees or any tree having a circumference of 45 inches or more measured at a height of 4 1/2 feet above existing ground level at the base of the tree on the uphill side. [Added 9-7-2004 by L.L. No. 4-2004]

RESUBDIVISION – Any change of existing property lines or of property lines shown on a plat approved by the Planning Board and filed in the office of the County Clerk.⁵²

STREET – An existing state, county, town or Village road or highway or a street shown upon a plat approved by the Planning Board of the Village of Pomona.

STREET, COLLECTOR – A street which serves or is designed to serve primarily the function of carrying traffic from minor streets to major streets.

STREET, DEAD-END or CUL-DE-SAC – A street or a portion of a street with only one vehicular traffic outlet.

STREET, LOCAL – A street which serves or is designed to serve primarily as an access to abutting residential properties.

STREET PAVEMENT – The wearing or exposed surface of the street right-of-way designed to be used by vehicular traffic.

STREET RIGHT-OF-WAY WIDTH – The distance between property lines measured at

⁵². Editor's Note: The definition of "sketch plan," which immediately followed this definition, was repealed 2-28-1994 by L.L. No. 1-1994.

right angles to the center line of the street.

SUBDIVIDER – Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof, as defined herein, either for himself or others.

SUBDIVISION – The division of any parcel of land, regardless of use, into two or more lots, plots, blocks, sites or parcels, with or without the creation of new streets, for the purpose, whether immediate or future, of transfer of ownership or building development, and shall include resubdivision as defined herein.

SUBDIVISION PLAT or FINAL PLAT – A drawing, in final form, showing a proposed subdivision and containing all information or detail required by law and by these regulations, to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.

SURVEYOR – A person licensed as a land surveyor by the State of New York.

VILLAGE CONSTRUCTION STANDARDS AND SPECIFICATIONS – The standards and specifications adopted by the Board of Trustees for the construction of streets and related subdivision improvements, and all amendments thereto.⁵³

VILLAGE ENGINEER – The duly designated Engineer of the Village of Pomona.

ZONING LAW – The Zoning Law of the Village of Pomona, New York, and all amendments thereto.⁵⁴

ARTICLE III

Application Procedure

§ 118-10. Steps outlined; time periods. [Amended 2-28-1994 by L.L. No. 1-1994]

- A. Whenever any subdivision of land is proposed and before any contract for the sale is carried out or title to any part thereof is transferred, the subdividing owner or his duly authorized agent shall proceed to secure approval of the proposed subdivision in accordance with the following steps:
- (1) Preparation of preliminary plat.
 - (2) Preparation of final plat.
- B. The time within which public hearings are required to be held by the Planning Board shall be calculated from the date of completion of procedures required, if any, by the New York State Environmental Quality Review Act (SEQRA).⁵⁵

⁵³ . Editor's Note: See Ch. A134, Street Specifications.

⁵⁴ . Editor's Note: See Ch. 130, Zoning.

⁵⁵ . Editor's Note: See Article 8 of the Environmental Conservation Law.

§ 118-11. Preliminary plat. ⁵⁶ [Amended 2-28-1994 by L.L. No. 1-1994]

- A. Application. Prior to requesting approval of a proposed final plat, the applicant shall file an application for approval of a preliminary plat on forms available from the Planning Board. Said application shall:
- (1) Be accompanied by an application fee, payable to the Village of Pomona, in the amount shown in the fee schedule as adopted by the Board of Trustees. Every subsequent submission of a new preliminary plat will be considered a new application and shall be accompanied by a new fee.
 - (2) Include all land which the applicant proposes to subdivide and all land immediately adjacent extending 100 feet therefrom or of that directly opposite thereto extending 100 feet from the street frontage of such opposite land, with the names of owners as shown in the Village Clerk's office. Where the Planning Board determines the need, a larger portion of adjacent lands may be required to be shown.
 - (3) Be accompanied by a minimum of 12 copies of the preliminary plat as described in § 118-28 of this chapter.
 - (4) Be accompanied by a minimum of four copies of construction plans as described in § 118-29 of this chapter.
 - (5) Be accompanied by a complete environmental assessment form or draft environmental impact statement, as required by the Planning Board under the New York State Environmental Quality Review Act (SEQRA).⁵⁷
 - (6) Be accompanied by complete drainage calculations in accordance with Rockland County Drainage Agency standards.
- B. Field trip. After receipt of the application by the Planning Board clerk, but before the public hearing on the application, the Planning Board may schedule a field trip to the site of the proposed subdivision, accompanied by the applicant or his representative. In order to facilitate field inspection and review of the site of the proposed subdivision, temporary staking along the center line of all proposed roads in the subdivision will be required in time for such field trip, or, if impracticable, the Planning Board shall permit a suitable alternative procedure.
- C. Planning Board action.
- (1) The Planning Board shall hold a public hearing within 62 days after the receipt of a complete preliminary plat application by the clerk of the Planning Board. Such hearing shall:
 - (a) Be advertised at least once in the official Village newspaper at least five days

⁵⁶ . Editor's Note: Former § 118-11, Sketch plat, was repealed 2-28-1994 by L.L. No. 1-1994. This local law also provided for the renumbering of former §§ 118-12 through 118-28 as §§ 118-11 through 118-27.

⁵⁷ . Editor's Note: See Article 8 of the Environmental Conservation Law.

before such hearing.

- (b) Be noticed, by certified mail, return receipt requested, to each owner of the property within 500 feet of the perimeter of the subject property as indicated on the application for subdivision approval and at least 10 days prior to the public hearing.
- (c) Be advertised by the installation of four posters, furnished by the Planning Board Secretary, on the four closest public roads in visible locations surrounding the proposed subdivision at least 10 days prior to the public hearing.

- (2) The Planning Board shall, thereafter, approve, with or without modification, or disapprove such preliminary plat within 62 days after the public hearing. The grounds for a modification or for disapproval shall be stated upon the record of the Planning Board. Within five days of the approval of the preliminary plat, it shall be certified by the clerk of the Planning Board as having been granted preliminary approval, a copy filed in the clerk's office and a certified copy mailed to the owner. Notwithstanding the foregoing provisions, the time in which the Planning Board must take action on the preliminary plat may be extended by mutual consent of the applicant and the Planning Board.

- D. Expiration of approval. Approval of a preliminary plat application expires if the owner has not submitted a proposed plat in final form within six months of the date of the approval of the preliminary plat.

§ 118-12. Final plat.

Application for final subdivision plat approval shall be filed with the Planning Board Secretary. Such application shall comply with the modifications, if any, required by the Planning Board at the time of preliminary plat approval and shall be submitted in duplicate on forms available from the Planning Board Secretary.

- A. Items to accompany application. Application for final plat approval shall be accompanied by the following:

- (1) Twelve copies each of a final subdivision plat and final construction plans conforming to all requirements of §§ 118-30 and 118-31 of this chapter as well as all conditions, if any, of preliminary plat approval.
- (2) A final subdivision application fee, payable to the Village of Pomona, in the amount specified in the fee schedule as adopted by the Board of Trustees. Every subsequent submission of a new final plat shall be considered a new application and shall be accompanied by a new fee.
- (3) An affidavit of ownership, which shall include all contiguous holdings of the owner and the dates the respective holdings of land were acquired, together with the liber and page of each conveyance to the present owner as recorded in the Rockland County Clerk's office. The affidavit shall indicate the legal owner of the property, the contract owner of the property, the date contract of sale was executed and, if any corporations are involved, a complete list of all directors,

officers and stockholders of each corporation owning more than 5% of any class of stock.

- (4) Where subdivision roads and/or other improvements are involved and where the applicant intends to post a performance bond or other acceptable security to cover the cost of improvements, a statement from the applicant's engineer giving the estimated cost of construction, together with the quantities and unit costs used in making the estimate. [Amended 2-28-1994 by L.L. No. 1-1994]
- (5) A list of any and all waivers of the provisions of these regulations which the applicant requests the Planning Board to grant in his specific case, with the reasons therefor.

B. Action by the Planning Board. [Amended 2-28-1994 by L.L. No. 1-1994]

- (1) If the final plat application submitted to the Planning Board is in substantial agreement with the preliminary plat previously approved, the Planning Board shall, by resolution, conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plat within 62 days of its receipt by the secretary to the Planning Board.
- (2) If the final plat application submitted to the Planning Board is not in substantial agreement with the approved preliminary plat, the Planning Board may: require further review under SEQRA;⁵⁸ hold a public hearing on such final plat within 62 days of receipt of the application, said hearing to be advertised in the official Village newspaper at least five days in advance of such hearing; or by resolution conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plat, within 62 days after the date of the public hearing. The grounds for any modification or disapproval shall be stated upon the record.
- (3) The time within which the Planning Board must take action on such plat may be extended by the mutual consent of the owner and the Planning Board.

C. Public hearing. In addition to the requirements of § 118-11C of the within code on public hearings, prior to such hearing the Planning Board Secretary shall: [Amended 2-28-1994 by L.L. No. 1-1994]

- (1) File a copy of the subdivision plat and construction plans at the Village Clerk's office for public review at least five days prior to the public hearing.
- (2) Submit a copy of the subdivision plat and final construction plans to the County Planning Board where a proposed road within the subdivision intersects with a state or county highway or where drainage lines connect directly into any channel lines established by the county, such plat and construction plans to be received at least 10 days prior to the date of the public hearing.

⁵⁸ . Editor's Note: See Article 8 of the Environmental Conservation Law.

- D. Filing plat by sections. Prior to granting its approval, the Planning Board may permit or require the plat to be subdivided into two or more sections and may impose such conditions upon the delineation and filing of the sections as it may deem necessary to assure the orderly development of the plat. Approval of the sections, subject to any conditions imposed by the Board, shall be granted concurrently with approval of the plat. If the owner files only a section of an approved plat within 62 days of the date of approval, such section shall encompass at least 10% of the total number of lots contained in the approved plat. Within 30 days of the filing of a section of an approved plat with the County Clerk, the owner shall file the entire approved plat with the Village Clerk. The Planning Board may deny approval of any subsequent section if a prior approved section has not first been satisfactorily completed. [Amended 2-28-1994 by L.L. No. 1-1994]
- E. Action by applicant. Based upon the Planning Board resolution, the applicant shall have the final subdivision plat and construction plans revised, if necessary, in accordance with said resolution, and submit 12 copies of such revised maps to the Planning Board Secretary.
- F. Approval of construction plans. The construction plans, revised as necessary to meet the requirements of the Planning Board resolution, shall be endorsed by the Planning Board Chairman or other duly authorized member of the Planning Board as "approved" prior to the signing of the plat or the beginning of any construction work within the proposed subdivision.
- G. Additional documents and information required. Prior to the endorsement of the Planning Board Chairman on the final subdivision plat, the following additional documents and information shall be submitted by the applicant:
- (1) An engineering inspection fee, payable to the Village of Pomona, as specified in the fee schedule adopted by the Board of Trustees.⁵⁹
 - (2) Where streets or park areas are included within the proposed subdivision, a formal offer of cession to the Village of all such streets and park areas, in form approved by the Village Attorney, except where the proposed final subdivision plat has a notation to the effect that no offer of dedication of such streets and park areas, or any of them, is made to the public. The applicant shall deliver a deed to all such lands in proper form for recording, together with a title policy for the Village of Pomona in a sum not less than \$10,000, which sum shall be determined by the Village Attorney before the signing of the final subdivision plat.
 - (3) (Reserved)⁶⁰
 - (4) A written agreement, in form satisfactory to the Village Attorney, permitting entry by the Village onto any streets, easements and park areas for the purposes

⁵⁹ . Editor's Note: See Ch. 67, Fees.

⁶⁰ . Editor's Note: Former Subsection G(3), which provided for payment of a recreation fee, was repealed 2-28-1994 by L.L. No. 1-1994.

of inspecting and installing any required improvements in the event of the failure of the applicant to make such installations or to properly maintain such installations until such time as the Village assumes the responsibility for them.

- H. Final approval of subdivision plat. Upon resolution granting conditional approval of a final plat, the Planning Board shall empower the Chairman or other duly authorized member to sign the plat, subject to completion of any requirements as may be stated in the resolution. Within five days of such resolution, the plat shall be certified by the secretary of the Planning Board as conditionally approved and a copy filed in such secretary's office. A copy of the resolution shall be mailed to the owner, which copy shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements, the plat shall be signed by the Chairman or other duly authorized member of the Planning Board. Conditional approval of a final plat shall expire 180 days after the date of the resolution granting conditional approval, unless such requirements have been certified as completed. The Planning Board may, however, extend the time in which a conditionally approved plat in final form must be submitted for signature, if, in its opinion, such extension is warranted by the particular circumstances thereof. Such extensions shall not exceed two additional 90 day periods. [Amended 2-28-1994 by L.L. No. 1-1994]
- I. Filing plat with the County Clerk. The approved plat shall be filed with the Rockland County Clerk within 62 days of the date of Planning Board signing. Simultaneously with the filing of the plat, the Secretary to the Planning Board shall record the agreement of dedication, together with such legal documents as shall be required to be recorded by the Village Attorney. [Amended 2-28-1994 by L.L. No. 1-1994]

ARTICLE IV

Required Improvements and Agreements

§ 118-13. Completion of improvements. [Amended 2-28-1994 by L.L. No. 1-1994]

- A. Endorsement of final plat. After adoption of a resolution approving a final subdivision plat and before the plat is endorsed by the Planning Board Chairman or other duly authorized member, the applicant shall be required to complete, at his expense and without reimbursement by the Village or any special district, all street and other improvements as shown on the approved construction plans or otherwise specified in the resolution, except the final street wearing course and sidewalks, or, as an alternative, file with the Board of Trustees acceptable security, in an amount fixed by the Planning Board in its resolution, to secure to the Village the satisfactory construction, installation and completion of such improvements. All such improvements must be completed within three years of the date of the Planning Board resolution. All improvements shall be completed to the satisfaction of the Planning Board, in accordance with the approved construction plans, the requirements of these regulations and the Village construction standards and specifications.
- B. "Acceptable security" shall mean and be limited to: a performance bond issued by

a bonding or surety company; the deposit of funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in this state; an irrevocable letter of credit from a bank located and authorized to do business in this state; obligations of the United States of America; or any obligations fully guaranteed as to interest and principal by the United States of America, each having a market value at least equal to the full cost of such improvements. If not delivered to the Village, such security must be held in a Village account at a bank or trust company. Such security must be provided pursuant to a written security agreement with the Village, approved by the Village Board of Trustees and also approved by the Village Attorney as to form, sufficiency and manner of execution.

- (1) Any such performance bond or security agreement shall run for a term to be fixed by the Planning Board, but in no case for a longer term than three years; provided, however, that the term of such performance bond or security agreement may be extended by the Planning Board with the consent of the parties thereto. If the Planning Board shall decide at any time during the term of the performance bond or security agreement that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such security, or that the required improvements have been installed as provided in this section and by the Planning Board in sufficient amount to warrant reduction in the amount of said security, and upon the approval by the Village Board of Trustees, the Planning Board may modify its requirements for any or all such improvements, and the amount of such security shall thereupon be reduced by an appropriate amount so that the new amount will cover the cost in full of the amended list of improvements required by the Planning Board.
- (2) In the event that any required improvements have not been installed as provided in this section within the term of such security agreement, the Village Board of Trustees may thereupon declare said performance bond or security agreement to be in default and collect the sum remaining payable thereunder, and, upon the receipt of the proceeds thereof, the Village shall install such improvements as are covered by such security and as commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.

C. Issuance of building permits and certificate of occupancy.

- (1) No building permit shall be issued until such time as all required public improvements, except for final wearing courses and sidewalks, if required, are completed to the satisfaction of the Planning Board. Thereafter, building permits for additional lots, other than the final 10% of all lots, may be issued upon the applicant's delivering to the Village of Pomona, in form satisfactory to the Village Attorney, such performance bond, letter of credit or other security agreement as provided for in the preceding subsections, in an amount equal to the total cost of the final road wearing course and sidewalks, if required, divided by the number of lots in the subdivision. No building permits shall be issued for the final 10% of all lots until all required public improvements are fully completed to the satisfaction of the Planning Board and dedicated to and

accepted by the Village of Pomona. [Amended 6-26-2000 by L.L. No. 4-2000]

- (2) The performance bond or security agreement to be delivered by the applicant to the Village of Pomona shall authorize payment to the Village of Pomona upon written certification of the Planning Board Chairman that the final road wearing courses and sidewalks have not been completed to the satisfaction of the Planning Board within the earlier of the following two periods: three years from the date of filing of the final subdivision plat or six months from the date of issuance of the building permit for the last lot other than the final 10% of all lots. Such performance bond or security agreement shall authorize payment to the Village of Pomona in the event that the installation of such final road wearing courses and sidewalks have caused damage to public or private property not under the ownership of the applicant. Such payments shall be in the aggregate amount of all expenses incurred by the Village for the provision of final road wearing courses and sidewalks and for the cost of the aforementioned damage, if any. In the event that the applicant has elected to deposit cash with the Village of Pomona in lieu of a performance bond or other security agreement, the Village shall be authorized to pay for the expenses of provision of final road wearing courses and sidewalks and damages, if any, out of such cash, and any excess cash remaining after the completion of such final improvements and payment of such damages shall be returned to the applicant.

D. Failure to complete improvements. Where a performance bond or security agreement is not filed and all required improvements are not completed within the period specified in the Planning Board resolution of approval or as set forth hereinabove, such approval shall be deemed to have expired unless, upon request of the applicant, the period has been extended by resolution of the Planning Board. Where such performance bond or security agreement has been filed and all required improvements are not completed within the time specified by the Planning Board and set forth in said bond or agreement, and if no application for the extension of such period and bond or agreement has been made by the applicant and approved by the Planning Board, the Board of Trustees shall notify the applicant of the expiration of such specified term and of the action it proposes to take to complete such improvements. Not less than 30 days from such notification, the Board of Trustees may declare the performance bond or security agreement in default, arrange for the completion of such improvements by a contractor or contractors of its choice and pay for such improvements by drawing from the proceeds of such bond or agreement. The Board of Trustees shall have absolute authority to select the contractor or contractors to complete such improvements, and the applicant shall have no recourse against the Village for any claims whatsoever resulting from the selection of contractors. By submitting an application for final plat approval, each applicant shall be deemed conclusively to have consented to the provisions of this section.

E. Modification of letter of credit.

- (1) Extension of period specified in letter of credit. The time period specified for the completion of all required improvements, as set forth in the letter of credit, may be extended only by resolution of the Planning Board upon request by the applicant setting forth, in detail, the amount of work which has been completed,

reasons for failure to complete the remainder of the work within the specified period, the maximum estimated time required to complete the remainder of the work and the time period extension which is requested.

- (2) Reduction of letter of credit. An applicant may request, in writing, that the Planning Board authorize a reduction in the amount of the letter of credit. Such request shall itemize the extent of required improvements already completed, the estimated cost of improvements remaining to be completed and the amount of the letter of credit reduction requested. Then, upon approval of the Board of Trustees, the Planning Board may, if it determines that sufficient required improvements have been installed to warrant such action, reduce the amount of the letter of credit to an appropriate amount so that the new amount will cover the cost in full of all required improvements remaining to be completed.

- F. Modification of requirements. If, at any time, either before or during the course of construction of the required improvements, it is determined by the Planning Board that unforeseen conditions make it necessary to modify the location or design of any improvements, the Board may modify the terms and conditions of the approval of the final subdivision plat so as to require such changes as may be necessary to comply with the spirit and intent of the Board's original approval and to conform to accepted engineering practices. If such modification affects the scope of work covered by a letter of credit, the Board may require or allow appropriate modification of such letter of credit.

§ 118-14. Inspection of improvements.

The Village Engineer or his designee shall be responsible for inspecting required improvements during construction to ensure their satisfactory completion and, upon such completion, shall furnish the Planning Board with a statement to that effect. If the Village Engineer determines that any of the required improvements have not been constructed in accordance with the approved plan, the applicant shall be responsible for properly completing said improvements. Failure of the Village Engineer to carry out inspections of required improvements during construction shall not in any way relieve the applicant or the bonding company of their responsibilities related to the proper construction of such improvements.

- A. Inspection of stages of construction.

- (1) To facilitate inspection of required improvements during construction, the applicant shall notify the Village Engineer or his designee at least three working days before reaching each of the following stages of construction:
 - (a) Rough grading completed.
 - (b) Drainage and other underground facilities installed, but prior to backfilling.
 - (c) After gravel base is spread and compacted.
 - (d) When each paved course is being applied.

(e) After completion of all improvements.

(2) The applicant shall not proceed to work on any stage subsequent to the first stage until the work of the previous stage has been inspected and approved by the Village Engineer or his designee. In the case of any other improvements, the Village Engineer or his designee shall inspect the work at such progressive stages as he shall specify, and he shall certify to the Planning Board that the work was inspected by him and was in accordance with the approved plans and specifications.

B. Certificate of construction. At such time as the applicant has completed construction of all required improvements, he shall furnish to the Village Engineer three copies of as-built plans and profiles which show the actual location of all paved streets, culverts, headwalls, drains, manholes, catch basins, sidewalks, curbs, utility lines and equipment, monuments, street signs, street trees and all other required improvements, as constructed, and all other pertinent information, such as cross sections of the streets at intervals determined by the Village Engineer, the culvert and drain grades, sewer grades, sidewalk and curb grades and invert elevations at manholes. Such plans and profiles shall bear a dated certification by a professional engineer or licensed surveyor to the effect that the data shown thereon was accurately determined by field survey. If the location or accuracy of improvements does not, in the opinion of the Planning Board, fully comply with the approved construction plans and specifications, the Planning Board shall have the right to refuse to sign the final plat or release the bond until such situation is corrected.

C. Inspection fee. To offset the costs incurred by the Village in conducting inspections, all applicants for approval of submissions involving the construction of streets and/or other improvements shall be required to submit an inspection fee, payable to the Village of Pomona, as shown on the fee schedule adopted by the Board of Trustees.⁶¹ [Amended 2-28-1994 by L.L. No. 1-1994]

§ 118-15. Maintenance of improvements.

The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks, including the cost of streetlighting, if required, until acceptance of said improvements by the Board of Trustees. If there are any certificates of occupancy on a street not dedicated to the Village, the Village may plow the street or effect emergency repairs and charge same to the developer. The applicant shall be required to file a letter of credit with the Board of Trustees, prior to dedication, in an amount considered adequate by the Village Engineer and in a form satisfactory to the Village Attorney, in order to assure the satisfactory condition of the required improvements for a period of two years after the date of their acceptance by the Board of Trustees and dedication of same to the Village.

§ 118-16. Future status of streets, parks and easements.

A. Offers of cession. All streets, parks and easements shall be indicated on the plat. In accordance with § 7-732 of the Village Law, the applicant may add as part of the plat

⁶¹ . Editor's Note: See Ch. 67, Fees.

a notation, if he so desires, to the effect that no offer of dedication of such streets or parks, or any of them, is made to the public. All offers of cession to the public of all streets and parks not so marked shall be filed with the Planning Board at the time of submission of the final application.

- B. Petition for dedication. Upon completion of the subdivision and the road(s), a petition in the form required by the Board of Trustees shall be filed with such Board for the acceptance of parks or any other reservations or easements.
- C. Acceptance by Village. Acceptance of any offer of cession of streets or parks shall rest with the Board of Trustees. In the event that the applicant shall elect not to file the plat in the office of the County Clerk within the period prescribed for such filing, then such offer of cession shall be deemed void. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute nor imply the acceptance by the Village of any streets, parks or other areas shown on said plat, and the Planning Board may require the addition of appropriate notes to this effect on the plat.
- D. Maintenance. In the event that no offer of cession to the public is made for the streets, parks and required easements shown on the plat, there shall be submitted with the final application copies of agreements or other documents providing for the suitable maintenance of such facilities and a statement of all rights which exist with respect to each of them. The adequacy of such documents shall be subject to Planning Board approval.

§ 118-17. Waiver of required improvements.

The Planning Board may waive, subject to appropriate conditions, the provision of any or all such improvements and requirements as in its judgment of the special circumstances of a particular plat are not requisite in the interest of the public health, safety and general welfare, or which in its judgment are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

§ 118-18. Deferral of required improvements.

When it is deemed necessary by the Planning Board to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities or for other reasons, the developer shall pay his share of the costs of the future improvements to the Village in escrow prior to signing of the final subdivision plat, or the developer may post a bond ensuring completion of said improvements upon demand of the Village. The Village shall refund any funds so paid if not used for their intended purpose; and refund shall be made when the Board of Trustees determines that said funds shall not be so used.

§ 118-19. Staged construction.

In the approval of a final subdivision plat, the Planning Board may require the construction of buildings on individual lots in a specified sequence where the Board finds that such staging is related to the public health, safety and welfare.

§ 118-20. Modification of requirements.

If, at any time, either before or during the course of construction of the required

improvements, it is determined by the Planning Board that unforeseen conditions make it necessary to modify the location or design of any improvements, the Board may modify the terms and conditions of the approval so as to require such changes as may be necessary to comply with the spirit and intent of the Board's original approval and to conform to accepted engineering practices.

ARTICLE V

Design Requirements

§ 118-21. Minimum standards.

The Planning Board, in considering an application for the subdivision of land, shall be guided by the following considerations and standards, which standards shall be deemed to be the minimum requirements for the convenience, health, safety and welfare of the Village.

§ 118-22. General requirements.

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Land subject to such hazards shall not be subdivided nor developed for residential purposes nor for such other uses as may increase danger to health, life or property or aggravate a flood hazard, but such land may be set aside for such uses as shall not involve such danger nor produce unsatisfactory living conditions.
- B. Preservation of natural features.
 - (1) Land to be subdivided shall be designed in reasonable conformity to existing topography in order to minimize grading, cut and fill and to retain, insofar as possible, the natural contours, to limit stormwater runoff and to conserve the natural vegetative cover and soil. No tree, topsoil or excavated material shall be removed from its natural position except where necessary and incidental to the improvement of lots and the construction of streets and related facilities in accordance with the approved plan. Topsoil shall be restored to a depth of at least six inches and properly seeded and fertilized in those disturbed areas not occupied by buildings or structures.
 - (2) Existing natural features which are of ecological, aesthetic or scenic value to residential development or to the Village as a whole, such as wetlands, watercourses, water bodies, rock formations, stands of trees, historic spots and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design of the subdivision, and, where appropriate, the Planning Board may require the inclusion of such features in permanent reservations.
 - (3) In furtherance of the provisions of this section, the provisions of Chapter 119 of this Code shall be followed where applicable. [Added 3-2-1998 by L.L. No. 1-1998]
- C. Frontage on improved streets. The area proposed to be subdivided shall have frontage on and direct access to an existing Village, town, county or state highway or a street shown on a plat approved by the Planning Board of the Village of Pomona.

If such street is private, it shall be improved to the satisfaction of the Planning Board or there shall be a bond held by the Village to guarantee such improvement.

§ 118-23. Streets.

- A. Location, width and improvement. Streets shall be suitably located, of sufficient width and adequately improved to accommodate the expected traffic and to afford satisfactory access to police, fire-fighting, snow removal and other utility and road maintenance equipment and shall be coordinated so as to compose a safe and convenient system.
- B. Relation to topography. Streets shall be appropriately related to the natural topography and shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. A combination of steep grades and curves shall be avoided.
- C. Intersections. Cross (four-cornered) street intersections shall be avoided insofar as possible, except at important traffic locations. A distance at least equal to the minimum required lot width, but not less than 150 feet, shall be maintained between center lines of offset intersecting streets. Within 60 feet of the center of an intersection, streets shall be at approximately right angles and grades shall be limited to 1.5%. When two streets intersect at an angle of less than 75°, special pavement, channelization, right-of-way and/or sight easement restrictions may be required by the Planning Board.
- D. Continuation of streets into adjacent properties.
 - (1) The arrangement of streets shall provide for their construction between adjacent properties where such continuation is determined necessary for proper traffic movement, effective fire protection, efficient provision of utilities, snow removal and other services. Alternatively, if a street continuation is not determined to be warranted by the circumstances or would result in unsafe traffic conditions or otherwise jeopardize the public safety and welfare, the Planning Board may require such street to be terminated short of the boundary lines of the subdivision.
 - (2) Where a continuation of a street beyond the boundaries of a subdivision is warranted, but the adjacent property is undeveloped and the street must dead-end temporarily, the Planning Board may require that the right-of-way and all improvements be extended to the property line. A temporary circular turnaround shall be provided on all temporary dead-end streets in excess of 100 feet in length, with a notation on the plat that land outside the normal street right-of-way shall revert to abutting property owners upon continuation of the street. The length of temporary dead-end streets shall normally be limited to not more than double the permitted length of permanent dead-end streets.
 - (3) Where a turnaround exists at the end of a street within an adjoining development to which a proposed street is to connect, the applicant may be required to remove the portions of the turnaround pavement outside of the normal width of the traveled way, perform any necessary reconstruction of the

pavement edge, construct continuations of any existing driveways to the new pavement edge and regrade, seed and drain the disturbed areas in such a manner as to blend them in with the surrounding landscape.

- E. Permanent dead-end streets. Where a street does not extend to a boundary of a subdivision and its future continuation is not required by the Board, it shall be separated from such boundary by a distance not less than the minimum required lot depth. The Planning Board may require the reservation of an easement to the boundary to accommodate utilities, drainage facilities and/or pedestrian traffic. A circular turnaround shall be provided at the end of a permanent dead-end street. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length, exclusive of the turnaround, to six times the minimum lot width for the zoning district in which they are located. [Amended 2-22-1999 by L.L. No. 3-1999]
- F. Solar access considerations. To permit maximum solar access to proposed lots and future buildings, wherever reasonably feasible, consistent with other appropriate design considerations, new streets shall be located on an east-west axis. This encourages house siting with the maximum exposure of roof and wall area to the sun. The Board shall also consider the slope of the property and the nature and location of existing vegetation as they affect solar access.
- G. Street names. The Planning Board shall recommend to the Board of Trustees the names of new streets. Street names shall be sufficiently different in sound and in spelling from other names in the Village so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name. Proposed street names shall be reviewed by the local Fire Department and post office. The Board of Trustees shall adopt the names of streets.
- H. Design standards for new streets. Streets shall meet the following design standards. Street classifications may be determined by the Planning Board. Standards are not shown for streets which would be built by the state or county.
- (1) Minimum width of traveled way.
 - (a) Local street: 24 feet with shoulders.
 - (b) Collector street: 30 feet with shoulders.
 - (2) Road pavement, shoulders, drainage structures, curbs, turnarounds, etc.: see construction standards and specifications.⁶² Concrete curbs are required for all roads where sidewalks are required.
 - (3) The ten-foot-wide right-of-way immediately adjacent to road pavement shall be constructed at the same grade as the paved portion of the road. In the event construction of said grade would cause environmental impacts and/or destruction of the natural terrain and topography of said ten-foot right-of-way, the Planning Board may recommend that the flat grade of the right-of-way be

⁶². Editor's Note: See Ch. A134, Street Specifications.

not less than 6 1/2 feet in width instead of 10 feet in width. Said recommendation shall be referred to the Board of Trustees, which, may, in its discretion, accept said recommendation and authorize the applicant to construct the flat grade to a width of not less than 6 1/2 feet instead of 10 feet. [Added 8-14-2006 by L.L. No. 2-2006⁶³]

- (4) Maximum grade for local street: 10%.
- (5) Minimum length of vertical curve: 100 feet, but not less than 20 feet for each one-percent algebraic difference in grade.
- (6) Minimum length of tangents between reverse curves on local streets: 100 feet.
- (7) Minimum sight distance: 200 feet. At all intersections, the minimum sight distance across corners shall be 75 feet back from the intersection.
- (8) Minimum turnaround.
 - (a) Diameter of right-of-way: 120 feet.
 - (b) Diameter of pavement: 100 feet.
- (9) Maximum length of cul-de-sac.
 - (a) Permanent: six times the minimum lot width.
 - (b) Temporary: 12 times the minimum lot width.
- (10) Sidewalks: four feet wide, both sides.
- (11) Minimum radius at intersections.
 - (a) Right-of-way: 25 feet.
 - (b) Pavement: 25 feet.
- (12) The Planning Board shall be without authority to approve, as part of the design of a new subdivision, a boulevard or boulevards, as defined in § 118-9 of this Code. A boulevard shall not be permitted for purposes of the provision of an additional required access to any subdivision. [Added 2-22-1999 by L.L. No. 3-1999]
- (13) If an applicant for subdivision approval requests the incorporation of a boulevard in a subdivision, under circumstances in which a majority of the Planning Board finds that a boulevard would be in the best interests of the Village of Pomona because of unusual circumstances applicable to the particular proposed subdivision and that a boulevard is necessary to avoid unacceptable environmental consequences which cannot be otherwise reasonably avoided, taking into consideration the nature and location of the land sought to be

⁶³ . Editor's Note: This local law also renumbered former Subsections H(3) through H(12) as H(4) through (H13), respectively.

subdivided, the findings resulting from an environmental impact study, if any, and reasonable entitlement to develop land, the Planning Board shall transmit its findings by written recommendation to the Board of Trustees. The Board of Trustees shall, within 90 days of the date of the recommendation, determine whether an exception to Subsection H(11) is warranted and make a written decision thereon. In order to reach a decision on the issue, the Board of Trustees may hold a public hearing and may hear evidence and testimony in favor of and against the proposed boulevard. Upon a determination by the Board of Trustees that a boulevard is or is not warranted, the matter shall be referred back to the Planning Board for action in accordance with the determination of the Board of Trustees. By requesting a boulevard to be incorporated into a proposed subdivision, the applicant shall be deemed to have consented to the lapse of time necessitated by the referral to the Board of Trustees, and such lapse of time, not exceeding 90 days, shall not be included in any calculation of time within which the Planning Board is required to make its decision on the subdivision application. [Added 2-22-1999 by L.L. No. 3-1999]

§ 118-24. Improvements.

- A. Street improvements. Streets shall be graded and improved with pavement, sidewalks, curbs, gutters, streetlighting standards, street signs, street trees, water mains, sanitary sewers, storm drains, fire alarm signal devices, fire hydrants and other utilities, except that the Planning Board may waive, subject to appropriate conditions, such improvements as it considers are not requisite in the interest of the public health, safety and welfare. The subdivider shall install underground service connections to the property line of each lot before the street is paved. Except where waivers are granted, all such grading and street improvements shall conform in all respects to these regulations and to the Village construction standards and specifications.⁶⁴ Wherever the area to be subdivided is to utilize existing road frontage, said road shall be improved as provided above. The Planning Board shall further require that the entire right-of-way required by these regulations be dedicated to the agency owning the road as a condition of final plat approval.
- B. Drainage improvements.
- (1) The subdivider may be required by the Planning Board to carry away, by pipe or open ditch, any spring- or surface water that may exist either previous to or as a result of the subdivision. The subdivider may be required to continue the piping of upstream drainage systems. Such drainage facilities shall be located in the street right-of-way, where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the Village construction standards and specifications.
 - (2) Drainage facilities shall, in each case, be large enough to accommodate potential runoff from their entire upstream drainage area, whether inside or outside the subdivision, based on a one-hundred-year storm and assuming conditions of maximum potential development within the watershed as

⁶⁴ . Editor's Note: See Ch. A134, Street Specifications.

permitted by the Zoning Law. The applicant shall be responsible for submitting such computations to the Village Engineer in sufficient detail to make possible the ready determination of the adequacy of the proposed drainage installations, and the Village Engineer shall be responsible for reviewing these and preparing recommendations for the Planning Board.

- (3) The Planning Board may also require the subdivider to prepare a study of the effects of the subdivision on existing downstream drainage facilities. Where such study or the Planning Board, after an independent analysis, determines that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Board shall notify the owner of such downstream facility of such potential condition and may withhold approval of the subdivision until provision has been made for the correction of said potential condition, or, in the alternative, the developer may deposit in escrow the full cost of the required improvement of the said potential condition in such sum as the Planning Board shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

C. Underground utilities. In order to assure greater safety and improved appearance, all utility lines and related equipment for providing power and communication services shall be installed underground in the manner prescribed by the regulations of the utility company having jurisdiction. Underground utility lines shall be located outside of the traveled way of the streets but, except in unusual circumstances, within the street right-of-way. Underground service connections shall be provided to the property line of each lot before the street is paved and may pass under the traveled way of the street. Where existing utility facilities are located above ground, except on public rights-of-way, they shall be removed and placed underground.

D. Other improvements.

- (1) Monuments.

- (a) Monuments shall be required wherever deemed necessary by the Planning Board to enable all property lines to be readily reproduced on the ground. Monuments shall be located at all lot corners.

- (b) Monuments shall be set vertically in solid ground three inches above the ground surface, with accurate reference to a permanently identifiable fixed point, and shall meet or exceed the construction requirements specified in the Village construction standards and specifications.

- (2) Traffic control and street signs. Traffic control and street signs shall be provided by the subdivider and placed at all intersections, within the street right-of-way, and in other locations as required by the approving authority. In the case of traffic control signs, their type and location shall be approved by the Village Engineer, and in the case of street signs, by the Village Engineer.

- (3) Fencing of hazardous conditions. Each subdivider and/or developer shall be required to furnish and install all fences wherever the Planning Board

determines that a hazardous condition may exist. Said fences shall be constructed according to standards established by the Village Engineer and shall be noted as to height and material on the final plat. No certificate of occupancy shall be issued until said fence improvements have been duly installed.

- (4) Streetlighting standards. Streetlighting standards, of a design and location approved by the Planning Board and Village Engineer, shall be provided and installed by the subdivider. Said streetlights are to be installed by the subdivider prior to the issuance of any certificate of occupancy and are to be maintained at his sole expense until such time as the roads have been accepted by the Village of Pomona. In the case of a subdivision involving a county or state highway, approval shall be obtained from the County Superintendent of Highways.
- (5) Sanitary sewers and sewerage facilities, water mains and water supply facilities and fire hydrants. Where required by the Planning Board, the subdivider shall install sanitary sewers and sewerage facilities and/or water mains and water supply facilities and fire hydrants of the type and in a manner specified by the Village of Pomona Village Board construction standards and specifications. Necessary action shall be taken by the developer to enable the Ramapo or Haverstraw Town Board to extend or create a water supply district for the purpose of providing fire hydrants to the subdivision. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, shall be installed before any final paving of a street shown on the subdivision plat.
- (6) Fire alarm signal devices. Where required by the Planning Board, the subdivider shall install fire alarm signal devices, including necessary ducts, cables and other connecting facilities, of a type and in a manner and location prescribed by the appropriate fire district or other municipal agency having jurisdiction.
- (7) Street trees. The Planning Board may require the planting of street trees. Such trees shall be of a hardwood variety indigenous to the area in size and species as set forth in a resolution adopted by the Board of Trustees. Said resolution shall also set forth the method by which said trees shall be planted. Within the subdivision, such trees shall be planted along both sides of the street, in the right-of-way, not less than six feet nor more than 10 feet off the pavement and spaced approximately 40 feet on center. In the event it is not feasible to plant the trees in the aforesaid right-of-way, the Planning Board may require that a five-foot-wide shade tree easement be imposed on the applicant's property adjacent to the right-of-way for the planting of said trees. A cash bond or letter of credit in an amount equal to the cost of all street trees required to be planted within the subdivision shall be deposited with the Village after planting and prior to issuance of a certificate of occupancy for any house in the subdivision to guarantee replacement of any of such trees that may not survive for a period of two years after planting. [Amended 9-7-2004 by L.L. No. 4-2004; 8-14-2006 by L.L. No. 3-2006]
- (8) School bus pickup areas. The Planning Board may require that the subdivider

reserve, clear, grade, pave and otherwise improve an area of such size and location as will provide a safe and suitable place for the use of children awaiting school buses. In general, the size of such area shall not be less than 100 square feet, and no dimensions shall be less than eight feet. Such area shall be included within the street right-of-way and shall be maintained by the holder of fee title to the street. The layout and design shall be subject to Planning Board approval.

§ 118-25. Lots.

- A. Lot arrangement. The lot arrangement shall be such that there will be no foreseeable difficulty, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Law, the County Health Department regulations and other applicable regulations. If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provision as the Planning Board may require for safe and convenient access to such automobile parking and loading and unloading spaces as may be required by the Zoning Law or otherwise for safe and convenient service access to such land.
- B. Driveways. Approximate driveway locations shall be shown on the construction plans. The maximum driveway gradient to the building site shall not exceed 15%, and the intersection of driveways with the road shall be so oriented and graded that vehicles may use the driveways safely. In the event that a proposed driveway has a gradient to the building site of more than 12 1/2 but not more than 15%, the building inspector, with the advise and cooperation of the Village Engineer shall require at least two parking spaces on the lot in question, located immediately adjacent to the public right-of-way. In the event that a proposed driveway has a gradient to the building site of more than 12 1/2% but not more than 15%, the building inspector shall refer the application to the Planning Board for site plan review. In no event shall the gradient of a driveway exceed 15% to the building site. The Planning Board may require that the applicant submit necessary topographic and design information to demonstrate that the lot layout will allow driveways that meet these criteria and provide proper drainage. [Amended 10-27-1997 by L.L. No. 12-1997]
- C. Lot dimensions.
 - (1) Lot area and dimensions shall comply with at least the minimum standards of the Zoning Law for the district in which they are located.⁶⁵ Where lots are more than double the minimum required area, the Planning Board may require that they be arranged so as to allow for further subdivision and the opening of future streets where necessary to serve such potential lots, all in compliance with the Zoning Law and these regulations. Where, in the opinion of the Planning Board, lots of larger than minimum size are required for purposes of proper drainage, water supply, waste disposal or the preservation of important ecological features, the Board may require such oversized lots as a condition of plat approval.

⁶⁵ . Editor's Note: See Ch. 130, Zoning.

- (2) Side lot lines shall generally be at right angles to street lines (or radial to curving street lines) unless the Planning Board allows a variation from this rule to give a better street or lot arrangement. Dimensions of corner lots shall be large enough to allow for erection of buildings observing the minimum front yard setback from both streets.
 - (3) Where a proposed subdivision includes an existing residence larger in size than can appropriately be placed on a lot of the minimum size permitted in the zoning district, the Planning Board may require that the lot be of such size and relationship to the proposed street system that the structure will be an appropriate and harmonious part of the subdivision.
 - (4) No more than 25% of the minimum lot area required under the Zoning Law may be satisfied by land with unexcavated slopes over 25%, wetlands as defined in Chapter 126 of this Code, floodplain, utility or other easements or rights-of-way, or a combination of said encumbrances. [Added 1-22-1996 by L.L. No. 1-1996; amended 4-23-2007 by L.L. No. 5-2007]
- D. Access from collector streets. Lots shall not, in general, derive access from a collector street, but shall front on a minor interior street. Where driveway access from a collector street may be necessary for two or more adjoining lots, the Planning Board may require that such lots be served by a combined access drive in order to limit the possible traffic hazard on such street. Any such driveways, where permitted, shall be designed in such a way as to provide adequate and convenient area for the turnaround of vehicles so as to avoid requiring them to back into traffic on such streets.
- E. Double-frontage lots. Lots fronting on two streets, other than corner lots, shall be avoided except where deemed essential by the Planning Board in order to provide separation of residential development from major or collector streets or to overcome problems of topography or orientation. The Planning Board may require access limitations and/or buffer landscaping for such double-frontage lots where the Board determines that such measures would be appropriate.
- F. Water bodies. If a subdivision contains a water body or portion thereof, lot lines shall be drawn so as to distribute the entire ownership of the water body among the fees of the adjacent lots, unless the Planning Board approves an alternate plan whereby the ownership of and responsibility for the safety of the water body is so placed that it will not become a Village responsibility. No more than 25% of the minimum lot area required under the Zoning Law may be satisfied by land which is under water or is defined as a wetland by the New York State Freshwater Wetlands Act.⁶⁶
- G. Access across a watercourse. Where a watercourse separates the buildable area of a lot from the street by which it has access, provision shall be made for the installation of a bridge, culvert or other drainage facility, of a design approved by the Planning Board based upon, among other considerations, a recommendation of the Village

⁶⁶ . Editor's Note: See Art. 24 of the Environmental Conservation Law, § 24-0101 et seq.

Engineer, to provide satisfactory access across such watercourse for fire, police and other emergency equipment.

§ 118-26. Reservations and easements.

All reservations and easements shall be clearly indicated on the final subdivision plat, along with appropriate notations indicating the rights which exist with respect to each such reservation and/or easement.

A. Park reservations. [Amended 2-28-1994 by L.L. No. 1-1994]

(1) The Planning Board may require that land be reserved within subdivisions or on individual parcels subject to site plan approval for a park or other recreational purpose. Before the Planning Board may approve a site plan containing residential units, such site plan shall also show, when required by such Board, a park or parks suitably located for playground or other recreational purposes. Such land cannot be required until the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Village. Such findings must include an evaluation of the present and anticipated future needs for park and recreational facilities in the Village based on projected population growth to which the particular site plan will contribute. In the event that the Planning Board makes such a finding, but a suitable park or parks of adequate size to meet the requirements cannot be properly located on such subdivision plat or site plan, the Planning Board may require a sum of money in lieu thereof be paid to the Village pursuant to the fee schedule adopted by the Board of Trustees. Any moneys required by the Planning Board in lieu of land for park, playground or other recreational purposes shall be deposited into a trust fund to be used by the Village exclusively for park, playground or other recreational purposes, including the acquisition of property. In making such determination of suitability, the Planning Board shall assess the size and suitability of lands shown on the subdivision plat or site plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood.

(2) Minimum size. Areas for parks shall be of reasonable size for neighborhood playgrounds or other recreational uses. In general, not less than 10% of the area of the subdivision or site plan providing for multifamily housing shall be set aside for these purposes, and sites so reserved for park purposes shall have an area of at least one acre. The Planning Board may require the location of such areas along the boundary of a subdivision or parcel so that additional land may be added at such time as the adjacent property is subdivided or developed.

(3) Ownership of park area. The ownership of reservations for park purposes shall be clearly indicated on the plat and established in a manner satisfactory to the Planning Board so as to assure their proper future continuation and maintenance.

B. Widening or realignment of existing streets. Where a subdivision borders an existing street which is narrower than the recommended right-of-way width as

specified for such streets in these regulations, or where a subdivision borders an existing street planned for widening or realignment in such a way as to require the use of some land in the subdivision, the Planning Board may require the subdivision plat to show such areas, which shall be marked "reserved for street realignment (or widening) purposes." Land reserved for such purposes may not be counted in satisfying yard or area requirements of the Zoning Law.

C. Utility and drainage easements.

(1) Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within street rights-of-way, perpetual unobstructed easements of at least 20 feet in width shall be provided for such utilities or drainage facilities across properties outside the street lines and with satisfactory access to the street. Drainage easements shall extend from the street to the watercourse or other drainage facility and shall convey to the holder of fee title of the street the perpetual right to discharge stormwater runoff from the street and the surrounding area onto and over the affected premises by means of pipes, culverts or ditches, or a combination thereof, together with the right to enter said premises for the purpose of making such installations and doing such maintenance work as the holder of such fee title may deem necessary to adequately drain the street and the surrounding area.

(2) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured in a form satisfactory to the Village Attorney and suitable for recording in the office of the County Clerk.

D. Slope easements. Where determined appropriate by the Planning Board, said Board may permit an embankment alongside a proposed street to extend beyond the normal right-of-way of such street, provided that a slope easement is granted conveying to the holder of fee title of the street the right to enter the premises for the purpose of maintaining such slope. Where the embankment slope is located on private land outside the subdivision, such easement shall be permitted only where the appropriate rights have been secured in a form satisfactory to the Village Attorney and suitable for recording in the office of the County Clerk.

E. Sight easements. Sight easements shall be provided across all street corners, outside the street right-of-way, within the triangular area formed by the nearest edges of street pavement and a straight line between two points each 75 feet back from the theoretical intersection of the edges of such pavement prolonged. The easements shall provide that the holder of fee title to the abutting streets shall have the right to enter the easement area for the purpose of clearing, pruning or regrading so as to maintain a clear line of sight in either direction across such triangular area between an observer's eye 3.5 feet above the pavement surface on one street and an object one foot above the pavement surface on the other. The initial establishment of clear-sight lines within the sight easement area shall be the responsibility of the subdivider.

F. Easements for pedestrian access. The Planning Board may require, in order to facilitate pedestrian access from streets to schools, parks or neighboring areas, the reservation of perpetual unobstructed easements of at least 10 feet in width for such

purposes and the construction of walkways thereon.⁶⁷

§ 118-27. Self-imposed restrictions.

The subdivider may place restrictions on any of the land contained within the subdivision which are greater than those required by the Zoning Law. Such restrictions shall be indicated on the final subdivision plat.

ARTICLE VI

Plat Details

§ 118-28. Preliminary plat.⁶⁸

The preliminary plat, prepared by a licensed land surveyor, shall be clearly marked "preliminary plat," shall be drawn to a convenient scale but not less than one inch equals 100 feet and shall show the following information:

- A. Proposed subdivision name or identifying title; name, address and endorsement of the property owner and subdivider (if other than owner); name and address of the surveyor and/or engineer preparing the plan; scale; approximate true North point; and date.
- B. The location and dimensions of all property lines; the total acreage of the proposed subdivision; the location of any zoning, special district or municipal boundary lines affecting the subdivision; and the names of owners of record of properties adjoining and directly across the street from the proposed subdivision.
- C. The location of all existing structures and pertinent features, including railroads, water bodies, watercourses, wetlands, rock outcroppings, wooded areas, trees having a circumference of 25 inches or more, and stone walls, that may influence the design of the subdivision, plus accurate topography at a vertical contour interval of not more than two feet. The topographic data shall be determined by field survey unless the Planning Board specifically waives this requirement and/or permits the substitution of topographic information obtained from other sources determined satisfactory by the Planning Board. The wetlands delineation shall be certified on the map and in the field by a licensed professional authorized by the New York State Department of Environmental Conservation to make such certifications. [Amended 4-23-2007 by L.L. No. 5-2007]
- D. The location and status of existing streets, easements and rights-of-way (if any); proposals for the layout of new streets (including widths and approximate curve radii) and any proposed easements, rights-of-way and/or reservations.
- E. The names of existing streets and proposed names for new streets.

⁶⁷. Editor's Note: Former Subsection G, Street tree easements, as amended, which immediately followed this subsection, was repealed 8-14-2006 by L.L. No. 3-2006.

⁶⁸. Editor's Note: Former § 118-29, Sketch plat, was repealed 2-28-1994 by L.L. No. 1-1994. This local law also provided for the renumbering of §§ 118-30 through 118-33 as §§ 118-28 through 118-31.

- F. The proposed arrangement of lots, including identifying section, lot and block numbers and approximate area and dimensions of each.
- G. Location, size and nature of any area proposed to be reserved for park purposes.
- H. A site location sketch, at a scale of one inch equals 300 feet, showing the general situation of the applicant's property with respect to surrounding properties and streets.
- I. No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the final plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees, where required, shall be welled and protected against change of grade. A tree map showing the number and location of existing trees of 25 inches or more in circumference measured at a height 4 1/2 feet above existing ground level at the base of the tree on the uphill side shall be submitted with the preliminary plat, keyed to a table listing species, height and circumference. The map shall show the trees intended to be removed during construction for Planning Board approval. The Planning Board, in its discretion, may waive the requirement for individual tree identification where a large number of such trees are situated in an area that is to be preserved as shown with a clearing limit line. A protected tree, as defined in this chapter, shall be preserved unless such tree endangers the health or safety of any person or interferes with construction of a structure on the lot or is a dead tree as determined by a landscape architect or similar professional. The Planning Board may require relocation of a proposed structure on a lot in order to preserve such trees, provided that such relocation complies with the bulk and setback requirements of the Zoning Law. [Added 11-25-2003 by L.L. No. 9-2003⁶⁹; amended 9-7-2004 by L.L. No. 4-2004]
- J. Where the preliminary plat includes only a portion of an applicant's contiguous holding, the applicant shall also indicate, on a sketch at a scale of not less than one inch equals 300 feet, the probable future street system, lot arrangement and location of park and other reservations for the remaining portion of the tract. Such sketch shall be for the purpose of guiding the Planning Board in reviewing the proposed preliminary plat and shall include topographic data, at a vertical contour interval of not more than 10 feet, plus any other information determined necessary by the Planning Board.
- K. Such additional information as may be required by these regulations, the Zoning Law or the Planning Board.
- L. Planning Board approval block as follows:

"Approved as preliminary plat by the Pomona Planning Board
_____ Chairman _____ Date"

⁶⁹ . Editor's Note: This local law also renumbered former Subsections I, J and K as Subsections J, K and L, respectively.

§ 118-29. Preliminary construction plans.

The preliminary construction plans shall be drawn at the same scale as the preliminary plat and shall include the following information:

- A. Location and sizes of any existing water, sewer, storm drainage and other utility lines and structures within and nearby the proposed subdivision.
- B. The proposed system for the provision of water supply and fire protection facilities, sewage disposal, stormwater drainage and other utility services.
- C. Proposed street profiles and cross sections showing the approximate grade of proposed streets, the relationship of existing to proposed grades and the proposed vertical curvature along the center line of all new streets. Where steep slopes exist, the Planning Board may require additional cross sections along the proposed street.
- D. Location of all existing and proposed monuments and other subdivision improvements.
- E. Existing and proposed contours at maximum vertical intervals of two feet.
- F. A landscape plan prepared by a licensed landscape architect at an appropriate scale showing the location of trees to be planted to replace trees required to be removed because of the development of the subdivision and including a standard plant schedule showing common name, scientific name, size, quantity and nursery condition of all trees, shrubs and groundcovers proposed. [Added 9-7-2004 by L.L. No. 4-2004⁷⁰]
- G. Such additional information as may be required by these regulations, the Zoning Law or the Planning Board.

§ 118-30. Final subdivision plat.

The final subdivision plat shall be drawn clearly and legibly on transparent tracing cloth with black waterproof ink, at a scale no smaller than one inch equals 100 feet. The sheet size shall not exceed 36 inches 48 by inches. If the size of the proposed subdivision requires a drawing larger than this, two or more sheets may be submitted, with match lines clearly indicated, and an index map shall be prepared on the same size sheet. The final plat shall contain the following information:

- A. Proposed subdivision name or identifying title; name and address of owner of record and of subdivider (if other than owner); identification and seal of the registered engineer or licensed land surveyor who prepared the plat; names of the owners of record of adjoining properties and of properties directly across the street; graphic scale; approximate true North point; and date.
- B. The location and dimensions of all boundary lines of the proposed subdivision and all existing and proposed streets, lot lines, easements and rights-of-way, with sufficient data to readily determine the location, bearing and length of all such lines

⁷⁰. Editor's Note: This local law also redesignated former Subsection F as Subsection G.

and to reproduce such lines upon the ground.

- C. The names of all existing and proposed streets.
- D. The locations of all water bodies and watercourses.
- E. The location of all existing buildings, including identification of all buildings to be removed as a condition of plat approval.
- F. The total acreage included in the entire subdivision, and the identification number and acreage of all lots and land reservations within the proposed subdivision.
- G. Location of all existing and proposed monuments.
- H. A site location map, at a scale of one inch equals 300 feet, showing the location of the subject property with respect to neighboring properties and streets.
- I. Notations explaining any drainage, sight slope, road widening, park area or other reservations or easements, including any self-imposed restrictions or covenants.
- J. Lot numbers as directed by the Village Assessor.
- K. Endorsement of approval by the Rockland County Health Department or waiver of jurisdiction.
- L. The following note: "No building permits shall be issued until such time as all required public improvements, except final road wearing courses and sidewalks, if required, are completed to the satisfaction of the Planning Board. Thereafter, certificates of occupancy for such model homes and building permits and certificates of occupancy for additional lots other than the final lots may be issued upon the applicant's delivering to the Village of Pomona, for each lot, in form satisfactory to the Village Attorney, a performance bond or other security agreement in an amount equal to the total cost of the final road wearing course and sidewalks, if required, divided by the number of lots in the subdivision, or upon the applicant's depositing such amount of cash with the Village of Pomona. No building permits shall be issued for the final 10% of all lots until all required public improvements are fully completed to the satisfaction of the Village Engineer and dedicated to the Village of Pomona." [Amended 2-28-1994 by L.L. No. 1-1994]
- M. The following note: "No trucks in excess of 10,000 pounds gross weight shall be permitted to make deliveries to the site before 9:00 a.m. or after 6:00 p.m. Mondays through Fridays nor at any time during weekends and holidays." [Added 9-23-2003 by L.L. No. 7-2003]
- N. The following note: "Any tree that is removed in violation of the clearing limit line, tree map or landscape plan shall be replaced with one or more trees of similar size and species to be determined by the Planning Board. No work shall be performed on the site until the Planning Board has approved a plan for tree replacement and has determined when such planting shall take place." [Added 9-7-2004 by L.L. No. 4-2004⁷¹]

⁷¹. Editor's Note: This local law also redesignated former Subsections N through P as O through Q, respectively.

O. Endorsement of owner as follows:

"Approved for filing:

_____ Owner _____ Date"

P. Form for endorsement by Planning Board Chairman as follows:

"Approved by resolution of the Pomona Village Planning Board Chairman

_____ Chairman _____ Date"

Q. Such additional information as may be required by these regulations, the Zoning Law or the Planning Board.

§ 118-31. Final construction plans.

Final construction plans and profiles shall be prepared for all proposed streets and other required improvements. Plans shall be drawn at the same scale as the final plat and on the same size sheets, but not on the same sheets. The following information shall be shown:

- A. Plans and profiles showing the location and a typical cross section of street pavements, including curbs and gutters, sidewalks, manholes and catch basins; the location of street trees, streetlighting and street signs; the location, size and invert elevations of existing and proposed sanitary sewers, stormwater drains and fire hydrants; the location and size of all water, gas or other underground utilities or structures; and the location and design of any other required improvements.
- B. Profiles showing existing and proposed elevations along the center line of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets within 100 feet of the intersection shall be shown.
- C. The Planning Board may require, where steep slopes exist, cross sections showing existing and proposed elevations of all new streets every 100 feet at five points on a line at right angles to the center line of the street, said elevation points to be at the center line of the street, each property line and points 25 feet inside each property line.
- D. Location, size, elevation and other appropriate description of any existing facilities which will be connected to proposed facilities and utilities within the subdivision.
- E. Where the design of the subdivision requires the regrading of land, the regraded contours shall be shown along with estimates of the quantity of material to be added or removed and the proposed measures to be implemented by the subdivider to rehabilitate the disturbed area or areas.

F. Title of all sheets; name, address, signature and seal of licensed engineer preparing the construction plans; the date prepared, including revision dates if any; approximate true North point; scale; and consecutive numbering as "sheet of"

G. A notation as follows:

"All specifications, materials and methods of construction to be in accordance with the Village construction standards and specifications and with the requirements of the Planning Board resolution of approval dated, 19"

H. A notation of approval on all sheets as follows:

"Approved by:

_____ Owner _____ Date"

and

_____ Planning Board _____ Date"

I. Such additional information as may be required by these regulations, the Zoning Law or the Planning Board.

§ 118-32. Site plan approval. [Added 2-28-1994 by L.L. No. 1-1994]

A. Planning Board approval. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. The Planning Board shall require, with respect to every site plan, that the applicant take all necessary steps to assure that, during construction, all construction debris, materials and fill are either removed from the construction site or neatly secured on the site so that construction debris, materials and fill are contained within the lot and are not spread to other lots or onto public streets. Such requirement shall not be subject to waiver by the Planning Board. Additionally, the Planning Board may waive any other requirements that are found not to be requisite in the interest of the public health, safety or general welfare or to be inappropriate to a particular site plan. Where a proposed site plan does not comply with zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination by the Building Inspector. [Amended 9-22-1997 by L.L. No. 11-1997; 6-26-2000 by L.L. No. 4-2000]

(1) Approval of a site plan by the Planning Board is required for the development or redevelopment of any building, structure, lot or portion thereof for a new use, the expansion or relocation of any existing use or any change of use of a property or structure. Where site plan approval is required, applications for the issuance of a building permit or certificate of occupancy must be accompanied by a copy of the approved site plan. Approval of a site plan by the Planning Board shall not be required for development or redevelopment of a

single-family detached residence or any accessory building or structure on the same lot as a single-family detached residence except as provided in § 119-1 et seq. [Amended 9-27-2004 by L.L. No. 6-2004]

- (2) All site development and all use of the property shall be in conformance with the approved site plan and such additional standards and safeguards as the Planning Board may impose as a condition of approval. No certificate of occupancy shall be issued until all such requirements have been met. Continued performance with the approved final site plan shall be a requirement of the continuing validity of any such certificate of occupancy.
- (3) If, in the opinion of the Village Engineer, based upon the topography of a lot and the area in the vicinity of such lot, drainage and erosion control measures are required for the protection of neighboring lots and properties and the residents thereof, the Village Engineer shall review the drainage and erosion control measures proposed by a developer and shall make recommendations, as required, for modification of such measures. In addition, the Village Engineer shall recommend an amount to be deposited with the Village Treasurer to assure the proper completion of the approved drainage and erosion control measures, including any modifications required by the Village Engineer after the site plan for the lot is approved. Until the developer shall have deposited said amount with the Village Treasurer, no building permit shall be issued by the Building Inspector and no site work shall be undertaken by the developer. In the event that the Village Engineer, in consultation with the Building Inspector and the Deputy Village Attorney for Code Enforcement, determines at any stage of the development of the lot that the developer has failed to conform with the drainage and erosion controls required by the site plan or has failed to conform with field modifications to the site plan made after the site plan has been approved, the Village Engineer shall recommend to the Mayor that so much of the funds deposited with the Village Treasurer as are required to complete required drainage and erosion control work be withdrawn for that purpose by the Village, and the Mayor shall cause such funds to be withdrawn and such work to be accomplished on no less than 48 hours' written notice to the developer to be delivered personally, by the United States Postal Service, or, in the event that the giving of notice cannot be effected by such methods, by posting such notice conspicuously on the lot being developed. In the event that the required drainage and erosion control measures are complied with by the developer, the Village Engineer, upon being satisfied that such measures are reasonably adequate to protect neighboring properties and residents, shall so notify the Board of Trustees. At the next regular meeting of the Board of Trustees, the Board shall authorize the return to the developer of the funds so deposited. [Added 9-22-1997 by L.L. No. 11-1997]
- (4) In addition to the sanctions contained in the preceding subsections for failure to conform to the final approved site plan, where an applicant fails to take all necessary steps to assure that, during construction, all construction debris, materials and fill are either removed from the construction site or neatly secured on the site so that construction debris, materials and fill are contained within the lot and are not spread to other lots or onto public streets, the applicant shall be

guilty of a violation punishable by a fine not to exceed \$250 for a first offense and \$500 for each subsequent offense. Each day that the debris is not removed shall be deemed a separate and distinct offense.

B. General standards. The Planning Board shall not approve a site plan unless it shall find that such plan conforms to the requirements of this chapter, as well as to other applicable laws and regulations, including but not limited to Chapter 126 of this Code. In reviewing the site plan, the Planning Board shall also take into consideration the public health, safety and general welfare and shall impose appropriate conditions and safeguards which are in harmony with the general purpose and intent of this chapter, particularly with respect to the following: [Amended 3-2-1998 by L.L. No. 1-1998; 4-23-2007 by L.L. No. 5-2007]

- (1) Traffic access. The number, location and design of all proposed driveways, in terms of their width, grade, alignment, visibility and relationship to the existing street system and neighboring properties and land uses shall be such that maximum safety will be achieved and function properly provided for.
- (2) On-site circulation and parking. Adequate and convenient off-street parking and loading spaces shall be provided to prevent parking in public streets of vehicles belonging to any persons connected with or visiting the proposed use, and the interior circulation system shall be adequate to provide safe access to all required off-street parking, including access for the handicapped.
- (3) Pedestrian circulation. An adequate and safe pedestrian circulation system shall be provided to permit safe access to uses on the site from the street and from all parking areas.
- (4) Landscaping and buffering. All parking, loading and service areas shall be screened in a reasonable manner at all seasons of the year from the view of adjacent residential lots and streets, the general landscaping of the site shall be designed in an attractive manner and, wherever possible, desirable natural features existing on the site shall be protected and retained.
- (5) Lighting. Outdoor lighting shall be provided on the site to assure the safe movement of vehicles and persons and for security, and such lighting shall not create an undesirable impact on neighboring properties and streets.
- (6) Drainage. The proposed stormwater drainage system shall be adequate to prevent any increase in the rate of surface runoff or otherwise contribute to downstream flooding during a storm of any magnitude up to and including a one-hundred-year-frequency storm.
- (7) Water and sewage. The proposed systems for water supply and sewage collection and disposal on the site shall be adequate, and facilities shall be sufficient to handle the increase in service.
- (8) Solid waste. Adequate provisions shall be made for the storage, collection and disposal of solid waste, and such facilities shall not be permitted to adversely affect neighboring properties or public facilities.

- (9) Building design. The height, location and size of the proposed buildings shall be in conformity with the requirements of this chapter, and all such buildings and other structures shall harmoniously relate to each other, the site and neighboring properties.
 - (10) Signage. All proposed signs, including on-site directional signs and building signs, shall meet the requirements of this chapter, shall be adequate to provide reasonable information to the public and shall be in harmony with the design of the site and buildings and with neighboring properties.
 - (11) Other public needs. Other public needs and requirements, including the provision of recreation facilities and the protection of the environment, shall also be properly and adequately provided for. In furtherance of this subsection, the provisions of Chapter 119 of this Code shall be followed where applicable.
- C. Procedure. The applicant shall submit to the Planning Board two copies of a completed site plan application form and 12 copies of a site plan. The site plan shall show the information listed below, drawn to a scale of one inch equals 30 feet or larger:
- (1) Title of development, date, revision dates, if any, North point, scale, name and address of record owner and of applicant, if other than owner, and of the engineer, architect, landscape architect or surveyor preparing the site plan.
 - (2) Area and boundaries of the subject property, section and lot numbers of the subject property, adjacent zoning and special district boundaries, building or setback lines as required in this chapter, lines of existing streets and adjoining lots as shown on the tax maps and reservations, easements and other areas dedicated to public and special use.
 - (3) The names and mailing addresses of all owners of record of all adjacent properties.
 - (4) Location and dimensions of all existing buildings, retaining walls, fences, rock outcroppings, wooded areas, single trees with circumference of 25 inches or more measured at a height 4 1/2 feet above existing ground level at the base of the tree on the uphill side, watercourses, wetlands, water supply, sanitary sewerage, storm drainage, utilities, and any other significant and existing features on the site. Wetland delineations shall be mapped and staked in the field and certified by a licensed professional authorized by the New York State Department of Environmental Conservation to certify said wetlands. All significant existing features within 20 feet of all property lines shall also be shown. [Amended 11-25-2003 by L.L. No. 9-2003; 9-7-2004 by L.L. No. 4-2004; 4-23-2007 by L.L. No. 5-2007]
 - (5) Existing and proposed contours at a maximum vertical interval of two feet.
 - (6) Proposed use or uses of all land and buildings and, where only a portion of a property is to be occupied by the development, the boundaries and area of such portion (including required screening and setback areas).

- (7) Outline and elevations of the pavement of abutting streets and of proposed means of vehicular and pedestrian access to and from the site.
- (8) Location, layout and numbers of any proposed off-street parking and loading spaces.
- (9) Location and layout of any proposed recreation areas.
- (10) Proposed finished floor elevation of buildings, finished grade of walls, pavements and storm drains.
- (11) Detailed construction plans of proposed retaining walls, steps, ramps, paving and drainage structures.
- (12) Expected storm drainage loads.
- (13) Estimate of all earthwork, including the quantity of any material to be imported to or removed from the site, or a statement that no material is to be removed or imported.
- (14) Location and dimensions of all proposed water supply, sanitary sewerage, storm drainage and other utility lines and equipment, including connections to existing facilities.
- (15) Detailed landscaping plan including type, size and location of all materials used and plans for buffer screening and fencing.
- (16) Proposed location, type, design, size, color and illumination of all signs.
- (17) Proposed type, design, mounting height, location, direction, power and timing of all outdoor lighting.
- (18) Conditions specified by the Zoning Board of Appeals in the approval of any variance or special permit related to the subject property.
- (19) The following note shall be shown on the site plan: "No trucks in excess of 10,000 pounds gross weight shall be permitted to make deliveries to the site before 9:00 a.m. or after 6:00 p.m. Mondays through Fridays nor at any time during weekends and holidays." [Added 9-23-2003 by L.L. No. 7-2003]

D. Environmental review. Where required by the New York State Environmental Quality Review Act (SEQRA),⁷² additional information concerning the environmental impact of the proposed development may be required as a part of the site plan application.

E. Review by other agencies.

- (1) Village agencies and officials. [Amended 9-25-2000 by L.L. No. 7-2000]

- (a) The Planning Board shall submit copies of the site plan to the Village

⁷². Editor's Note: See Article 8 of the Environmental Conservation Law.

Engineer, Building Inspector and Architectural Review Board or other Village agencies and officials as it deems appropriate, all of which shall submit a written report within 30 days of the date of forwarding for review and report. In the case of the Building Inspector, the report shall include a recommendation as to whether the proposed project shall be divided into phases, the precise number of which shall be recommended by the Building Inspector. However, the Planning Board shall have the authority to require phased site plan review whether or not recommended, and regardless of the source of the information upon which the Planning Board bases its decision to require phased site plan review. In the event that the Planning Board decides to adopt the recommendations of the Building Inspector for phased site plan review, or in the event that the Planning Board decides to require phased site plan review based upon information or recommendations other than the recommendation of the Building Inspector, the phases shall include, but not necessarily be limited to, tree clearing, structural measures for erosion control installation, drainage improvements, driveway installation and construction of the building. Each such phase shall require a separate written certificate of compliance, to be issued by the Building Inspector, upon his being satisfied that the required work for each such phase has been satisfactorily completed. Such certificate of compliance shall contain an authorization for the builder to proceed to the next succeeding phase, if any. There shall be mandatory inspection of each building site to which this chapter shall be applicable, after each rain event, as well as biweekly, whether or not there is a rain event. [Amended 12-23-2002 by L.L. No. 7-2002]

- (b) Written inspection reports shall be prepared on a regular basis by the Building Inspector or the Village Engineer. In the event that an inspection report discloses violations of the approved erosion control plan for the project, the builder shall be required to remedy the violation immediately. If the violation of the erosion control plan is not corrected completely within three days of the date of notice of the violation to the builder, the Building Inspector shall issue a stop-work order pursuant to Chapter 47 of this Code. The Planning Board may submit copies to the appropriate fire district, the Rockland County Drainage Agency or the New York State Department of Transportation for information, review and comment regarding facilities under their jurisdiction, and to any other county, state or federal agency with jurisdiction. [Amended 11-13-2000 by L.L. No. 8-2000]

- (2) The Planning Board shall refer to the Rockland County Planning Board for its recommendation all matters within the provisions of Article 12-B, §§ 239-l and 239-m, of the General Municipal Law which includes real property lying within 500 feet of the boundary of any city, Village or town, or from the boundary of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any state-owned land on which a public building or institution is situated, and any special permit

or variance affecting such use or property within a distance of 500 feet. The Rockland County Planning Board shall render its decision within 30 days of referral or within an extended period if agreed upon. If the Rockland County Planning Board fails to report within such thirty-day period or such longer period as has been agreed upon by it and the Planning Board, the Planning Board may act without such report. If the Rockland County Planning Board disapproves the proposal, or recommends modifications thereof, the Planning Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. Within seven days after final action by the Planning Board, a report shall be filed of the final action it has taken with the County Planning Board which had made the recommendations, modifications or disapproval.

- F. Public hearing. The time within which public hearings are required to be held by the Planning Board shall be calculated from the date of the completion of procedures required, if any, by the New York State Environmental Quality Review Act (SEQRA).⁷³ The Planning Board shall hold a public hearing within 62 days after receipt of a complete site plan application by the clerk of the Planning Board. Such hearing shall:
- (1) Be advertised at least once in the official Village newspaper at least five days before such hearing.
 - (2) Be noticed, by certified mail, return receipt requested, to each owner of the property within 500 feet of the perimeter of the subject property as indicated on the application for site plan approval and at least 10 days prior to the public hearing.
 - (3) Be advertised by the installation of four posters, furnished by the Planning Board Secretary, on the four closest public roads in visible locations surrounding the proposed site at least 10 days prior to the public hearing.
- G. The Planning Board shall, thereafter, approve, with or without modification, or disapprove such site plan within 62 days after the public hearing. The grounds for a modification or for disapproval shall be stated upon the record of the Planning Board. Within five days of the approval of the site plan, it shall be certified by the clerk of the Planning Board as having been approved, a copy filed in the clerk's office and a certified copy mailed to the owner. Notwithstanding the foregoing provisions, the time in which the Planning Board must take action on the site plan may be extended by mutual consent of the applicant and the Planning Board.
- H. Special permit applications. Where special permit approval is required for the proposed use under this local law, insofar as practicable the special use permit and site plan approval procedures shall run concurrently.
- I. As-built plan.

⁷³ . Editor's Note: See Article 8 of the Environmental Conservation Law.

- (1) Upon compliance of any development or redevelopment pursuant to an approved final site plan, and prior to the issuance of a certificate of occupancy, the applicant shall submit to the Code Enforcement Officer an as-built plan prepared and certified by a licensed engineer or surveyor showing the location of all site improvements as constructed. Such plan shall be based on a field survey.
 - (2) Said as-built plan shall be reviewed by the Code Enforcement Officer to determine if it is in compliance with the Zoning Code, the approved final site plan and related requirements of the Planning Board and any special permit or variance. Where the Code Enforcement Officer determines that the as-built plan is not in compliance, he shall not issue a certificate of occupancy unless either the construction is corrected or a revised site plan is submitted to and approved by the Planning Board.
- J. Field changes. During construction, the Building Inspector may authorize or require, at his own determination or upon request of the applicant, minor adjustments to the approved site plan when such adjustments are necessary in light of technical or engineering considerations, the existence or materiality of which was first discovered during actual construction. Such minor adjustments shall be consistent with the spirit and intent of the approved site plan. Where unforeseen conditions are encountered which require any material change to an approved site development plan, or where the developer wishes to modify the approved plan for other reasons, an amended site plan shall be filed with the Planning Board for review and approval in accordance with the same procedures required for initial applications. [Amended 9-25-2000 by L.L. No. 7-2000]
- K. Expiration of approval. Approval of any final site plan shall expire unless a building permit and certificate of occupancy are applied for within a period of 18 months from the date of the signing of the final site plan by the Planning Board, except where the staging of development over a longer period of time has been specifically provided for at the time of site plan approval. The Planning Board may extend the site plan approval for not more than two six-month periods.
- L. Fees. Fees for site plan approval are listed in the fee schedule adopted by the Board of Trustees.⁷⁴ If a site plan or any portion thereof is revised to the extent that it warrants Planning Board reconsideration, a new application fee shall be required. [Amended 10-27-2003 by L.L. No. 8-2003]

⁷⁴ . Editor's Note: The fee schedule is on file in the Village offices.

Chapter 119

SITE DEVELOPMENT PLAN REVIEW

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 3-2-1998 by L.L. No. 1-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board and Zoning Board of Appeals – See Ch. 25.

Building construction – See Ch. 47.

Explosives – See Ch. 65.

Subdivision of land – See Ch. 118.

Zoning – See Ch. 130.

ARTICLE I

Definitions

§ 119-1. Definitions.

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

ANGLE OF REPOSE – The maximum angle at which the exposed face of various soil and rock materials can deviate from the horizontal without incurring the likelihood of a slope failure.

APPLICANT – A person requesting a site development plan permit from the Village or a person to whom a site development plan permit has been granted in accordance with the provision of this chapter.

APPROVING AUTHORITY – The Village agency or public official empowered to administer the permit procedures of this chapter, as specified in § 119-4 hereof.

BUILDING INSPECTOR – The Building Inspector of the Village of Pomona, New York, or his authorized representative.

DISTURBANCE – The removal of vegetation, except as specifically permitted in § 119-2B herein, or the filling, excavation, regrading or removal of soil, rock or retaining structures in areas of steep slope, whether by manual labor, machine or explosive. The condition of disturbance will be deemed to continue until the area of disturbance is revegetated and/or permanently stabilized.

DISTURBED AREA – Any steep slope area for which a disturbance is proposed or is ongoing.

PERSON – Any person, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including public agencies and municipal corporations.

PLANNING BOARD – The Planning Board of the Village of Pomona, New York.

PROTECTED TREE – Any tree having historical value as determined by resolution of the Board of Trustees or any tree that has a circumference of 45 inches or more measured at a height of 4 1/2 feet above existing ground level at the base of the tree on the uphill side. [Added 9-7-2004 by L.L. No. 4-2004]

RIDGELINE – Long, narrow landforms found among the highest elevations in the region and associated with mountain chains.

SITE DEVELOPMENT PLAN PERMIT – The written form of Village approval granted by the approving authority and required by this chapter for the issuance of a work permit and the conduct of any steep slope regulated activity.

STEEP SLOPE

A. Any geographical area proposed for disturbance, whether on a single lot or not, having a topographical gradient of 15% or greater (ratio of vertical distance to horizontal distance) with a minimum horizontal dimension of 10 feet, whether man-made or natural, and whether created by a retaining structure or not. Steep slopes are further categorized as: [Amended 2-28-2005 by L.L. No. 1-2005]

(1) MODERATELY STEEP SLOPE – A slope equal to or greater than 15% but less than 25%;

(2) VERY STEEP SLOPE – A slope equal to or greater than 25% but less than 35%;

(3) EXTREMELY STEEP SLOPE – A slope equal to or greater than 35%.

B. The most steeply sloped area that meets the minimum area threshold, as specified above, shall determine approving authority jurisdiction and review procedures.

C. If the areas of proposed disturbance within each of the three categories of steep slope are individually less than the minimum areas defined above, then the area of all continuous steeply sloped areas proposed for disturbance shall be merged as specified herein. A steep slope area shall be regulated pursuant to the provisions of this chapter if the total of all such steeply sloped areas proposed for disturbance, as adjusted according to the weighing factors identified below, exceeds a sum of 3/10 acre or 13,068 square feet. [Amended 2-22-1999 by L.L. No. 2-1999]

Moderately steep slope area x 1.0

+ Very steep slope area x 1.5

+ Extremely steep slope area x 2.0

= Total weighted area

D. If no steep slope meets or exceeds the minimum area requirement for a steep slope,

but the total weighted area of two or more slope categories exceeds 13,068 square feet (3/10 acre), then the single slope category that has the largest area after the application of the relevant weighing factor shall determine approving authority jurisdiction and review procedures. All area measurements of square feet shall be to the nearest whole number.

VILLAGE ATTORNEY – The duly appointed Village Attorney for the Village of Pomona, New York.

VILLAGE ENGINEER – The duly appointed Village Engineer of the Village of Pomona, New York, or his duly appointed and authorized representative.

WORK PERMIT – The written approval issued by the Building Inspector permitting the actual commencement and continuation of work within a steep slope regulated area, consistent with the conditions, terms and requirements of the site development plan permit issued by the approving authority.

ARTICLE II

Regulated Activities and Review Standards

§ 119-2. Regulated and exempt activities.

- A. Regulated activities. It shall be unlawful to create a new steep slope or to disturb an existing steep slope or to create any other disturbance of land on a steep slope, including the installation of retaining walls, other than an exempt activity as defined in Subsection B hereof, without having first obtained site plan approval from the Planning Board or such other approving authority as provided in this chapter and a work permit from the Building Inspector. [Amended 8-15-2005 by L.L. No. 3-2005]
- B. Exempt activities. The following activities on steep slopes do not require the issuance of a permit:
 - (1) Normal ground maintenance, including trimming of vegetation or removal of dead or diseased vegetation, selective trimming and pruning in previously landscaped areas and decorative planting, provided such activity does not involve regrading of land or any disturbance of steep slopes and further provided that such activity conforms with other applicable local laws and regulations. [Amended 8-15-2005 by L.L. No. 3-2005]
 - (2) The disturbance to steep slopes under temporary emergency conditions, as determined by the Village Engineer, where such disturbance is necessary to protect persons or property from present and imminent danger.

§ 119-3. Review standards.

- A. In granting a site development plan permit under this chapter, the approving authority shall determine the following:
 - (1) That the proposed activity and the manner in which it is to be accomplished are in accordance with the purpose and findings set forth in this chapter.

- (2) That the proposed activity and the manner in which it is to be accomplished can be completed without increasing the possibility of creep or sudden slope failure and will minimize additional erosion to the maximum extent practicable.
 - (3) That the proposed activity and the manner in which it is to be accomplished will not adversely affect the preservation and protection of existing wetlands, water bodies, watercourses and floodplains.
 - (4) That the proposed activity and the manner in which it is to be accomplished can be completed in such a way so as not to adversely affect existing, proposed or potential future wells or sewage disposal systems or any endangered species of flora or fauna.
 - (5) That the proposed activity and the manner in which it is to be accomplished are consistent with the principles and recommendation of the adopted Village Master Plan.
- B. The applicant shall have the burden of proof to demonstrate compliance with this chapter.

ARTICLE III

Application Procedures

§ 119-4. Approving authority.

The approving authority for all applications for site development plan permits shall be as follows:

- A. For any application that involves a disturbance in an area of very steep slope or extremely steep slope, the Planning Board shall be the approving authority for the site development plan permit.
- B. Where the Planning Board is reviewing an application under the provisions of Chapter 118 of the Village Code, it shall also be the approving authority for any site development plan permit required in connection with such application.
- C. Except as provided in Subsections A and B hereinabove, the Village Engineer shall be the approving authority for all other steep slope residential site development plan permit applications, except that the Village Engineer, in his sole discretion, may refer any moderately steep slope site plan application to the Planning Board for review and approval. [Amended 2-28-2005 by L.L. No. 1-2005]

§ 119-5. Application requirements.

- A. Required documentation. An application for a site development plan permit shall be made on forms furnished by the Building Department.
- B. Any application for a site development plan permit shall also contain the following:
 - (1) A written narrative explaining the nature of the proposal, including any

future development proposals for the property and whether alternative locations exist for the proposed activity.

- (2) A site development plan, which shall be drawn at a scale of not less than one inch equals 50 feet and prepared by a landscape architect, architect, professional engineer or other qualified person and showing the following information for all lots on the subject site that contain steep slopes:
 - (a) The location of proposed structures, septic systems, wells and driveways.
 - (b) The location of the proposed area of disturbance and its relation to neighboring properties, together with structures, roads and affected wetlands, if any, within 50 feet of the boundaries of the disturbed area.
 - (c) The existing topography in the proposed area of disturbance at a contour interval of not more than two feet. Contours shall be shown for a distance of 50 feet or greater beyond the limits of the proposed area of disturbance.
 - (d) The location and size of areas of extremely steep slope, very steep slope and moderately steep slope under existing and proposed conditions, in the area of the proposed disturbance and within a distance of 50 feet thereof.
 - (e) The proposed final contours of the disturbed area at a maximum contour interval of two feet and proposed surface materials or treatment.
 - (f) An erosion and sedimentation control plan.
 - (g) The details of any surface or subsurface drainage system proposed to be installed, including special erosion-control measures designed to provide for proper surface or subsurface drainage, both during the performance of work and after its completion.
 - (h) A tree map showing the number and location of existing trees of 20 inches or more in circumference at a height four feet above existing grade, keyed to a table listing species, height and caliper. The map shall show the trees intended to be removed during construction, subject to Planning Board approval. The Planning Board, in its discretion, may waive the requirement for individual tree identification where a large number of such trees are situated in an area that is to be preserved as shown with a clearing limit line. [Added 11-25-2003 by L.L. No. 9-2003]
 - (i) A landscape plan prepared by a licensed landscape architect showing replacement of trees that are proposed to be removed by the development and installation of trees in such locations as may be determined by the Planning Board. [Added 9-7-2004 by L.L. No. 4-2004]
- (3) A list of all applicable county, state or federal permits that are required for such work or improvement.

- (4) Payment of all applicable fees.
- C. The following information and material shall be supplied if requested by the approving authority or its representative:
- (1) If required, the following items shall be provided on a site development plan(s) drawn of a scale of not less than one inch equals 50 feet, prepared by a landscape architect, architect, professional engineer or other qualified person:
 - (a) Cross sections of all disturbed steep slope areas.
 - (b) Existing soils within 50 feet of the proposed disturbed area, taken from field investigations by a soil scientist and classified into hydrological soil groups. The depth to bedrock and depth to water table, K-factor and soil and rock strata in all areas of disturbance shall be identified.
 - (c) A cut-fill map delineating areas of disturbance at affected depths on feet of zero to three feet, three to six feet, six to 10 feet and over and the estimated material quantities of cut/fill.
 - (d) A slope map showing existing and proposed slopes within the disturbed area for each of the soil types described in Subsection C(1)(b) above.
 - (e) Other information, including specific reports by qualified professionals on soils, geology and hydrology, as may be determined to be necessary by the approving authority.
 - (2) A plan with the existing topography of the watershed tributary to the disturbed area presented at a scale of not more than one inch equals 100 feet. This map shall show existing and, if required by the approving authority, proposed controls and diversions of upland water.
- D. Number of copies. The number of copies to be submitted shall conform to the requirements of § 118-32C of this Code, except that if the approving authority is the Village Engineer, four copies of the application and all supporting materials shall be submitted.

§ 119-6. Fees.

- A. An application fee and inspection fee in amounts set forth in the fee schedule established from time to time by the Board of Trustees shall be submitted with the application.
- B. Professional review fees.
- (1) The Planning Board, in review of an application for a site development plan permit, may refer such application to such planner, engineer, environmental expert or other consultant as the Planning Board shall deem necessary to enable it to review such application as required by law. Fees charged by such consultant shall be paid by the Village and reimbursed to the Village by the applicant for the site development plan permit. Payment of consultants' fees by the applicant

shall be in addition to any and all other fees required by law.

- (2) At the time of submission of any application for a site development plan permit, the applicant shall deposit with the Village Clerk an amount as set forth in the fee schedule adopted by the Board of Trustees,⁷⁵ to be held in escrow by the Village from which withdrawals shall be made to reimburse the Village for consultants' fees as set forth in Subsection B(1) above. When the balance in said escrow account is reduced to 1/3 of its initial amount, the applicant shall deposit additional funds with the Village Clerk to restore the balance to the amount of the initial deposit. A building permit or certificate of occupancy or use shall not be issued unless all application fees and consultants' fees charged in connection with the application have been paid to the Village. After all applicable fees and reimbursements have been paid by the applicant, the Village shall refund any amounts remaining in the escrow account.
- (3) Inspection fees shall be due and payable pursuant to the provisions of § 119-6B(1) and (2) hereinabove, whether such inspections are required during the pendency of the application for a site development plan permit or after the approval of the site development plan permit to determine compliance with the approved permit. [Added 10-28-2002 by L.L. No. 6-2002]

§ 119-7. Procedures for review and decision making.

- A. It is the intent of this chapter to incorporate the consideration of steep slope protection into the Village's existing land use and development approval procedures in conjunction with the procedures of the New York State Environmental Quality Review Act. To the maximum extent possible, the review, hearings and decisions upon any application processed under this chapter will run concurrently with similar procedures that the approving authority may undertake in connection with the other applications that are directly related.
- B. A preliminary informal consultation with the approving authority may be requested by the applicant so as to present his preliminary proposal and review comments on such proposal.
- C. During its review of the application, the approving authority will:
 - (1) Determine if the application is complete.
 - (2) Hold a public hearing in accordance with Subsection D hereof.
 - (3) Review the application to determine that the requirements of this chapter have been satisfied.
 - (4) Require posting of a letter of credit issued by a bank having offices in Rockland County as a condition of approval to cover losses or damages resulting from work performed under the permit, work performed in excess of that specified by the permit, or the failure to complete work specified by the permit;

⁷⁵ . Editor's Note: The fee schedule is on file in the Village offices.

the amount of such letter of credit to be approved by the Village Engineer, and the form thereof to be approved by the Village Attorney.

- (5) Approve, approve with conditions or deny the application, in accordance with the requirements of this chapter, within 60 days after the receipt of a complete application as specified in § 119-5 of this chapter, or after the close of a public hearing on that application, whichever is later. Nothing in this section is to be construed as authorization for a default approval in the event that these periods are exceeded.
- (6) Establish conditions of approval deemed necessary by the approving authority to satisfy the goals, objectives and review standards set forth in the findings and § 119-3 of this chapter including but not limited to the following:
 - (a) Lot layouts shall be designed so that sanitary sewage disposal systems entirely avoid areas of very steep and extremely steep slopes and are in compliance with all standards and regulations of the Rockland County Health Department.
 - (b) The padding or terracing of building sites, including mounding of septic tile fields, shall be minimized to the maximum extent practicable.
 - (c) The alignment of roads and driveways shall follow the natural topography, minimum regrading and comply with design standards for maximum grades set forth in the Village Code.
 - (d) The natural elevations and vegetative cover of ridgelines shall be protected from disturbance to the maximum extent possible.
 - (e) All regrading shall blend in with the natural contours and undulations of the land.
 - (f) Cuts and fills shall be rounded off to eliminate sharp angles at the top, bottom and side of regraded slopes.
 - (g) The angle of cut and fill slopes shall not exceed the natural angle of repose of the soil or rock materials in the cut or fill, except where retaining walls or other structural stabilizations are used. Generally for soils, cut and fill slopes should not be steeper than two horizontal to one vertical (50% slope).
 - (h) Fill slopes shall avoid all natural slopes of two horizontal to one vertical (50%) slope or steeper. The toe of fill slopes shall not be located within 12 feet horizontally of the top of an existing or proposed cut slope.
 - (i) Tops and bottoms of cut and fill slopes shall be set back from existing and proposed property lines a distance at least equal to the lesser of three feet plus $1/5$ of the height of the cut or fill or 10 feet.
 - (j) Tops and bottoms of cut and fill slopes shall be set back from structures a

distance that will ensure the safety of the structure in the event of the collapse of the cut and fill slopes. Generally, such distance will be considered to be six feet plus 1/5 of the height of the cut and fill but need not exceed 10 feet. Nevertheless, a structure may be built on a slope or at the toe of a slope if it is designed to retain the slope and to withstand the forces exerted on it by the retained slope.

- (k) The use of explosives shall be avoided to the maximum extent practicable. Generally, disturbance of rock outcrops shall be by means of explosives only if manual labor and machines are not effective and only if rock blasting is conducted in accordance with the Village Code and all other applicable regulations by a person holding a current Class A or Class B certificate of completion from the New York State Department of Labor.
- (l) Any disturbance of steep slopes shall be completed within one construction season, and disturbed areas shall not be left bare and exposed during winter and spring thaw periods for more than 30 days. Loose excess rock resulting from permitted blasting or otherwise shall be removed as part of the required completion of disturbance work.
- (m) The disturbance of existing vegetative cover shall not take place more than 15 days prior to commencing grading and construction.
- (n) Temporary soil stabilization shall be applied within two days after the disturbance is completed or when no additional disturbance is to be performed for a period of seven days. Upon good cause shown and based upon consideration of the slopes, soils and environmental sensitivity of the area involved, the Village Engineer may modify these specified time periods.
- (o) Measure for the control of erosion and sedimentation shall be undertaken in accordance with the New York State Soil and Erosion Control Guidebook, or its satisfactory equivalent to the approving authority.
- (p) Topsoil that will be stripped from all areas of disturbance shall be stockpiled in a manner so as to minimize erosion and sedimentation, and shall be replaced on the site at the time of final grading.
- (q) Fill materials shall be composed only of nonorganic material, including rock with a diameter that will allow for appropriate compaction and cover by topsoil, subject to § 130-4 of the Pomona Code.
- (r) Compaction of fill materials in fill areas shall be such that it ensures support of proposed structures and stabilization for intended uses.
- (s) Protect those areas at elevation datum of 50 feet or less than the elevation datum of the ridgeline.
- (t) The protection of existing trees and other vegetation where feasible. A protected tree, as defined in this chapter, shall be preserved unless such tree endangers the health or safety of any person or interferes with

construction of a structure on the lot or is a dead tree as determined by a landscape architect or similar professional. The Planning Board may require relocation of a proposed structure in order to preserve any trees on the property. In reviewing applications for site development plan in connection with steep slopes, the Planning Board shall have authority to vary the minimum frontage, front yard, side yard and rear yard requirements of § 130-12 of this Code provided such variance does not exceed 40% of any of said requirements and provided the Planning Board determines that said variance is necessary in order to limit disturbance of the slope on the lot or to preserve trees or other vegetation thereon. The Planning Board shall not vary minimum lot width or the lot frontage required for flag lots pursuant to Subsection C of § 130-12 of this Code. The Planning Board may also require the planting of additional trees, shrubs or other vegetation for the purpose of protecting the slopes from erosion and to enhance the aesthetics of the site. A note shall be added to the site development plan to read "Any tree that is removed in violation of a clearing limit line, tree map or landscape plan shall be replaced with one or more trees of similar size and species to be determined by the Planning Board. No work shall be performed on the site until the Planning Board has approved a plan for tree replacement and has determined when the planting shall take place." [Added 9-27-2004 by L.L. No. 6-2004⁷⁶; amended 2-28-2005 by L.L. No. 1-2005]

- (u) The Planning Board shall have the authority to require phased site development plan review whether or not recommended by the Building Inspector or Village Engineer, and regardless of the source of the information upon which the Planning Board bases its decision to require phased site development plan review. In the event that the Planning Board decides to adopt the recommendations of the Building Inspector, Village Engineer or professional planner for phased site development plan review, or in the event that the Planning Board decides to require phased site development plan review based upon information or recommendations other than the recommendation of the Building Inspector, Village Engineer or professional planner, the phases shall include, but not necessarily be limited to, tree clearing, structural measures for erosion control installation, drainage improvements, driveway installation and construction of the building. Each such phase shall require a separate written certificate of compliance, to be issued by the Building Inspector, upon his being satisfied that the required work for each such phase has been satisfactorily completed. Such certificate of compliance shall contain an authorization for the builder to proceed to the next succeeding phase, if any. There shall be mandatory inspection of each building site to which this chapter shall be applicable, after each rain event, as well as biweekly, whether or not there is a rain event. [Added 12-23-2002 by L.L. No. 7-2002]

- (v) No trucks in excess of 10,000 pounds gross weight shall be permitted to make

⁷⁶ . Editor's Note: This local law also redesignated former Subsection C(6)(t) and (u) as (u) and (v), respectively.

deliveries to the site before 9:00 a.m. or after 6:00 p.m. Mondays through Fridays nor at any time during weekends and holiday. [Added 9-23-2003 by L.L. No. 7-2003]

- (w) Protection of all wetlands in accordance with the requirements of Chapter 126 of this Code, the New York State DEC and the U.S. Army Corps of Engineers. [Added 4-23-2007 by L.L. No. 5-2007]
- D. Public hearings. For any application in which the approving authority is the Village Engineer, no public hearing will be required. For any application where the Planning Board is the approving authority, the Planning Board shall hold a public hearing in accordance with § 118-32F of this Code. Nothing in this section is to be considered as authorization for a default approval in the event that these periods are exceeded.
- E. Any approval, conditional approval or denial of a site development plan permit will be in writing. The written decision of the approving authority shall be considered the site development plan permit.
 - (1) In the case of a denial or conditional approval, such written decision will state the reasons for the denial and/or the conditions of approval.
 - (2) Where the Planning Board is the approving authority, such decision will be in the form of a resolution.

§ 119-8. Appeals.

- A. An applicant or any other aggrieved person may seek a review of a determination by the Planning Board to grant or deny a site development plan permit by the commencement of an action pursuant to the provisions of Article 78 of the Civil Practice Law and Rules within 30 days of the filing of such a determination with the Village Clerk.
- B. In the case of an application decided by the Village Engineer, the applicant or any other aggrieved person may seek a review by appealing to the Planning Board, in which case the Planning Board shall become the approving authority for such application. Such review shall be requested not later than 20 days after the filing of the subject decision by the Village Engineer. If the appeal is not filed within said period, the determination of the Village Engineer shall be final and binding.

§ 119-9. Completion of work.

- A. A site development plan permit issued by the approving authority shall be valid for three years, except that all permits shall expire upon the completion of the work specified. The approving authority may grant one six-month extension to this three-year period, provided that an application for an extension is submitted at least 60 days before the expiration of the steep slope permit. Standards for the issuance of renewals will be the same as those applied to the initial issuance. Permits, including all of their conditions, shall be binding on successors and assigns of the applicant. Upon receipt of a site development plan permit, the applicant may obtain a work permit from the Building Inspector to commence the actual work within the steep slope area. The work permit will be valid for a period of one year or until expiration

of the site development plan permit, whichever occurs first.

- B. Following completion of the work, the applicant shall submit a certification by a landscape architect, architect or professional engineer that the site work meets the requirements of the permit and a certification by a structural engineer that any retaining walls are structurally sound and comply with the requirements of site plan approval and the New York State Building Code. [Amended 8-15-2005 by L.L. No. 3-2005]
- C. The Building Inspector shall not issue a certificate of occupancy or use until the Village Engineer has verified that all work has been completed in accordance with the site development plan permit.
- D. Any proposed revision work covered by a site development plan permit shall be reviewed by the Village Engineer. Where the Village Engineer determines that a substantial revision is proposed, the submission of a new application to the approving authority shall be required.
- E. The approving authority may suspend or revoke a site development plan permit in the form of a stop-work order if it finds that the applicant has not complied with any or all of the terms of such permit, has exceeded the authority of the permit or has failed to undertake the project in a manner set forth in such permit. The applicant will be provided with a written notice of a stop-work order. Said notice shall be delivered personally or by certified mail addressed to the applicant's address as shown on the permit. Such applicant shall be entitled to a hearing before the approving authority. If such hearing is requested by the applicant in writing within five days after the receipt of the stop-work-order, such hearing will be scheduled within 15 days after the receipt of the request for a hearing. After the close of the hearing, the approving authority may confirm, modify or cancel the stop-work order. The approving authority shall set forth in writing, in the site development plan permit application file it keeps, its findings and reasons for revoking or suspending a site development plan permit issued pursuant to this section.

ARTICLE IV

Enforcement

§ 119-10. Inspection.

Any site for which an application has been submitted shall be subject to inspection at any reasonable time, including weekends and holidays, by the members of the approving authority or its designated representatives. Notice will be provided to applicants of any site inspection that it is to be performed on a weekend, legal holiday or between the hours of 6:30 p.m. and 8:00 a.m. The applicant shall indemnify and hold the Village, its officers, employees and agents harmless against any damage or injury which may be caused by or arise out of entry into the subject site in connection with the processing of the application or inspection of the site to determine compliance with any conditions of permit approval during the pendency of the application, during the effective period of any site development plan or work permit issued for the site for up to one year after the completion of the work.

§ 119-11. Penalties for offenses.

- A. Any person who undertakes any regulated activity within a steep slope area without both a site development plan permit and a work permit or who violates, disobeys or disregards any provision of this chapter shall be liable for a civil penalty not to exceed \$3,000 for each such violation. Each consecutive day of the violation shall be considered a separate offense. Before assessment of the civil penalty, the alleged violator shall be afforded a hearing or opportunity to be heard before the Planning Board upon due notice, and with rights to specification of the charges and representation by counsel. Such civil penalty may be recovered in an action brought by the Village in any court of competent jurisdiction. Such civil penalty may be released or compromised by the Village, and any action commenced to recover the same may be settled and discontinued by the Village.
- B. The Planning Board shall also have the power, following a hearing, to issue orders directing the cessation of any violation of this chapter and the satisfactory restoration, under the Board's supervision, of the affected steep slope area to its condition prior to the violation, insofar as possible, within a reasonable period of time as determined by the Planning Board. The exercising of such power may be with or without the imposition of a civil penalty under Subsection A hereof.
- C. Any civil penalty or order issued by the approving authority shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules. Application for review of the determination of the approving authority shall be within a period of 30 days of the filing of said determination in the office of the Village Clerk.
- D. In addition to the above civil penalty, any person who violates any provision of this chapter shall be guilty of a violation, punishable by a fine not less than \$1,000 nor more than \$2,000 or a term of imprisonment of not more than 15 days, or both. Each offense shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. Notwithstanding the imposition of any other sanction, any court having competent jurisdiction may order the restoration of any area that has been affixed by a violation of this chapter, on such conditions as the court deems appropriate.
- E. The Village shall have the right to seek equitable relief to restrain any violation or threatened violation of any provision of this chapter and to compel the restoration of the affected steep slope area to its condition prior to the violation of the provisions of this chapter.

§ 119-12. Effect on existing operations or construction.

Any construction or operations existing within areas defined as steep slopes prior to the effective date of this chapter shall be exempt from this chapter, provided that no new construction or operation will be permitted after the effective date for this chapter except by permit as provided.

§ 119-13. Severability.

If any provision of this chapter is held for any reason to be invalid, such determination shall not invalidate any other provision thereof. If this chapter, or any provision thereof,

is held to be violative of vested rights in any subdivision approved prior to the effective date of this chapter, this chapter shall not be applicable to such subdivision but shall nevertheless be applicable to all other properties not so affected.

Chapter 120

TAXATION

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona: Art. I, 6-15-71; Art. II, 10-16-73 as L.L. No. 3-1973. Sections 120-2D and 120-3 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I

Senior Citizens Tax Exemption

[Adopted 6-15-71]

§ 120-1. Exemption granted.

All real property in the Village of Pomona owned by one or more persons, each of whom is 65 years of age or over, shall be exempt to the extent of 50% of the assessed value as shown on the Village assessment roll, provided that the requirements set forth in § 120-2 are complied with.

§ 120-2. Qualifications for exemption.

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

- A. All the owners of the real property must be 65 years of age or over on the date the application is filed.
- B. Title to the property shall have been vested in the owners of the property for at least 24 consecutive months prior to the date of the application. [Amended 2-18-75 by L.L. No. 1-1975]
- C. The property must be used exclusively for residential purposes and be occupied in whole or in part by the owner or owners and be their legal residence.
- D. The combined income of all the owners of the property must have been \$12,025 or less during the 12 consecutive months immediately preceding the date of making the application for exemption. Where title to property is vested in either a husband or wife, the combined income of the husband and wife may not exceed \$12,025. The word "income" includes all social security and retirement benefits, interest, dividends, rental income, salaries or other earnings, including income from self-employment. "Income" does not include gifts or inheritances received during the twelve-month period. [Amended 2-18-75 by L.L. No. 1-1975; 11-15-77 by L.L. No. 3-1977; 10-16-79 by L.L. No. 5-1979; 2-8-1988 by L.L. No. 1-1988]

§ 120-3. Application for exemption. [Amended 2-8-1988 by L.L. No. 1-1988]

An application for exemption pursuant to this Article must be made by the owner or all of

the owners of the property, on forms furnished by the Village Clerk's office, and the application must be filed in the Village Clerk's office on or before the appropriate taxable status date. An application for such an exemption for the owner or owners must be filed annually.

§ 120-4. Amount of exemption.

Upon the determination by the Village Clerk that the requirements of this Article have been met, the exemption shall be allowed in the amount of 50% of the assessed value of the property which qualifies. The exemption does not apply to special ad valorem levies or special assessments.

§ 120-5. Burden of proof of eligibility.

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

§ 120-6. Penalties for offenses.

Any conviction of having made any willfully false statement in the application for exemption under this Article shall be punishable by a fine of not more than \$100 and shall disqualify the applicant or applicants from further exemption for a period of five years.

ARTICLE II

Tax on Utility Services

[Adopted 10-16-1973 by L.L. No. 3-1973]

§ 120-7. Tax imposed; amount.

Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, a tax equal to 1% of its gross income from and after the first day of January 1974 is hereby imposed upon every utility doing business in the Village of Pomona which is subject to the supervision of the State Department of Public Service, which has a gross income for the 12 months ending December 31, 1973, in excess of \$500, except motor carriers or brokers subject to such supervision under Article 3-B of the Public Service Law,⁷⁷ and a tax equal to 1% of its gross operating income from and after the first day of January 1974 is hereby imposed upon every other utility doing business in the Village of Pomona which has a gross operating income for the 12 months ending December 31, 1973, in excess of \$500, which taxes shall have application only within the territorial limits of the Village of Pomona and shall be in addition to any and all other taxes and fees imposed by any other provision of law.

§ 120-8. Definitions.

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

GROSS INCOME – Includes receipts received in or by reason of any sale, conditional or otherwise (except sales hereinafter referred to with respect to which it is provided that profits from the sale shall be included in gross income), made or service rendered for

⁷⁷ . Editor's Note: For current provisions, see Art. 7 of the Transportation Law.

ultimate consumption or use by the purchaser in the Village of Pomona, including cash, credits and property of any kind or nature (whether or not such sale is made or such service is rendered for profit), without any deduction on account of the cost of the property sold, the cost of the materials used, labor or other services or other costs, interest or discount paid or any other expenses whatsoever; also profits from the sale of securities; also profits from the sale of real property growing out of the ownership or use of or interest in such property; also profits from the sale of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the period for which a return is made); also receipts from interest, dividends and royalties derived from sources within the Village of Pomona other than such as are received from a corporation, a majority of whose voting stock is owned by the taxpaying utility, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipts thereof, and also profits from any transaction (except sales for resale and rentals) within the Village of Pomona whatsoever.

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

PERSON – Persons, corporations, companies, associations, joint-stock associations, copartnerships, estates, 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 or municipality and public districts.

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

§ 120-9. Records.

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, and such records shall be preserved for a period of three years, except that the Village Treasurer may consent to their destruction within that period or may require that they be kept longer.

§ 120-10. Filing of returns.

Every utility subject to tax hereunder shall file quarterly, on or before September 25,

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

§ 120-11. When due and payable.

At the time of filing a return as required by this Article, each utility shall pay to the Village Treasurer the tax imposed by this Article for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

§ 120-12. Failure to file return.

A. In case of any return filed pursuant to this Article shall be insufficient or unsatisfactory to the Village Treasurer, and if a corrected or sufficient return is not filed within 20 days after the same is required by notice from him, or if no return is made for any period, the Village Treasurer shall determine the amount of tax due from such information as he is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. He shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the Village Treasurer for a hearing, or unless the Village Treasurer of his own motion shall reduce the same. After such hearing, the Village Treasurer shall give notice of his decision to the person liable for the tax. Such decision may be reviewed by a proceeding under Article 78 of the Civil Practice Laws and Rules of the State of New York if application therefor is made within 90 days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the Village Treasurer and an undertaking filed with him, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that, if such proceeding shall be dismissed or the tax confirmed, the applicant will pay all costs and charges which may accrue in the prosecution of such proceeding, or, at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, interest, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax, interest and penalties as a condition precedent to the granting of such order.

B. Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three 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.

§ 120-13. Notice requirements.

Any notice authorized or required under the provisions of this Article may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him in the last return filed by him 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.

§ 120-14. Penalties for offenses.

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

§ 120-15. Refunds.

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

§ 120-16. Tax to be part of operating costs.

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

§ 120-17. Action to enforce payment.

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

§ 120-18. Powers and duties of Treasurer.

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

§ 120-19. Confidentiality.

- A. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Village Treasurer or any agent, clerk or employee of the Village of Pomona to divulge or make known the amount of gross income or gross operating income or any particulars set forth or disclosed in any return under this Article. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Village of Pomona in an action or proceeding under the provisions of this Article or on behalf of the State Tax Commission in an action or proceeding under the provisions of the Tax Law of the State of New York or on behalf of any party to any action or proceeding under the provisions of this Article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of and may admit in evidence so much of said returns or of the facts shown thereby as is pertinent to the action or proceeding, and no more. Nothing herein shall be construed to prohibit the delivery to a person or his duly authorized representative of a copy of any return filed by him nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof or the publication of delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this Article, together with any relevant information which in the opinion of the Village Treasurer may assist in the collection of such delinquent taxes or the inspection by the Village Attorney or other legal representatives of the Village of Pomona of the return of any person who shall bring action to set aside or review the tax imposed thereon or against whom an action has been instituted in accordance with the provisions of this Article.
- B. Notwithstanding any provisions of this Article, the Village Treasurer may exchange with the chief fiscal officer of any city or any other Village in the State of New York information contained in returns filed under this Article, provided that such city or other Village grants similar privileges to the Village of Pomona, and provided that such information is to be used for tax purposes only, and the Village Treasurer shall,

upon request, furnish the State Tax Commission with any information contained in such returns.

§ 120-20. Disposition of moneys.

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

ARTICLE III

Exemption for Members of Volunteer Fire Companies and Ambulance Services

[Adopted 1-28-2002 by L.L. No. 1-2002]

§ 120-21. Exemption granted.

An exemption of 10% of assessed value of property owned by an eligible person, as set forth below, is hereby granted from taxation with respect to Village, part-Village and special district charges. In no event shall the exemption exceed \$3,000, multiplied by the latest state equalization rate for the Village.

§ 120-22. Eligibility.

Such exemption shall not be granted to an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service residing in such county unless:

- A. The applicant resides in the Village of Pomona, which is served by such incorporated volunteer fire company or fire department or incorporated voluntary ambulance service;
- B. The property is the primary residence of the applicant;
- C. The property is used exclusively for residential purposes; provided, however, that in the event any portion of such property is not used exclusively for the applicant's residence, but is used for other purposes, such portion shall be subject to taxation without benefit of the within exemption, and the remaining portion only shall be entitled to the exemption provided by this article; and
- D. The applicant has been certified by the authority having jurisdiction for the incorporated volunteer fire company or fire department as an enrolled member of such incorporated volunteer fire company or fire department for at least five years or the applicant has been certified by the authority having jurisdiction for the incorporated voluntary ambulance service as an enrolled member of such incorporated voluntary ambulance service for at least five years. The applicant must submit proof of such certification together with the application for an exemption, which application shall be made on a form or forms as provided in § 120-24 of this article, and which forms shall be available in the office of the Village Clerk of the Village of Pomona.

§ 120-23. Twenty-year service: grant of lifetime exemption.

Any enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service who accrues more than 20 years of active service and is so certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service shall be granted the 10% exemption as authorized by this article for the remainder of his or her life as long as his or her primary residence is located within the Village of Pomona.

§ 120-24. Application.

Application for such exemption shall be filed with the Assessor on or before the taxable status date on a form as prescribed by the State Board.

§ 120-25. No diminution of benefits.

No applicant who is a volunteer firefighter or volunteer ambulance worker who by reason of such status is receiving any benefit under the provisions of Article 4, Title 2, of the Real Property Tax Law of the State of New York on the effective date of this article shall suffer any diminution of such benefit because of the provisions of this article.

ARTICLE IV

Veterans Exemptions

[Adopted 12-18-2006 by L.L. No. 5-2006]

§ 120-26. Exemption granted.

Pursuant to the provisions of Subparagraph (ii) of Paragraph (d) of Subdivision 2 of § 458-a of the Real Property Tax Law of the State of New York, the Village of Pomona hereby authorizes an increase in allowable veterans' tax exemptions as provided in Subdivision 2 of § 458-a, Paragraphs (a), (b) and (c), to \$54,000, \$36,000 and \$180,000, respectively.

Chapter 124

VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 1-21-1969. Amendments noted where applicable.]

GENERAL REFERENCES

Transportation of explosives -- See Ch. 65.

Noise by vehicles -- See Ch. 96.

ARTICLE I

Definitions

~ 124-1. Terms defined.

A. Vehicle and Traffic Law definitions. The words and phrases used in this chapter shall for the purpose of this chapter have the meanings respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.

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

PRIVATE AREA OPEN TO PUBLIC VEHICLES -- Includes parking areas under the control of institutions, shopping centers or meeting halls.

PRIVATE ROAD -- Includes private driveways, easements or

roadways owned by or under the control of persons or institutions other than municipalities.

ARTICLE II

Traffic Control Devices

~ 124-2. Authority to install.

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

ARTICLE III

Delegation of Powers

~ 124-3. Powers of Board of Trustees.

Pursuant to the provisions of the Vehicle and Traffic Law, power is hereby delegated to the Board of Trustees of the Village of Pomona, New York, to exercise by resolution, order, rule or regulation the following powers granted to the legislative body of this Village in Article 39 of the Vehicle and Traffic Law. Any resolution, order, rule or regulation which affects state highway traffic is subject, however, to approval pursuant to ~ 1684 of the Vehicle and Traffic Law and ~ 46 of the Highway Law.

A. Designate through highways and order stop signs, flashing signals or yield signs erected at specified entrances thereto, or designate any intersection as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersection.

B. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations.

C. Regulate the crossing of any roadway by pedestrians.

D. Designate any highway or any separate roadway thereof for one-way traffic.

E. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations and trucks in excess of any designated weight from designated highways.

F. Determine those highways or portions of highways which shall be marked to indicate where overtaking and passing or driving to the left of the roadway would be especially hazardous, in accordance with the standards, minimum warrants and signs or marking specifications established by the State Traffic Commission.

G. Designate safety zones.

H. Establish a system of truck routes upon which all trucks, tractors and tractor-trailer combinations having a total gross weight in excess of 10,000 pounds shall be permitted to travel and operate and exclude such vehicles and combinations from all highways except those which constitute such truck route system. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. Any such system of truck routes shall provide suitable connections with all state routes entering or leaving such Village.

I. Regulate traffic by means of traffic control signals.

J. License, regulate or prohibit processions, assemblages or parades. Whenever such a procession, assemblage or parade authorized by a local authority will block the movement of traffic on a state highway maintained by the state or on a highway which connects two state highways maintained by the state to make through route for a period in excess of 10 minutes, such authority must, prior to such blocking, provide and designate with conspicuous signs a detour adequate to prevent unreasonable delay in the movement of traffic on said highway maintained by the state.

K. Prohibit or regulate the operation and the stopping, standing or parking of vehicles in cemeteries and in public parks.

L. Provide for the removal and storage of vehicles parked or abandoned on highways during snowstorms, floods, fires or other public emergencies or found unattended where they constitute an obstruction to traffic or any place where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle.

M. Promulgate such additional orders, rules or regulations with respect to traffic as local conditions may require, subject to the limitations contained in this chapter and the various laws of the State of New York.

N. Promulgate such regulations as will prohibit, restrict or limit the stopping, standing or parking of vehicles upon property owned by or leased by this Village or upon privately owned property not leased by this Village but used either by the Village or subject to use by public vehicles.

O. Prohibit, restrict or regulate the operation of vehicles on any controlled access highway or the use of any controlled access highway by any vehicle, device moved by human power or pedestrian except where prohibited by state law or, where the prior consent of the State Traffic Commission is required, only when such consent is obtained.

P. Authorize angle parking on any roadway except where prohibited by state law or, where the prior consent of the State Traffic Commission is required, only when such consent is obtained.

Q. Upon a roadway which is divided into three lanes, allocate the center lane exclusively for traffic moving in a specified direction.

R. Order signs erected directing slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane, or with signs, signals or markings designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway.

ARTICLE IV

Speed Regulations

~ 124-4. Maximum speed limit.

Thirty miles per hour is hereby established as the maximum speed at which vehicles may proceed on or along highways within the corporate limits of this Village except on state highways.

ARTICLE V

Parking, Standing and Stopping

~ 124-5. Application of article.

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

~ 124-6. Parallel parking.

Except where angle parking is authorized, every vehicle stopped, standing or parked upon a highway shall be so stopped, standing or parked parallel to the edges of the roadway, headed in the direction of lawful traffic.

~ 124-7. All-night parking prohibited. [Amended 6-15-1987 by L.L. No. 2-1987; 2-8-1988 by L.L. No. 1-1988; 6-23-2003 by L.L. No. 1-2003]

A. All-night parking of motor vehicles, which is hereby defined as continuous parking on any street or road in the Village of Pomona between the hours of 2:00 a.m. and 6:00 a.m., inclusive, is hereby prohibited, except as provided hereinafter.

B. The Village Clerk shall be authorized to issue a written permit for all-night parking, upon application therefor in writing by the owner of the motor vehicle for which such parking is sought, in accordance with the following conditions and requirements:

(1) The application shall set forth an explanation of the need for the permit, including but not limited to:

(a) Temporary construction activities that prevent the use of the driveway on the property where the motor vehicle would otherwise have been parked;

(b) The need, on a temporary basis, to park a larger number of motor vehicles all night than the capacity of the garage and driveway on the property permits;

©) Any other reasonable explanation which would establish to a reasonable person that, temporarily, it would be impractical or impossible to park all night on a property all vehicles associated with the use of such property; provided, nevertheless, that the basis for the association of such number of vehicles with a particular property is otherwise not in violation of any chapter or section of the Code of the Village of Pomona.

(2) Such permit shall specify the license plate number of the motor vehicle for which it was issued and which is authorized by said permit to park all night, and the address of the property with which the said motor vehicle is associated.

(3) Such permit shall be displayed in such a manner that it is plainly visible from the exterior through the front windshield of the said motor vehicle.

(4) Such permit shall be valid for a period not to exceed seven days from the date of its issuance but may be renewed by written application to the Village Clerk for a period not to exceed seven additional days.

(5) Notwithstanding the issuance of a permit pursuant to this section, such permit shall not constitute authority for all-night parking of a motor vehicle on a street or road in the Village of Pomona at any time when such parking will constitute a violation of ~ 124-7B(6), or at any time when such parking would impede or interfere with snow removal.

(6) The parking of motor vehicles is hereby prohibited on all highways, streets, roads and municipal parking lots within the Village of Pomona between the hours of 12:00 midnight and 6:00 a.m. from November 15 of each year through April 1 of the following year.

ARTICLE VI

Removal and Storage of Vehicles

~ 124-8. Authority to impound vehicles.

A. Any motor vehicle found parked in violation of any of the provisions of this chapter may, upon the direction of a police officer, be towed to any public or private parking facility, and the expense of such towing and subsequent storage shall be borne by the registered owner of said vehicle. Except as provided in ~

124-3L of this chapter, a vehicle shall not be towed unless two or more violations of this chapter have been issued against the vehicle within any twelve-month period. [Amended 9-26-2005 by L.L. No. 4-2005]

B. When any vehicle is found unattended on any highway, municipal parking area, public area, private road or private area open to public vehicles within this Village where said vehicle constitutes an obstruction to traffic or a nuisance, or is left unattended for a period in excess of 24 hours, said vehicle may be removed by the town police having jurisdiction or by a private vehicle-towing service hired by said police for such purpose.

C. When any vehicle is parked on any highway, municipal parking area, public area, private road or private area open to public vehicles within this Village where stopping, standing or parking is prohibited, said vehicle may be removed by the town police having jurisdiction or by a private towing service hired by said police for such purpose.

~ 124-9. Storage and charges. [Amended 2-8-1988 by L.L. No. 1-1988]

After removal of any vehicle as provided in this article, the Town Police Department having jurisdiction, the Town Highway Department having jurisdiction or the private vehicle-towing service hired by it for such purpose may store such vehicle at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon payment to the Police Department of the amount of all reasonable expenses incurred in effecting such removal, together with any charges for storage and any fine or penalty imposed for the illegal or unlawful parking. Any vehicle stored and not redeemed for more than 30 days shall be disposed of in accordance with the provisions of the Vehicle and Traffic Law of the State of New York.

~ 124-10. Notice of removal. [Amended 9-26-2005 by L.L. No. 4-2005]

The Town Police Department having jurisdiction shall, as soon as practicable, ascertain to the extent practicable, the owner of the vehicle or person having charge of said vehicle and, where possible, notify him or her of the removal and disposition of such vehicle and of the cost of redeeming said vehicle.

Truck Traffic

~ 124-11. All trucks and buses excluded. [Amended 10-24-1988 by L.L. No. 8-1988; 1-27-1997 by L.L. No. 2-1997]

All trucks, buses, commercial vehicles, tractors and tractor trailers exceeding 5,000 pounds empty weight are hereby excluded from the highways, streets, lanes, thoroughfares and public roads within the Village of Pomona, except on state highways; as provided in ~ 130-20 of this Code; and for services rendered and pickups and deliveries made within the Village of Pomona, subject, however, to ~ 124-12 and 130-11E(8) hereof.

~ 124-12. Deliveries.

The prohibition established in this article shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways, streets, lanes, thoroughfares and public roads within the Village of Pomona from which such vehicles and combinations are otherwise excluded, except that vehicles with a gross weight in excess of 18,000 pounds must obtain the permission of the Town Police Department having jurisdiction for such delivery.

~ 124-13. Detours.

The Town Police Department having jurisdiction is hereby authorized to detour vehicles through prohibited highways and areas when emergencies or conditions require such detours.

ARTICLE VIII

Penalties

[Added 9-26-2005 by L.L. No. 4-2005]

~ 124-14. Penalties for offenses.

A. In addition to any other penalties provided herein, any violation of ~ 124-7B(6) shall be punishable by a fine not to exceed \$100 or by imprisonment not to exceed 15 days.

B. Any violation of any provision of this chapter except for ~ 124-7B(6) shall be punishable by a fine not to exceed \$25 for the first violation within any twelve-month period, \$50 for the second violation within any twelve-month period, and \$100 for the third and any subsequent violation within any twelve-month period.

~ 124-15. Enforcement; continuance of violations.

A. The Code Enforcement Officer of the Village of Pomona or a police officer having jurisdiction is authorized to issue appearance tickets for violation of any provision of this chapter.

B. Each day a violation shall continue shall be deemed to be a separate violation.

Chapter 126

WETLANDS PROTECTION

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 4-23-2007 by L.L. No. 5-2007. Amendments noted where applicable.]

GENERAL REFERENCES

Fees – See Ch. 67.

Flood damage prevention – See Ch. 79.

Stormwater management – See Ch. 114.

Zoning – See Ch. 130.

§ 126-1. Legislative intent.

The protection of all wetlands is vital to the health, safety and welfare of all persons. Wetlands are a natural recipient for the storage of stormwater runoff to prevent flooding and damage to property; the vegetation in wetlands provides a natural filtration system to help reduce pollutants into our streams and rivers and ultimately into our water supply; the preservation and maintenance of wetlands in an undisturbed and natural condition constitute important physical, ecological, social, aesthetic and economic assets necessary to promote the health, safety and general welfare of present and future residents of the Village of Pomona and of downstream drainage areas. Due to recent court decisions, a void may exist in the protection of wetlands that do not meet the threshold acreage for New York State protection. The purpose of this chapter is to fill that void and to supplement existing state and federal laws and regulations.

§ 126-2. Wetlands defined.

For the purposes of this chapter "wetlands" are defined as all lands and waters of the Village of Pomona, including but not limited to any such lands and waters hereafter designated on the State Wetlands Map, which have a contiguous area of at least 2,000 square feet and which contain any or all of the following:

A. Lands and submerged lands commonly called marshes, swamps, sloughs, bogs and flats, whether flooded at all times, flooded only seasonally or having a water table during at least three consecutive months of the year within six inches of the ground surface or supporting aquatic or semiaquatic vegetation of the types listed in § 24-0107(1)(a) of Article 24 of the New York State Environmental Conservation Law. The common names of these vegetative types are:

- (1) Wetland trees, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other trees, including, among others, red maple, willows, black spruce, swamp white oak, red ash, black ash, silver maple, American elm and birch.

- (2) Wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other shrubs, including, among others, alder, buttonbush, bog rosemary, dogwoods and leatherleaf:
 - (3) Emergent vegetation, including, among others, cattails, pickerelweed, bulrushes, arrow arum, arrowheads, reed, wild rice, bur reeds, purple loosestrife, swamp loosestrife and water plantain.
 - (4) Rooted, floating-leaved vegetation, including, among others, water lily, water shield and spatterdock.
 - (5) Free-floating vegetation, including, among others, duckweed and watermeal.
 - (6) Wet meadow vegetation which depends upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other open land vegetation, including among others, sedges, rushes, cattails, rice cut-grass, reed canary grass, swamp loosestrife and spike rush.
 - (7) Bog mat vegetation, including, among others, sphagnum mosses, bog rosemary, leatherleaf, pitcher plant and cranberries.
 - (8) Submergent vegetation, including, among others, pondweeds, naiads, bladderworts, wild celery, coontail, water milfoils, muskgrass, water weeds and water smartweed.
- B. Lands and submerged lands containing remnants of any vegetation that is not aquatic or semiaquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six feet and provided, further, that such conditions can be expected to persist indefinitely, barring human intervention.
- C. Lands and water substantially enclosed by aquatic or semiaquatic vegetation or by dead vegetation, the regulation of which is necessary to protect and preserve the aquatic and semiaquatic vegetation.
- D. The waters overlying the areas set forth in § 126-2A and B above and the lands underlying § 126-2C above.
- E. Lands and submerged lands containing poorly drained soils, as defined by the United States Department of Agriculture.

§ 126-3. Regulated activities.

- A. Except as provided in § 126-4 below, it shall be unlawful to conduct, directly or indirectly, any of the following activities upon any wetland, water body or watercourse or within 100 feet of the boundary of any wetland, water body or watercourse unless a permit is issued therefor by the Board of Trustees or the Planning Board, as the case may be.

- (1) Any form of draining, dredging, excavation or removal of material, except removal of debris or refuse.
 - (2) Any form of depositing of any material such as but not limited to soil, rock, debris, concrete, garbage, chemicals, etc.
 - (3) Erecting any building or structure of any kind, roads, driveways, the driving of pilings or placing of any other obstructions, whether or not they change the ebb and flow of water. The definitions of the words "building" and "structure" shall be defined in the Zoning Law of the Village of Pomona.⁷⁸
 - (4) Installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid waste into or so as to drain into any wetland, water body or watercourse.
 - (5) Any other activity which substantially impairs any of the several functions served by wetlands, water bodies and watercourses or the benefits derived therefrom as set forth herein.
- B. For the purposes of this chapter, the term "water body" shall mean any body of standing water which is not dry more than three months of the year as computed from the average of the last two consecutive years and which, when wet, is customarily more than 500 square feet in water surface area.
- C. For the purposes of this chapter, the term "watercourse" shall mean any body of flowing water flowing in an identifiable channel or course and which is not dry more than three months of the calendar year during a year of normal rainfall.
- D. The aforesaid one-hundred-foot buffer in which regulated activities are not permitted to take place shall not apply to lots that are improved with single-family residences.

§ 126-4. Activities permitted by right.

The following activities are permitted by right within or adjoining any wetland, water body or watercourse except that the Planning Board or the Building Inspector may determine that such activity violates the intent and purpose of this chapter. In such case, written notice shall be given to the property owner that work shall not begin or continue until a permit is obtained pursuant to § 126-5 of this chapter.

- A. The depositing or removal of the natural products of the wetlands, water bodies or watercourses by recreational or commercial fishing or agriculture where otherwise legally permitted.
- B. Outdoor recreation activity that does not materially alter the natural state of the land or require construction, including use of field trails for nature study, hiking or horseback riding, swimming, skin diving and boating, where otherwise legally

⁷⁸ . Editor's Note: See Ch. 130, Zoning, § 130-4, Terms defined.

permitted.

- C. Grazing, farming and harvesting of crops where otherwise legally permitted; provided, however, that any tillage of soil shall leave an undisturbed strip not less than six feet wide at the edge of any wetland, watercourse or water body to prevent erosion.
- D. The activities of farmers and other landowners in grazing and water livestock, making reasonable use of water resources, harvesting natural products of the wetlands, selectively cutting brush and timber, draining land or wetlands for growing agricultural products and otherwise engaging in the use of wetlands or other land for growing agricultural products shall be excluded from regulated activities and shall not require a permit under § 126-5 of this chapter, except that structures not required for the enhancement or maintenance of the agricultural productivity of the land and any filling activities shall not be excluded from such regulation and provided that the use of the wetlands, water bodies and watercourses for uses other than those specifically exempted from this subsection shall be subject to the provisions of this chapter.
- E. Gardening where otherwise legally permitted; provided, however that any tillage of soil shall leave an undisturbed strip not less than six feet wide at the edge of any wetland, watercourse or water body to prevent erosion.
- F. Operation and maintenance of such dams, retaining walls, terraces, sluices, culverts or other water control structures or devices as legally existed on the effective date of this chapter.
- G. Public health activities as set forth in orders or regulations of the Rockland County Department of Health. The affected property owner shall notify the Planning Board, in writing, of the proposed activity to be undertaken.
- H. Any actual and ongoing emergency activity as determined by the Building Inspector which is immediately necessary for the protection and preservation of life or property or the protection or preservation of natural resources.

§ 126-5. Permit procedure.

In the event the regulation of wetlands pursuant to this chapter results in a deprivation of the reasonable use of a property so as to constitute a de facto taking of such property, the owner of said property may apply to the Board of Trustees for a permit to conduct a specific activity otherwise prohibited herein.

- A. Application for permits. Any person proposing to conduct or cause to be conducted a regulated activity specified in § 126-3 of this chapter or any activity not specifically exempt shall file 10 copies of an application for a permit with the Board of Trustees. Such application shall include but not be limited to the following information:
 - (1) Name and address of the applicant and the applicant's agent, if any, and whether the applicant is the owner, lessee, licensee, etc., of the property affected. If the applicant is not the owner, the written consent of the owner, in affidavit

form, must be attached.

- (2) Owner's consent for Village representative to enter upon the property.
- (3) Street address and Tax Map designation of the subject property, together with a vicinity map showing the location of the property.
- (4) A detailed description of the specific purpose, nature and scope of the activity proposed.
- (5) A detailed description of the reasons the applicant believes that, by complying with this chapter, he/she has been deprived of the reasonable use of the property.
- (6) A map showing the area of wetland, water body or watercourse directly affected with specific dimensions of the affected area. In addition, the wetland, water body or watercourse shall be flagged in the field. A certification of the map and field locations certified by a licensed professional authorized by the New York State Department of Environmental Conservation to identify wetlands shall be filed by the applicant together with the application.
- (7) A topographical and perimeter survey, hydrological computation, engineering studies and other factual or scientific data and reports as deemed necessary by the Board of Trustees to permit it to arrive at a determination. The survey shall show all natural features of the property and all buildings and structures thereon with dimensions.
- (8) In the case of applications affecting water retention capability, water flow or other drainage characteristics of any wetland, water body or watercourse, the Board of Trustees may require the inclusion of a statement of the area of upstream and downstream watersheds, impact analysis and information as to rainfall intensity in the vicinity for not less than a one-hundred-year-return frequency, together with approximate runoff coefficients to determine the capacity and size of any channel sections, pipes or waterway openings, together with plans for necessary bridges, culverts, stormwater or pipe drains and such other information and data that, in the opinion of the Board of Trustees, are needed to arrive at a proper determination on the application, consistent with this chapter.
- (9) A detailed plan for mitigation of the loss of wetland resulting from the proposed disturbance, including but not limited to creation of new wetland, restoration of vegetation, new landscaping, and other similar mitigations.
- (10) A list of all property owners of properties within 500 feet of the perimeter of the affected property:

B. Public hearing. Not sooner than 30 days nor later than 90 days after receipt of a complete application, the Board of Trustees shall begin a public hearing. Notice, posting and mailing of notice of said public hearing shall be made as set forth in the

Village site plan requirements.⁷⁹

- C. Board action. Within 45 days after the close of the public hearing, the Board of Trustees shall render a decision to approve, approve with modifications or disapprove the issuance of a permit for the proposed activity. The decision of the Board shall be made by resolution stating the findings and reasons for such decision.

§ 126-6. Standards for granting permits.

- A. The applicant shall have the burden of demonstrating that he/she has been deprived of the reasonable use of the property and that the proposed activity will be the minimum disturbance necessary to provide a reasonable use of the property.
- B. In granting, denying or granting a permit with conditions, the Board of Trustees shall consider the effect of the proposed activity with reference to the public health and welfare, fishing, flood, hurricane and storm dangers and the protection or enhancement of the several functions of the wetlands and the benefits derived therefrom as set forth in this chapter, irrespective of municipal boundaries.
- C. The Board of Trustees may grant a permit, subject to such terms and conditions as it may reasonably impose.
- D. In granting a permit, the Board may limit the same or impose conditions or limitations designed to carry out the public policy set forth in this chapter. The Board of Trustees may require a cash bond or letter of credit in an amount and with surety and conditions satisfactory to the Village Attorney, securing compliance with the conditions and limitations set forth in the permit. The Building Inspector, with the concurrence of the Village engineering consultant, may suspend or revoke a permit if he/she finds that the applicant has not complied with any of the conditions or limitations set forth in the permit or has exceeded the scope of the activity as set forth in the approving resolution of the Board of Trustees or if the applicant fails to comply with the terms and conditions set forth in the application for the permit.

§ 126-7. Appeals.

Any person aggrieved by a determination of the Board of Trustees shall have the right to appeal pursuant to Article 78 of the Civil Practice Law and Rules within 30 days after said determination has been filed in the office of the Village Clerk and mailed to the applicant.

§ 126-8. Fees.

An application for a wetlands permit shall be accompanied by a fee in accordance with the fee schedule adopted by the Board of Trustees. In addition, the applicant shall reimburse the Village for all consultants' fees incurred in connection with the application.

§ 126-9. Applicability.

⁷⁹ . Editor's Note: See § 118-32, Site plan approval.

In the event the provisions of this chapter are more or less protective of the environment than the Environmental Conservation Law of the State of New York, the law that is more protective of the environment shall prevail.

§ 126-10. Penalties for offenses.

Pursuant to §§ 71-2303 and 2305 of the Environmental Conservation Law, the following penalties shall apply:

- A. Any person who violates, disobeys or disregards any provision of this chapter shall be liable for a civil penalty not to exceed \$3,000 for each such violation. No such penalty shall be imposed unless and until the Board of Trustees has held a public hearing, upon due notice, and has made a determination that such violation has occurred and has made findings of fact relating to said determination. The alleged violator shall have a right to specification of the charges and to be represented by counsel at such hearing. Each day such violation shall continue shall be deemed to be a separate, distinct and additional offense.
- B. The Board of Trustees shall also have authority, following a hearing as set forth in Subsection A above, to direct a violator to cease violation of this chapter and, subject to the Board's supervision, to satisfactorily restore the affected wetland, water body or watercourse to its condition prior to the violation, insofar as is possible, within a reasonable time as may be determined by the Board of Trustees. The violator shall reimburse the Village for all consultants' fees incurred in relation to correction of such violation.
- C. Any civil penalty or order issued by the Board of Trustees shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules within 30 days after filing of such penalty or order in the office of the Village Clerk and mailing a copy thereof to the violator.
- D. In addition to the above, any person who violates any provision of this chapter shall be guilty of a violation punishable by a fine of not less than \$500 nor more than \$1,000 for the first offense, and not less than \$1,000 nor more than \$2,000 for a second and subsequent offense relating to the same property, and/or a term of imprisonment not to exceed 15 days. Each day such violation shall continue shall be deemed to be a separate, distinct and additional offense.
- E. In addition to the above, the Village shall have the right to seek equitable relief to restrain any violation or threatened violation of any provision of this chapter.

Chapter 130

ZONING

[HISTORY Adopted by the Board of Trustees of the Village of Pomona 5-28-1968; amended in its entirety 2-8-1988 by L.L. No. 1-1988. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Historical Review Board – See Ch. 13.

Planning Board and Zoning Board of Appeals – See Ch. 25.

Building construction – See Ch. 47.

Flood damage prevention – See Ch. 79.

Subdivision of land – See Ch. 118.

ARTICLE I

Authority and Purpose

§ 130-1. Statutory authority.

Under the authority granted by § 7-700 of the Village Law, as amended, the Board of Trustees of the Village of Pomona hereby adopts this chapter to promote the purposes set forth in § 7-704 of the Village Law.

§ 130-2. Purpose and intent.

Whereas areas of commercial, industrial and high- and medium-density residential development are to be found elsewhere in Rockland County, and whereas the area embraced by the Village of Pomona conforms to the low-density concept of the outlying areas of the existing Town of Ramapo Master Plan and the Zoning Ordinances of the Towns of Haverstraw and Ramapo, therefore this chapter is intended to provide for the orderly and desirable development of the Village of Pomona and to regulate and restrict the use of land and the construction and use of buildings and accessory land improvements in the following manners:

- A. To preserve and enhance the rural residential character of the Village and to encourage the orderly and beneficial development of the entire Village.
- B. To prevent the overcrowding of land with persons and structures in relation to open spaces, circulation and neighboring land uses and to require adequate provision for off-street parking.
- C. To prevent the contamination of streams and ponds, to safeguard the water table and to encourage the wise use and sound management of the natural resources throughout the Village in order to preserve the integrity, stability and beauty of the

community and the value of land.

- D. To provide adequate light, air and privacy for residents, to secure safety from fire, flood and other danger and to discourage uses inimical to public health.
- E. To encourage any construction which will tend to enhance the natural, rural beauty of the area.
- F. To discourage auxiliary construction which detracts from the rural aesthetic beauty of the community.
- G. To facilitate such services as utilities, sewerage, parks and other public requirements.

ARTICLE II

Definitions

§ 130-3. General construction of language; word usage.

- A. General construction of language. The following rules of construction apply to the language of this chapter:
 - (1) The specific shall control the general.
 - (2) All words used in the present tense include the future tense.
 - (3) All words in the singular number include the plural number, and vice versa, unless the natural construction of the wording indicates otherwise.
 - (4) Words used in the masculine gender include the feminine and neuter, and vice versa, unless the natural construction of the wording indicates otherwise.
 - (5) The word "shall" is mandatory; the word "may" is permissive.
 - (6) The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
 - (7) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or either... or," the conjunction shall be interpreted as follows:
 - (a) "And" indicates that all the connected items, conditions, provisions or events shall apply.
 - (b) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - (c) "Either ... or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

- (8) The words "building" and "structure" include any part thereof.
- (9) The words "lot," "plot" and "tract of land" shall one include the other.
- (10) The word "premises" shall include land and all structures thereon.
- (11) The word "herein" means "in this chapter"; the word "regulations" means the regulations of this chapter; and the words "this chapter" shall mean "this chapter and the maps included herein as enacted or subsequently amended."
- (12) The words "occupied" and "used" shall be considered to be followed by the words "or intended, arranged or designed to be occupied or used," unless the natural construction of the wording indicates otherwise.
- (13) References made to officials and official bodies shall mean officials and official bodies of the Village of Pomona, unless the natural construction of the wording indicates otherwise.
- (14) The "Village" is the Village of Pomona in the County of Rockland, State of New York; the "Village Board," "Board of Appeals," "Planning Board" and "Code Enforcement Officer" are, respectively, the Board of Trustees of the Village of Pomona, the Village of Pomona Zoning Board of Appeals, the Village of Pomona Planning Board and the Village of Pomona Code Enforcement Officer.
- (15) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

B. Terms not defined. Where terms are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.

§ 130-4. Terms defined.

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

ACCESSORY BUILDING – A building subordinate to the main building on the lot and used for purposes customarily incidental to that of the main building. Where an "accessory building" is attached to the main building in a substantial manner, as by a wall or roof, such "accessory building" shall be considered part of the main building.

AGRICULTURAL USE – The growing of field crops or raising of livestock.

ALTERATION – A change or rearrangement in the supporting members of a building or structure, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

BASEMENT – A portion of a building partly underground, but having less than half its clear height below the average grade of the adjoining ground. See also "cellar."

BOARD OF APPEALS – The Board of Appeals of the Village of Pomona.

BOARD OF TRUSTEES – The Board of Trustees of the Village of Pomona.

BUILDING – Any structure having a roof, self-supporting or supported by columns or walls, which is permanently affixed to the ground and intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING, AIR-PRESSURE – Any structure partially or totally supported by air pressure.

BUILDING AREA – The maximum horizontal cross section of a building, including porches, balconies and raised platforms, but excluding cornices, roof overhangs, gutters or chimneys projecting not more than three feet and steps and terraces not more than three feet above the average adjacent ground elevation.

BUILDING CODE – The New York State Uniform Fire Prevention and Building Code adopted by the Board of Trustees of the Village of Pomona.

BUILDING COVERAGE – That percentage of the land area covered by the combined building area of all buildings, excluding any buildings or structures located completely below ground.

BULK – The size and shape of buildings and nonbuilding uses; and the physical relationship of their exterior walls and accessory construction to plot lines; and all open spaces required in connection with a building or structure. "Bulk" regulations include regulations dealing with plot area, plot frontage, plot width, plot depth, height, required yards, the ratio of roofed or roofable area to the area of the plot.

BUSINESS OR PROFESSIONAL OFFICE – An establishment offering services to the general public or the business community.

CAMP – An establishment, including facilities for seasonal use, organized for recreational or athletic purposes.

CELLAR – A portion of a building partly or wholly underground, having half or more than half of its clear height below the average grade of the adjoining ground. See also "basement."

CEMETERY – A place containing graves or tombs for the interment of the dead.

CLEARING – The removal of trees with a circumference of 25 inches or more measured at a height four and one half feet above existing ground level at the base of the tree on the uphill side or the stripping of soil. [Added 6-23-1997 by L.L. No. 8-1997; amended 11-25-2003 by L.L. No. 9-2003; 3-28-2005 by L.L. No. 2-2005]

CORNER LOT – A lot located at the junction of and fronting on two or more streets intersecting at an angle of less than 135°.

DIMENSIONALLY NONCONFORMING – See "nonconforming, dimensionally."

DIMENSIONAL NONCONFORMITY – See "nonconformity, dimensional."

DORMITORY – A building that is operated by an educational institution located on the same lot and accessory to a principal school use and which contains private or semiprivate

rooms which open to a common hallway, which rooms are sleeping quarters for administrative staff, faculty or students. Communal dining, cooking, laundry, lounge and recreation facilities may be provided. Dormitory rooms shall not contain separate cooking, dining or housekeeping facilities except that one dwelling unit with completed housekeeping facilities may be provided for use of a superintendent or supervisory staff for every 50 dormitory rooms. Not more than one communal dining room shall be provided in any building used for dormitory purposes. Single-family, two-family and/or multifamily dwelling units other than as described above shall not be considered to be dormitories or part of dormitories. [Added 9-27-2004 by L.L. No. 5-2004; amended 1-22-2007 by L.L. No. 1-2007]

DRIVEWAY – A passageway with an impervious surface for the use of motor vehicles.

DRIVEWAY GRADIENT – The average percent of grade increase or decrease of a driveway measured from the property line at which the private property meets the street to the end of pavement at the point at which the driveway meets the building. A level area, not to exceed 4%, shall be provided at the top of the driveway from the point at which the driveway meets the building. This area shall be a minimum of 30 feet by 30 feet and shall not be included in the driveway gradient calculation. [Added 3-22-2004 by L.L. No. 2-2004]

DWELLING, ONE-FAMILY DETACHED – A building containing a single principal dwelling unit occupied by only one family and located in its own separate building which does not abut any other dwelling unit.

DWELLING, TWO-FAMILY DETACHED – A building containing two principal dwelling units located in their own separate building which does not abut any other dwelling and which does not include a dwelling unit attached or connected to another dwelling by a party wall.

DWELLING UNIT – A building or portion thereof providing complete housekeeping facilities for one family, including independent cooking, sanitary and sleeping facilities, and physically separate from any other dwelling unit whether or not in the same building.

EDUCATIONAL INSTITUTION – Any private or religious elementary, junior high or high school, college, graduate or post-graduate school conducting a full-time curriculum of instruction a minimum of five days per week for seven months per year and accredited by the New York State Education Department or similar recognized accrediting agency. [Added 1-22-2001 by L.L. No. 1-2001; amended 9-27-2004 by L.L. No. 5-2004]

FAMILY – Any number of individuals related by blood, marriage or adoption, or not more than four persons who are not so related, living together as a single housekeeping unit, using rooms and housekeeping facilities in common and having such meals as they may eat at home generally prepared and eaten together.

FARM STAND – An establishment offering agricultural products grown or raised on the premises for retail sale.

FILLING – The placement of soil, rubble, spoils, rocks and/or any other appropriate fill on any property for the purpose of raising or elevating any portion of a property, except that the addition or movement of small amounts of earth and fill for the purpose of gardening or leveling the grade by filling a hole or swale shall be excluded from regulation. "Appropriate filling" shall not include the burying of garbage, trash, combustibles or hazardous or toxic materials of any kind as the same are defined from time to time by state and federal laws, rules and regulations. Demolition or construction debris or waste shall not be deemed acceptable fill material. [Added 6-23-1997 by L.L. No. 8-1997; amended 12-22-1997 by L.L. No. 14-1997]

FINISHED GRADE – The elevation of the completed surfaces of lawns, landscaped areas, walks, driveways and parking areas or of the existing ground where it remains undisturbed.

FLOOR AREA – The horizontal area of a story of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the center line of such common walls, and including covered and uncovered porches, balconies and raised platforms, but excluding cornices, roof overhangs, gutters or chimneys projecting not more than three feet and steps and terraces not more than three feet above the average adjacent ground elevation.

FLOOR AREA RATIO – Gross floor area divided by the area of a lot.

FRONTAGE – See "lot frontage."

FRONT LOT LINE – See "lot line, front."

FRONT YARD – See "yard, front."

GARAGE – A part of a building, fully enclosed with four walls and a roof, used for the parking of motor vehicles.

GRADING – The changing or alteration of the surfaces of slopes of lawns or grounds on a site. [Added 6-23-1997 by L.L. No. 8-1997]

GROSS FLOOR AREA – The total floor area of all residential floors of a building, including all areas with headroom of 75 inches or more.

HALF STORY – An uppermost story in which the floor area, having a clear height of at least 7 1/3 feet, is 1/3 or less of the floor area of the story next beneath it.

HEIGHT, BUILDING – 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 for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

HOME OCCUPATION – Any commercial use customarily conducted entirely within a dwelling and carried on by residents thereof who are personally present during substantially all of the operations of the home occupation, and no more than two nonresident employees, subject to the provisions of §§ 130-11E and F, which use is clearly

incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. The conducting of a hospital, barbershop, beauty parlor, coffee house, tearoom, rooming house, tourist home, veterinary office, animal hospital, warehouse, cooperative, medical center, funeral home or any other similar use shall not be deemed to be a home occupation. [Amended 1-27-1997 by L.L. No. 2-1997; 6-23-1997 by L.L. No. 7-1997]

HOUSE OF WORSHIP – A building or structure commonly referred to as a church, synagogue or similar place of worship, intended primarily for the conduct of organized or regularly scheduled religious services. [Added 1-23-1995 by L.L. No. 2-1995; amended 1-22-2007 by L.L. No. 2-2007]

IMPERVIOUS SURFACE – Those surfaces which do not absorb stormwater. All buildings, parking areas, driveways, roads, sidewalks and any areas in concrete, asphalt or packed stone shall be considered "impervious surfaces" within this definition. In addition, other areas determined by the Village Engineer to be impervious within the meaning of this definition will also be classed as "impervious surfaces."

LOADING SPACE – An off-street space available for the loading or unloading of goods, not less than 15 feet wide, 40 feet long and with a minimum overhead clearance of 14 feet.

LOT – A parcel of land, not divided by streets, together with such yards as are required by the provisions of this chapter, and having its principal frontage on a street or on such other means of access as may be deemed in accordance with the provisions of law to be suitable as a condition of the issuance of a building permit on the lot.

LOT AREA – The total horizontal area included within the boundaries of the lot.

LOT COVERAGE – That percentage of the plot or lot area covered by buildings and structures that have foundations and are or can be roofed over. Open swimming pools shall not be considered a part of "lot coverage."

LOT FRONTAGE – The horizontal distance measured along the full length of a public street line abutting the lot. [Amended 2-28-2005 by L.L. No. 1-2005]

LOT LINE – A property line bounding a lot.

LOT LINE, FRONT – Any lot line separating the lot from the street.

LOT LINE, REAR – The lot line which is generally opposite and parallel to 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 lot line, not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.

LOT LINE, SIDE – Any lot line other than a front lot line and the rear lot line.

LOT WIDTH – The distance measured along a line drawn parallel to the front lot line at a distance equal to the minimum front yard requirement.

MAIN BUILDING – A building in which is conducted the principal use of the lot on

which such building is situated.

MICROWAVE RECEIVING DISH – A device, also known as a "satellite dish" or "earth station," whose purpose is to receive communication or other signals from orbiting satellites and which is designed for use by not more than two dwelling units.⁸⁰

MERCHANDISING – Any activity, whether or not engaged in for profit, involving the sale, collection, distribution or warehousing of goods to members of the general public or to specific persons forming a club or purchasing group. [Added 1-27-1997 by L.L. No. 2-1997]⁸¹

MOBILE TRAILER – See "trailer."

MONOPOLE – A freestanding pole having a single point of location on the ground comprising a part of a wireless communication services facility. For purposes of this chapter, the term monopole shall include, in addition to the pole, all other components of the wireless telecommunication services facility. [Added 5-18-1998 by L.L. No. 2-1998]

MULTIPLE DWELLING – A building used or designed as a residence for two or more families living independently of each other and doing their own cooking therein.

NIER – Non-Ionizing electromagnetic radiation. [Added 5-18-1998 by L.L. No. 2-1998]

NONCONFORMING BULK – That part of a building, structure or nonbuilding use which does not conform to one or more of the applicable bulk regulations of this chapter.

NONCONFORMING USE – A use of a building or land, or both, which was lawfully established but which does not conform to the use regulations for the district in which it is located. It may or may not involve any principal building. Any use which is permitted in a district by special permit shall be considered a conforming use, subject to all conditions applicable thereto.

NONCONFORMITY, DIMENSIONAL – The status of a building or structure that is conforming in use but does not conform to the lot dimension, yard dimension, height, building coverage, floor area ratio, off-street parking, loading or similar dimensional requirements of this chapter and which conformed to such dimensional requirements of the zoning regulations in effect at the time such building or structure was established.

NOT-FOR-PROFIT CORPORATION – A corporation formed or existing under the Not-For-Profit Corporation Law of New York State.

NURSERY SCHOOL or DAY-CARE CENTER – An establishment providing care for three or more children and operated in accordance with the Social Services Law of the State of New York.

⁸⁰. Editor's Note: The former definition of "major religious use," which was added 1-23-1995 by L.L. No. 2-1995 and which immediately followed this definition, was repealed 1-22-2007 by L.L. No. 2-2007.

⁸¹. Editor's Note: The former definition of "minor religious use," which was added 1-23-1995 by L.L. No. 2-1995 and which immediately followed this definition, was repealed 1-22-2007 by L.L. No. 2-2007.

ONE-FAMILY DWELLING – See "dwelling, one-family detached."

OWNERSHIP, SINGLE – Ownership by the same person, corporation, firm, entity, partnership or unincorporated association, or owned by different corporations, firms, partnerships, entities or unincorporated associations in which a stockholder, partner or associate or a member of his family owns an interest in each corporation, firm, partnership, entity or unincorporated association.

PARKING AREA – An off-street area with an impervious surface containing one or more parking spaces.

PARKING SPACE – An off-street space available for the parking of one motor vehicle on a transient basis. Such space shall not be located in a front yard.

PARKING SPACE, INDOOR – A parking space located in a fully enclosed structure.

PERSON – Any individual or group of individuals, corporation, partnership, association or any other entity, including state and local governments and agencies.

PLANNING BOARD – The Planning Board of the Village of Pomona.

PRIVATE MEMBERSHIP CLUB – A not-for-profit corporation organized to cater exclusively to its members and their guests, including land, buildings and facilities for recreational, athletic, social, professional and cultural purposes. The members of the organization shall have a financial interest in, and method of control of, the assets and management of the "private membership club."

PROTECTED TREE – Any tree of historical value as determined by resolution of the Board of Trustees or any tree having a circumference of 45 inches or more measured at a height 4 1/2 feet above existing ground level at the base of the tree on the uphill side. [Added 3-28-2005 by L.L. No. 2-2005]

PUBLIC SCHOOL – An educational institution operated by a public school district in accordance with the Education Law of the State of New York.

PUBLIC UTILITY – Any person duly authorized to furnish to the public, under public regulation, electricity, gas, water, sewage treatment, steam, cable television or telephone or telegraph service, including wireless communication services which are regulated separately under this chapter. [Amended 5-18-1998 by L.L. No. 2-1998]

REAR LOT LINE – See "lot line, rear."

REAR YARD – See "yard, rear."

RECREATIONAL VEHICLE – A vehicular device designed to be used primarily as a temporary abode for travel, recreation or vacation use, including camper trailers, motor homes, pickup coaches and travel trailers.

RECREATIONAL FACILITIES – Facilities designed and used for active and passive participatory athletic and general recreation activities, such as health clubs, gymnasiums, dance halls, skating rinks, swimming pools, tennis courts, ball fields, bowling alleys and

billiard rooms; excluded are facilities intended for spectator activities, such as stadiums and arenas, and any structure in which is maintained for the amusement, patronage or recreation of the public more than three electronic games. Also excluded are basketball facilities commonly found on residential premises at the edge of driveways or at the rear of homes and consisting of a pole, backboard and hoop for the playing of basketball. [Amended 7-28-1997 by L.L. No. 10-1997]⁸²

RESIDENCE – A building designed or used as the living quarters for one family.

ROOMER – An occupant of a rooming unit.

ROOMING UNIT – One or more rooms, with or without private bathroom facilities, but without cooking facilities, which are rented or available for rent and which are located within a dwelling unit.⁸³

SCREENING – Either a strip at least four feet wide densely planted (or having equivalent natural growth) with shrubs or trees at least four feet high at the time of planting, of a type that will form a year-round dense screen at least six feet high within three years, or an opaque wall or barrier or uniformly painted fence at least six feet high.

SIDE LOT LINE – See "lot line, side."

SIDE YARD – See "yard, side."

SIGN – Any structure or part thereof, or any device attached thereto or painted thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, work, model, banner, emblem, light, device, trademark or other representation used as an announcement, designation, direction, display or advertisement of any person, firm, group, organization, commodity, service, profession or enterprise when placed in such a manner that it provides visual communication to the general public out of doors.

SIGN AREA – The area which results from the multiplication of the outside dimensions of a sign; the vertical, horizontal or diagonal supports which may affix the sign to the ground or to a structure shall not be included in determining these dimensions unless such supports are clearly a part of the message of the sign. Where a sign is on a plate or outlined or framed, all of the area of such plate or the area enclosed by such outline or frame shall be included. Where the sign consists of individual letters or symbols attached to or painted on a surface, the area shall be considered to be that of the smallest single rectangle which encompasses all of the letters or symbols. Where the sign consists of multiple plaques or parts, the "sign area" shall be the total area of all such parts. The area of all signs that can be seen from more than one side shall be considered to be the area of the largest side on which the message appears.

SITE PLAN – A rendering, drawing or sketch prepared to specifications, and containing

⁸². Editor's Note: The former definition of "religious or neighborhood gathering," which was added 1-23-1995 by L.L. No. 2-1995 and which immediately followed this definition, was repealed 1-22-2007 by L.L. No. 2-2007.

⁸³. Editor's Note: The definition of "school," which immediately followed this definition, was repealed 9-27-2004 by L.L. No. 5-2004.

the necessary elements as set forth in § 118-32 of this Code, showing the arrangement layout and design of the proposed use of a single parcel of land as shown on said plan. [Amended 2-28-1994 by L.L. No. 1-1994]

SOLAR ENERGY COLLECTOR – A device or combination of devices which relies upon solar radiation as an energy source that is employed for the purposes of the heating or cooling of a building, the heating of water or the generation of electricity.

SPECIAL PERMIT USE – An authorization of a particular land use permitted by the Zoning Code of the Village of Pomona, subject to conditions imposed by such Code to assure that the proposed use is in harmony with said Code and will not adversely affect the neighborhood in which such use is to occur if such conditions are met. [Added 2-28-1994 by L.L. No. 1-1994]

STORY – That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost "story" shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above the finished grade, such basement or cellar shall be considered a "story."

STREET – An existing state, county, town or Village highway or road, or a way shown on a subdivision plat approved by the Planning Board of the Village of Pomona, Town of Ramapo or Town of Haverstraw or on a plat duly filed and recorded in the office of the County Clerk prior to the appointment of the Planning Board and the grant to such Board of the power to approve subdivision plats, including all of the land within the right-of-way.

STRUCTURE – Anything constructed or erected above or below ground. Included are swimming pools, parking garages, tennis courts, parking areas and driveways.

SUBDIVISION – Any division of land into two or more parcels.

SWIMMING CLUB – A pool operated for members and their guests.

SWIMMING POOL – A man-made body of water or receptacle for water having a depth of more than 20 inches and a water surface area of more than 80 square feet and constructed, installed or maintained in or above ground outside any building.

TERRACE or PORCH – An uncovered flat platform with a surface material. A "terrace" which has a roof and which is attached to a building shall be considered a "porch."

TRAILER – A vehicle which can be used for living or sleeping purposes, standing on or designed to stand on wheels or on rigid supports.

USE – The specific purpose for which land, water, a building or a structure is designed, arranged, intended or for which it is or may be occupied or maintained.

USE, ACCESSORY – A use which is customarily incidental and subordinate to the principal permitted use on the lot and located on the same lot therewith, except that where specifically provided, accessory off-street parking need not be located on the same lot. An

"accessory use" may not be accessory to another "accessory use."

USE, PRINCIPAL – The main use of a structure or lot.

USE, SPECIAL PERMIT – A use allowed in a district, subject to the issuance of a special permit in accordance with the provisions of § 130-10 of this chapter.

WIRELESS TELECOMMUNICATION SERVICES – The provision of wireless telecommunication services, including those more commonly referred to as "cellular phones," which services are regulated by the Federal Communications Commission (FCC) in accordance with and as the term "personal wireless service" is defined in the Communications Act of 1996, 47 U.S.C. Section 332(c)(7)(C), or as hereafter amended. [Added 5-18-1998 by L.L. No. 2-1998]

WIRELESS TELECOMMUNICATION SERVICES FACILITY – Any equipment used in connection with the commercial operation of wireless telecommunication services, as defined herein, and as the term "personal wireless services facility" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7)(C), or as hereafter amended, to transmit and/or receive frequencies, including but not limited to antennas, monopoles, equipment, appurtenances and structures. [Added 5-18-1998 by L.L. No. 2-1998]

YARD – Open space on the same lot as a building or structure, which open space lies between the building or structure and the nearest lot line. A "yard" shall be measured as the shortest distance between the building or structure and the lot line.

YARD, FRONT – A yard extending the entire length of the front lot line and lying between the front lot line and the nearest part of the building or structure.

YARD, REAR – A yard extending the entire length of the rear lot line and lying between the rear lot line and the nearest part of the building or structure.

YARD, REQUIRED – Open and unobstructed ground area of the plot extending inward from a plot line the distance specified in the regulations for the district in which the plot is located.

YARD, SIDE – A yard between a side lot line and the nearest part of the building and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front and rear lot line, as the case may be.

ARTICLE III

General Provisions

§ 130-5. District classification.

The entire area of the Village of Pomona is hereby designated as a residential district with a minimum of 40,000 square feet per lot, hereinafter referred to as the "R-40 District."

§ 130-6. Zoning Map.

The areas and boundaries of such district are hereby established as shown on a map

entitled, "Zoning Map of the Village of Pomona," dated and made a part of this chapter, and as same may hereafter be amended from time to time. A copy of this map, indicating the latest amendments, shall be on file in the Village Clerk's office.

§ 130-7. Minimum standards.

- A. The provisions of this chapter shall be considered as minimum standards. The Planning Board and the Zoning Board of Appeals are hereby empowered to set more stringent requirements than herein set forth in those cases where such are deemed necessary for the preservation of natural features they consider desirable, the elimination or control of natural features considered undesirable or, in general, to meet the stated purposes of this chapter.
- B. Lots whose effluent and wastes are not treated by a state, county or municipal sewage plant shall be required to have a lot size twice that designated for the district in which the lot is located.

§ 130-8. Scope of controls.

- A. All new construction, every reconstruction or alteration of a building or structure, every change in bulk, all new uses of buildings or land and every change, enlargement or relocation of use shall conform to the use and bulk regulations of this chapter, except as otherwise set forth herein.
- B. After the effective date of this chapter, no building permit shall be granted for construction in any subdivision in which the lots do not comply with all the provisions of this chapter. Any subdivision which may have been filed in the County Clerk's office and/or have had prior approval from any appropriate planning board prior to the effective date of this chapter must obtain approval from the Village of Pomona Planning Board regardless of such prior filing or approval, and such subdivision must comply with the provisions of this chapter. All construction which was commenced prior to the effective date and has progressed at least as far as a completed foundation may continue to be constructed in accordance with plans and specifications filed for such construction, except that a new building permit must be obtained from the Village of Pomona Code Enforcement Officer, a building permit fee and certificate of occupancy fee paid and, wherever possible, the provisions of this chapter shall be complied with.

ARTICLE IV

Use Regulations

§ 130-9. Permitted uses.

- A. All uses listed hereunder are permitted in the R-40 District; all others not listed are prohibited, except as provided in §§ 130-10 and 130-11.
 - (1) One-family residences, with one dwelling unit per lot (no commercial; no trailers; no multiple dwellings).
 - (2) Houses of worship, subject to the requirements of Subsection C below.

- (3) Public utilities rights-of-way.
 - (4) (Reserved)⁸⁴
 - (5) Libraries and museums.
 - (6) Public parks and playgrounds.
 - (7) Agricultural pursuits.
- B. (Reserved)⁸⁵
- C. (Reserved)⁸⁶

§ 130-10. Special permit uses. [Amended 1-28-1991 by L.L. No. 1-1991; 4-28-1997 by L.L. No. 4-1997; 5-18-1998 by L.L. No. 2-1998; 10-26-1998 by L.L. No. 4-1998; 1-22-2001 by L.L. No. 1-2001]

The following uses are permitted in the R-40 District by special permit only, to be reviewed, approved, or disapproved by the board set forth in each subsection:

- A. By the Zoning Board of Appeals: Recreational facilities; playgrounds, swimming clubs, tennis courts and recreational buildings not conducted as a business enterprise, provided that no building, pool, spectator or active play area erected under the provisions of this subsection shall be so erected nearer than 50 feet to any lot line, and provided that the following operations shall be prohibited:
- (1) Outdoor entertainment, live or mechanical.
 - (2) The use of outdoor public-address systems for any purpose.
 - (3) Exterior lighting producing glare at the lot line other than that essential for the safety of the users of the premises.
- B. By the Board of Trustees: Reservoirs on lots of three acres or more, and water towers and water tanks owned and operated by a public utility, which water tank or water tower is located at or above ground, on lots of three acres or more.
- C. By the Zoning Board of Appeals: Telephone exchanges and public utility substations, communications centers for emergency and other purposes, and any and all other public utility facilities which are or support the primary function of the public utility company, provided that such facilities are housed in buildings that harmonize with the character of the neighborhood and have adequate fences and other safety devices and screening and landscaping as shall be required by the Zoning Board of Appeals. A public utility company shall be a corporation or company for which the Public Service Commission of the State of New York has issued a certificate

⁸⁴ . Editor's Note: Former Subsection A(4), regarding schools of general instruction, was repealed 1-22-2001 by L.L. No. 1-2001.

⁸⁵ . Editor's Note: Former Subsection B, School of general instructions, was repealed 1-22-2001 by L.L. No. 1-2001.

⁸⁶ . Editor's Note: Former Subsection C, House of worship, as amended, was repealed 1-22-2007 by L.L. No. 2-2007.

certifying that the company is a public utility.

D. Camps, subject to special permit by the Village Board, provided that:

- (1) They have a minimum lot area of 50 acres.
- (2) Access to such facilities shall be limited to improved state, county, town or Village roads which are major collector roads. Subdivision (residential) roads shall not be used for access to such uses.
- (3) Such facilities shall be adequate to preclude the necessity of pedestrian traffic outside the approved facility.
- (4) The facility may include bungalows, cottages and tents for temporary use by visitors or patrons of such camps, provided that no heating or plumbing facilities are installed to permit year-round residential communities.
- (5) One year-round residence for a caretaker may be provided for each 50 acres.
- (6) Trailers and recreation vehicles shall not be permitted.
- (7) No building, ballfield, swimming facility or other property use shall be permitted within 125 feet of a residential property line, except that the Planning Board may permit a reduction where, because of topography or the installation of additional buffer landscaping and/or fencing, the Planning Board determines that any potential adverse external effect of such use will be minimized.
- (8) Site plan approval by the Village of Pomona Planning Board shall be obtained. Such site plan shall address the following:
 - (a) Adequate parking for buses, staff and visitors shall be provided.
 - (b) No camp shall be operated so as to create a nuisance to surrounding properties. The Planning Board shall attach such conditions to the permit and may require such other facilities as are required to protect neighbors from excessive light or as are required to protect neighbors from excessive light or noise. No outdoor public address systems shall be permitted.
 - (c) Water facilities by either well or municipal water shall be provided subject to approval by the Rockland County Health Department.
 - (d) Sewer disposal by municipal sewer or septic tanks shall be provided subject to approval by the Rockland County Health Department.
 - (e) The location, nature and height of buildings for summer residence, dining facilities, temporary structures, walls and fences shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
 - (f) Building coverage, including accessory buildings and structures, shall not

exceed 10% of the lot area, nor shall the sum total of the land covered with buildings and parking, including driveways, exceed 25% of lot area, within any residence district.

(g) In addition to the special standards described above, the use shall comply with any other special requirements deemed appropriate by the Planning Board.

E. Wireless telecommunication services facility, subject to special permit approval by the Village Board of Trustees and the following requirements: [Added 5-18-1998 by L.L. No. 2-1998]

(1) The following special permit standards and requirements shall apply to all wireless telecommunication services facilities.

(2) Purpose. The purpose of these special regulations is to reasonably control the location, construction and maintenance of wireless telecommunication facilities in order to encourage the siting of wireless telecommunication services facilities in nonresidential areas and to protect, to the maximum extent practicable, aesthetic impacts, the open space character of the Village of Pomona, the property values of the community, the health and safety of citizens and a citizen's ability to receive communication signals without interference from other communication providers, while not unreasonably limiting competition among telecommunication providers.

(3) Use. Except as provided hereinafter, no wireless telecommunication services facility shall be located, constructed or maintained on any lot, building, structure or land area in the Village of Pomona except in conformity with the requirements of this subsection and all other applicable regulations.

(4) Location and access. A wireless telecommunication services facility shall be located on Village-owned lands or facilities. If, because of unreasonable technological, financial or structural limitations or unless otherwise waived, modified or required by the Village Board of Trustees for aesthetic, safety or other reasons, location on Village-owned lands or facilities is not practicable, such facility shall be located on lands with commercial or nonresidential uses before locating on any lands used exclusively for residential purposes. Wherever possible, such facility shall be attached to an existing building or structure. To the maximum extent practicable, existing roadways shall be used to provide access to the site of a wireless telecommunication services facility.

(5) Collocation.

(a) The shared use of existing public utility and wireless telecommunication services facilities shall be strongly encouraged. The Village shall maintain an inventory of existing wireless telecommunication services facilities (the "Existing Facilities Inventory") including utilities that are obligated under the Federal Telecommunications Act of 1996 to provide wireless telecommunication service carriers with nondiscriminatory access to their

facilities. Collocation shall be required unless it has been demonstrated to the satisfaction of the Village Board of Trustees that:

- [1] Adequate and reliable wireless telecommunication service cannot be provided from any alternative sites identified on the Existing Facilities Inventory or other existing sites with communication antennas within the service area in a reasonable financially and technologically feasible manner consistent with the wireless telecommunications service provider's system requirements;
- [2] None of the alternative sites identified on the Existing Facilities Inventory or other existing sites with communication antennas within the service area can accommodate the proposed wireless telecommunication services facility with respect to structural or other engineering limitations, including frequency reuse incompatibilities; or
- [3] The owner of the alternative sites identified on the Existing Facilities Inventory or other existing sites with communication antennas within the service area lawfully refuse to permit the applicant use of the site.

(b) All new wireless telecommunication services facilities and premises shall be of proper size, location and design to accommodate collocation of other service providers' facilities, unless otherwise permitted by the Village Board of Trustees.

- (6) Setbacks. Wireless telecommunication services facilities, except those on Village-owned lands or those structurally mounted to an existing building or structure, shall be located not less than two times the otherwise applicable setback requirements for principal structures for the district in which the property is located, or the height of the facility plus the otherwise applicable setback requirements for principal structures for the district in which the property is located, whichever shall be greater. Wireless telecommunication services facilities structurally mounted to the roof of an existing building or structure shall be set back from the side of the building or structure so as to minimize its visibility, but in no case less than 10 feet.
- (7) Freestanding structures. No freestanding wireless telecommunication services facility shall be permitted except for a monopole.
- (8) Height limitations. Notwithstanding the following height limitations, in no case shall a wireless telecommunication services facility exceed the minimum height reasonably necessary to accomplish the purpose it is proposed to serve.
 - (a) The height of any antennas, or other associated equipment, structurally mounted as part of a wireless telecommunication services facility shall not exceed by more than 15 feet the highest point of the existing structure on

which such antennas or equipment are affixed.

- (b) The height of any monopole utilized in a wireless telecommunication services facility shall not exceed 150 feet in height measured from the highest point of such facility to the finished grade elevation of the ground immediately adjacent to the structure.
- (9) Visual mitigation. The applicant/provider shall prepare an impact assessment of the proposed wireless telecommunication services facility based upon appropriate modeling, photography and other pertinent analytical techniques as required by the Village Board of Trustees. Landscaping and/or other screening and mitigation, including but not limited to architectural treatment, use of neutral or compatible coloring and materials, or alternative construction and transmission technologies shall be required to minimize the visual impact of such facility from public thoroughfares, important viewsheds and vantage points and surrounding properties to the extent practicable, as determined by the Village Board of Trustees. No signs shall be erected on any wireless telecommunication services facility except as may be required by the Village Board of Trustees for security or safety purposes.
- (10) Lighting. The wireless telecommunication services facility shall not be artificially lighted unless otherwise required by the Federal Aviation Administration or other federal, state or local authority.
- (11) Operational characteristics. Unless otherwise superseded by the FCC, the design and use of the proposed wireless telecommunication services facility, including its cumulative impact with other existing and approved facilities, shall be certified to conform with the maximum NIER exposure standards promulgated by the FCC, as amended. Said certification shall include a report by a licensed professional electrical engineer with expertise in radio communication facilities and/or health physicist acceptable to the Village Board of Trustees. The applicant shall provide an annual certification of conformance with the applicable emissions standards and the requirements and conditions of special permit and site plan approval. The Village Board of Trustees may hire a qualified professional of its choosing to review and confirm such initial and annual certification report, the cost of which shall be reimbursed by the applicant in accordance with the escrow account procedures established for the reimbursement of professional review fees for subdivision, site plan and special permit applications. Any violation of the emissions standards shall require immediate discontinuation and correction of the use responsible for the violation. Any such violation of these requirements of the Zoning Law or the conditions of special permit or site plan approval shall be deemed to be an offense punishable by fine and/or imprisonment in accordance with § 130-25 of this Zoning Law.
- (12) Noise. Noise-producing equipment shall be sited and/or insulated to prevent any detectable increase in noise above ambient levels as measured at the property line.

- (13) Interference. Any interference, disruption of signal or reception of radio, television or other wireless telecommunication service resulting from the construction or operation of a wireless telecommunication services facility shall be remedied as soon as practicable by and at the expense of the responsible wireless telecommunication services provider to the satisfaction of the Village Board of Trustees.
- (14) Utility service. Electrical and land-based telephone lines extended to serve the wireless telecommunication services facility sites shall be installed underground.
- (15) Safety provisions. A wireless telecommunication services facility shall be designed and erected so that, in the event of structural failure, it will fall within the required setback area and, to the maximum extent possible, away from adjacent development.
- (16) Security provisions. A security program shall be formulated and implemented for the site of a wireless telecommunication services facility. Such program may include physical features such as fencing, anti-climbing devices or elevating ladders on monopoles and/or monitoring either by staff or electronic devices to prevent unauthorized access and vandalism.
- (17) Structural inspection and report. A monopole over 50 feet in height shall be inspected by a professional engineer licensed by the State of New York at the expense of the service provider(s) each time a change is made to the equipment mounted or wiring installed on the monopole, every three years on the anniversary of the initial installation of the monopole or at any other time upon a determination by the Building Inspector that the monopole may have sustained structural damage, and a copy of the inspection report shall be submitted to the Building Inspector. [Amended 10-26-1998 by L.L. No. 4-1998]
- (18) Lease agreement. In the case of an application for approval of a wireless telecommunication services facility to be located on the lands owned by a party other than the applicant or the Village, a copy of the lease agreement with the property owner absent the financial terms of such agreement, together with any subsequent modifications thereof, shall be provided to the Village Board of Trustees and a copy shall be filed with the Village Clerk.
- (19) Removal. A wireless telecommunication services facility shall be dismantled and removed from the property on which it is located within 60 days when it has been inoperative or abandoned for a period of one year or more from the date on which it ceased operation. The applicant shall provide to the Village written notification including identification of the date the use of the facility was discontinued or abandoned by one or more of the service providers, acknowledgment of the requirement to remove the facility and identification of the plans for the future of the facility.
- (20) Application procedure.

- (a) An application or approval of a wireless telecommunications facility shall be submitted on the relevant forms for special use permit and site plan approval. Site development plan approval, in accordance with Chapter 119 of this Code, shall be required. [Amended 10-26-1998 by L.L. No. 4-1998]
- (b) The operator of the wireless telecommunication service shall submit a certificate of public utility and shall demonstrate to the satisfaction of the Village Board of Trustees that there is a compelling public need for such facility at the location(s) proposed by the applicant. Such demonstration shall include the preparation of existing and master effective service area plans which:
- [1] Minimize the number of such facilities within the service area(s).
 - [2] Maximize collocation and shared use of existing public utility and wireless telecommunication services facilities.
 - [3] Identify all existing and proposed wireless telecommunication facilities which impact upon the service area covering the Village of Pomona, including but not limited to topographic maps of the Village with service coverage and service gap grids and all proposed and other functionally acceptable locations for such facility(ies).
 - [4] Analyze feasible alternatives to reasonably minimize the visual impacts and exposure levels.
- (c) Any application for a wireless telecommunication services facility shall include a statement and appropriate documentation demonstrating that the Village's Existing Facilities Inventory has been reviewed and, to the extent relevant to provide wireless telecommunication services in the area which is the subject of such application, that all reasonable efforts have been made to collocate such facility on all sites identified in such Existing Facilities Inventory and all other existing sites with communication antennas within the service area.
- (d) As a condition of special permit approval, the applicant shall be required to provide a written agreement, in recordable form suitable for filing and prepared to the satisfaction of the Village Attorney, acknowledging that it shall be required to allow the collocation of other future wireless telecommunication service facilities unless otherwise unreasonably limited by technological, structural or other engineering considerations.
- (e) Where collocation of a wireless telecommunication services facility is proposed for any such alternative site identified on the Existing Facilities Inventory or other existing site with communication antennas within the service area, the added wireless telecommunication services facility shall be permitted, as an amendment to the existing special use permit for such alternative site, by submission of an application for a building permit and

without the need for an application for an amended special permit or site plan approval, provided that such facility meets all of the otherwise applicable requirements of this subsection and no physical modification other than the attachment of the antennas and the installation of associated equipment to be located on the ground is required. An amended written narrative and certification report indicating conformance with all of the special permit standards and conditions of site development plan approval shall be provided in addition to all required information in support of the required building permit. An as-built drawing of the modified facilities shall be filed with the Building Department. The Building Inspector shall provide written notification to the Village Board of Trustees of such application for building permit.

- (f) The applicant and all future owners of the premises and the wireless telecommunication services facility shall at all times keep on file in the office of the Village Clerk the name, address and telephone number of the owner and operator of such facility and of at least one individual who shall have authority to arrange for the maintenance of the premises and facility, and who shall be authorized to accept service of notices and legal process on behalf of the owner and operator(s) of the premises and facility and to bind the owner to any settlement, fine, judgment or other disposition (other than incarceration) which may result from any civil or criminal action or proceeding instituted by the Village against such owner and/or operator(s).

F. Educational institutions, as defined in § 130-4 of this chapter, subject to special permit approval by the Village Board of Trustees and site plan approval by the Planning Board. In addition to all other requirements of this Code for special permit and site plan approval, the following standards and requirements shall apply: [Added 1-22-2001 by L.L. No. 1-2001; amended 9-27-2004 by L.L. No. 5-2004]

- (1) Minimum net lot area. [Amended 1-22-2007 by L.L. No. 1-2007]
 - (a) The minimum lot area for an educational institution shall be a net lot area of 10 acres.
 - (b) No portion of any land under water shall be counted toward the net lot area. Not more than 1/4 of any land which is defined as wetland by the U.S. Army Corps of Engineers, the New York State Department of Environmental Conservation and/or Chapter 126 of this Code or which is within a one-hundred-year-frequency floodplain or within access, utility or drainage easements or rights-of-way shall be counted toward the net lot area.
 - (c) No portion of any land with unexcavated slopes over 35% shall be counted toward net lot area. Not more than 25% of any land with unexcavated slopes greater than 15% but less than 35% shall be counted toward the net lot area.

- (2) Maximum development intensity.
 - (a) The total building coverage shall not exceed 10% of the net lot area.
 - (b) The total floor area of the building(s) shall not exceed 20% of the net lot area.
 - (c) The total coverage of impervious surfaces (which includes all buildings and structures, parking areas, driveways, sidewalks and other areas covered in concrete, asphalt or packed stone) shall not exceed 25% of the net lot area.
- (3) Required road frontage and access. An educational institution shall have a minimum of 250 feet of frontage on a public road and shall provide sufficient and safe access to such public road.
- (4) Required setbacks and screening. All buildings, recreation areas, parking areas and other property uses and structures shall be set back a minimum of 125 feet from each property line. Such setback shall include a buffer area of a minimum of 35 feet in width consisting of trees, shrubs, plants, fencing and/or other materials as determined by the Planning Board to be sufficient to screen the educational use from adjoining uses and streets.
- (5) Required parking.
 - (a) The following number of off-street parking spaces shall be provided: one space per employee plus one per each eight students in the 12th grade, or one per four seats of public assembly area, whichever is greater.
 - (b) The applicant shall be permitted to forego the initial improvement of required parking spaces if it is proven, to the satisfaction of the Planning Board, that such spaces are not needed based on the parking demands of the proposed use. In such case, the approved site plan shall show the location(s) on the site where such unimproved spaces could be provided and will be reserved for improvement and use in the future. If determined necessary by the Planning Board, the reserved parking spaces shall be constructed in accordance with the approved site plan within six months after written notice is provided by the Building Inspector to the property owner stating that the improvement of all or a portion of the reserved parking spaces is necessary. All unimproved parking spaces shall be used and maintained as landscaped grounds until used for parking.
- (6) Noise and exterior lighting.
 - (a) The sources of exterior lighting shall be so shielded that they are not visible beyond the boundaries of the lot on which they are located.
 - (b) No outdoor public address systems shall be permitted.
- (7) Signage. One monument sign, limited to eight square feet in area and set back 10 feet from lot lines, may be placed at the main entrance to the school.

- (8) Public water and sewer. The site shall be served by public water and sewer.
- (9) The Board of Trustees may impose such restrictions and regulations which would avoid or minimize traffic hazards, impairment of the use, enjoyment or value of property in the surrounding area, or generally protect the health, safety and welfare of the neighborhood and to otherwise implement the purpose and intent of this chapter.
- (10) The location and size of the use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith shall not be hazardous.
- (11) The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the development and use of adjacent land and buildings.
- (12) A dormitory building is permitted as an accessory use to an educational use provided it is located on the same lot as the educational use and there shall be not more than one dormitory building on the lot. A dormitory building shall not occupy more than 20% of the total square footage of all buildings on the lot. [Amended 1-22-2007 by L.L. No. 1-2007]
 - (a) The minimum distance between a dormitory building and any other principal building or structure on the lot shall be 50 feet.
 - (b) The minimum distance between a dormitory building and any interior driveway or other accessory structure shall be 25 feet.
 - (c) The maximum height of a dormitory building shall be two stories or 25 feet, whichever is less.
 - (d) No dormitory room or dwelling unit shall be permitted in any cellar.
 - (e) The dormitory building shall be equipped with sprinkler and fire alarm systems and comply with all requirements of the New York State Fire Prevention and Building Code.

G. By the Board of Trustees: House of worship as defined in § 130-4 of this chapter, subject to special permit approval by the Village Board of Trustees and site plan approval by the Planning Board. In addition to all other requirements of this Code for special permit and site plan approval, the following standards and requirements shall apply: [Added 1-22-2007 by L.L. No. 2-2007]

- (1) The minimum lot area for a house of worship shall be a net lot area of three acres.

- (a) No portion of any land under water shall be counted toward net lot area. Not more than 1/4 of any land which is defined as wetland by the U.S. Army Corps of Engineers, the New York State Department of Environmental Conservation and/or Chapter 126 of this Code or which is within a one-hundred-year-frequency floodplain or within access, utility or drainage easements or rights-of-way shall be counted toward net lot area.
- (b) No portion of any land with unexcavated slopes over 35% shall be counted toward net lot area. Not more than 25% of any land with unexcavated slopes greater than 15% but less than 35% shall be counted toward net lot area.
- (2) The use shall have a minimum of 100 feet of frontage on and access to a public road.
- (3) The proposed structure meets all state requirements for a place of public assembly, including the Fire Prevention and Building Code.⁸⁷
- (4) Adequate off-street parking on the same lot as the house of worship shall be provided. A minimum of one parking space for every 200 square feet of floor space shall be required. The Planning Board may waive not more than 25% of the required number of parking spaces if the Board determines that such spaces are not needed based on the parking demands of the proposed use. The burden shall be on the applicant to prove that such spaces are not needed.
- (5) All buildings, structures and other uses, including driveways and parking areas, shall be set back a minimum of 125 feet from all property lines. Such setback area shall include a buffer screening area of at least 35 feet which, in the judgment of the Planning Board, will be adequate to screen the use from adjoining properties. The buffer area may include trees, bushes, fences, walls, berms or any combination of the aforesaid, to be determined by the Planning Board.
- (6) The total building coverage shall not exceed 10% of the net lot area. The total coverage of impervious surfaces (which includes all buildings, structures, parking areas, driveways, sidewalks and other areas covered in concrete, asphalt or packed stone) shall not exceed 25% of the net lot area.
- (7) The sources of exterior lighting shall be so shielded that they are not visible beyond the boundaries of the lot on which they are located. No outdoor public address systems shall be permitted.
- (8) One monument sign, limited to eight square feet in area and set back a minimum of 10 feet from the lot line, may be permitted at the front entrance to the house of worship. Illumination, if provided, shall be indirect, and the source of such light shall not be visible from adjoining properties or roads.

⁸⁷ . Editor's Note: See Ch. 47, Building Construction.

- (9) The maximum height of buildings and structures shall be 35 feet measured from ground level in front of the building or structure. The height limitation shall not apply to church spires, belfries, cupolas, domes, monuments and similar appurtenances that are not used for human occupancy and do not extend more than 15 feet above the roof of the building or structure.
- (10) Such other requirements as may be imposed by the Board of Trustees to mitigate traffic, safety hazards, drainage, aesthetics or other adverse impacts on adjacent properties or on the neighborhood.

§ 130-11. Accessory uses.

The following are permitted accessory uses in the R-40 District:

- A. Greenhouses, toolsheds, garages, carports and other recreational facilities commonly associated with residential use.
- B. Swimming pools and tennis courts, subject to the following regulations:
 - (1) Such pool or court shall be completely enclosed by a fence or wall not less than five feet in height and so constructed as to deter climbing. All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely locked at all times when the pool or court is not in actual use.
 - (2) If located within 50 feet of any lot line, such pool or court shall be screened from the view of the adjacent properties. Such screen shall be at least five feet high.
- C. Temporary storage of mobile trailers and boats, provided that they are not visible from the street and are properly screened from adjacent property.
- D. The keeping of no more than five household pets, exclusive of pets under three months of age, but excluding the commercial breeding or boarding of the same.
- E. Customary home occupations, including professional offices or studios of dentists, physicians, lawyers, artists, musicians and teachers, but not including those uses and occupations excluded from the definition of home occupation in § 130-4 of this chapter, provided that: [Amended 12-19-1994 by L.L. No. 4-1994; 1-27-1997 by L.L. No. 2-1997; 6-23-1997 by L.L. No. 7-1997]
 - (1) No display of goods or signs is visible from the street, except as set forth in the regulations for signs.
 - (2) Such occupation is incidental to the residential use of the premises and is carried on in the main building by a resident therein with no more than two nonresident assistants.
 - (3) The primary residential purpose of the lot shall be maintained; to this end, home occupation use of the property (inclusive of permitted storage of all materials) shall be limited to not more than 1,000 square feet or 25% of the gross

floor area of the principal residential structure, whichever is less.

- (4) A home occupation shall comply with all other applicable federal, state, county and local regulations.
- (5) A home occupation shall not involve merchandising, trade or the exchanging of commodities whether or not for profit by sale or distribution to persons who come to the premises.
- (6) Studios of music or dance which are not used for the instruction of groups in excess of four pupils at one time, nor for the giving of concerts or recitals.
- (7) There shall be no exterior effect such as noise, traffic, odor, dust, smoke, gas fumes, radiation or electromagnetic interference.
- (8) There shall be provision for adequate off-street parking to accommodate the vehicles of persons connected with or visiting the permitted use, and there shall be no parking of such vehicles in public streets. Notwithstanding the provisions of § 124-12 of this Code, vehicles making deliveries of goods and picking up goods in connection with a permitted home occupation, having a gross empty weight in excess of 12,000 pounds, must obtain the permission of the Town Police Department having jurisdiction prior to such delivery and pickup; such vehicles shall not be parked along the highways, streets, lanes, thoroughfares and public roads within the Village of Pomona during the course of such deliveries and pickups, but shall be parked wholly upon the premises to which the delivery is being made and from which pickups are being made. The adequacy of off-street parking shall be determined by the Code Enforcement Officer.

F. Signs, limited as follows: [Amended 1-27-1997 by L.L. No. 2-1997]

- (1) One nameplate or professional sign with an area not over 1 x 1 1/2 feet.
- (2) One temporary nonilluminated sign advertising the sale or rental of the premises on which such sign is situated, with an area of not over four square feet, provided that such sign is not located within 25 feet of any side lot line.
- (3) Temporary signs for garage sales, provided that such signs contain the address of the seller and date of the sale, are displayed only one week prior to the sale and are removed within one week after the sale.

G. The conduct of noncommercial regularly scheduled gatherings of persons which are incidental to and secondary to the use of the premises as a single-family residence, provided such use complies with the requirements of the New York State Fire Prevention and Building Code⁸⁸ relating to places of assembly and occupancy limitations, if applicable. The Building Inspector and/or Fire Inspector, as the case may be, shall have authority to inspect the premises for compliance with all safety

⁸⁸ . Editor's Note: See Ch. 47, Building Construction.

requirements of the State Fire Prevention and Building Code relating to the use. The use shall be conducted within the single-family residence and shall not be permitted in a separate or accessory building on the lot. [Added 1-22-2007 by L.L. No. 2-2007]⁸⁹

ARTICLE V

Area and Bulk Regulations

§ 130-12. R-40 District.

The following bulk regulations shall apply in the R-40 District:

- A. Minimum lot area: 40,000 square feet.
- B. Minimum lot frontage: 100 feet except that during subdivision approval the Planning Board may reduce lot frontage to not less than 50 feet for residential lots fronting on cul-de-sacs or on streets with a center-line radius of 100 feet or less. [Added 2-28-2005 by L.L. No. 1-2005⁹⁰]
- C. Minimum lot width: 150 feet measured along a line drawn parallel to the front lot line at a distance equal to the minimum front yard requirement, except that lots of two acres or more having public sewer availability may be subdivided to produce a so-called "flag" lot with access to a public street by way of a twenty-five-foot wide strip owned by the rear lot owner in fee. A maximum of one flag lot per parent parcel may be created with not more than one newly created parcel being accessed by such twenty-five-foot wide strip of property. [Amended 9-11-1989 by L.L. No. 3-1989; 2-28-1994 by L.L. No. 1-1994; 5-20-2002 by L.L. No. 2-2002; 2-28-2005 by L.L. No. 1-2005]
- D. Minimum lot depth: 140 feet.
- E. Minimum front yard: 50 feet, measured from the edge of the right-of-way. If located on a right-of-way of less than 50 feet, all buildings shall be set back a distance, measured from the center line of the existing roadway, of at least the required front yard plus 25 feet.
- F. Minimum rear yard: 30 feet.
- G. Minimum side yard: 25 feet. On a corner lot, each yard which abuts a street shall be deemed a front yard and shall meet front yard requirements. Thus, a corner lot shall have two front yards and two side yards.
- H. Maximum height of buildings and structures shall be 35 feet measured from ground level in front of the building or structure.
- I. Maximum lot coverage. In order to ensure the maximum coverage of a lot with

⁸⁹ . Editor's Note: Former Subsection G, Signs in public right-of-way prohibited, added 10-27-1997 by L.L. No. 13-1997, as amended, was repealed 11-22-2004 by L.L. No. 8-2004. See now Ch. 112, Signs on Public Property.

⁹⁰ . Editor's Note: This local law also redesignated former Subsections B through I as C through J, respectively.

vegetation, the prevention of over development of lots, to minimize adverse visual impacts and to minimize negative impacts of stormwater runoff, there is hereby established a maximum lot coverage of 15%. In calculating maximum lot coverage, there shall be included, in addition to the proposed building, the lot coverage of impervious surfaces and accessory structures such as swimming pools. [Amended 1-27-1997 by L.L. No. 3-1997]

- J. Minimum number of off-street parking spaces: two.

ARTICLE VI

General Regulations

§ 130-13. Application of regulations.

- A. Conformity required. 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.
- B. Minimum requirements. In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements necessary for the protection and promotion of the public health, safety, morals, comfort, convenience and general welfare.

§ 130-14. Relationship to other regulations.

- A. Other applicable codes, standards and regulations. There are many other applicable codes, standards and regulations of the Village of Pomona in addition to this chapter. These include the Subdivision of Land Regulations and the Uniform Fire Prevention and Building Code.⁹¹
- B. Conflicting standards. 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 or lesser restriction upon the use of buildings or land or upon the erection, construction, establishment, movement, alteration or enlargement of buildings than is imposed by other local laws, rules, regulations, licenses, certificates or other authorizations or by easements, covenants or agreements, the more restrictive requirements shall prevail.

§ 130-15. Nonconforming uses, buildings or structures.

- A. Continuing existing uses, buildings and structures.
- (1) Except as otherwise provided herein, the lawfully permitted use of lands or buildings and the lawfully permitted existence of buildings or structures at the time of the adoption of this chapter may be continued although such use, building or structure does not conform to the standards specified in this chapter for the district in which such lands, buildings or structures are located. Similarly, whenever a zoning classification or the restrictions affecting property within a

⁹¹ . Editor's Note: See Ch. 118, Subdivision of Land; Ch. 47, Building Construction; and Ch. 74, Fire Prevention.

district shall be changed hereafter so as to render nonconforming a use, building or structure then presently or theretofore lawfully existing, such use, building or structure may nevertheless continue, subject to the conditions set forth below. Said uses shall be deemed nonconforming uses and said buildings and structures shall be deemed dimensionally nonconforming.

- (2) Any use in existence as of the effective date of this chapter which is by this chapter made a special permit use in the district in which it is located shall be presumed to have a special permit to the extent such use is legally conforming as of the date immediately prior to the effective date of this chapter.

B. Nonconforming use of land, buildings or structures.

- (1) The nonconforming use of land may be continued; provided, however, that no such nonconforming use shall be physically enlarged or intensified, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this chapter, unless specifically allowed by other provisions in this chapter, nor shall any such nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this chapter.
- (2) A building or structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged, extended or altered structurally unless the use therein is changed to a conforming use or to conform to an order of the Code Enforcement Officer to either correct an unsafe condition or conform to the requirements of applicable laws or ordinances.
- (3) No nonconforming use of a building or structure shall be enlarged or extended, except that any such nonconforming use may be extended throughout any parts of the building or structure which were obviously or manifestly arranged or designed only for such use at the time of the adoption or amendment of this chapter.
- (4) No nonconforming use shall be changed to another nonconforming use, except as provided in Subsection E below.
- (5) If a nonconforming use ceases for any reason for a total of six months during any twelve-month period or is changed to a conforming use, any future use of the land, building or structure shall be in conformity with the provisions of this chapter. Substantial cessation of activities consistent with or required for the operation of such nonconforming use, or substantial vacancy of the building or structure in which the nonconforming use was conducted, together with substantial cessation of activities consistent with or required for the operation of such nonconforming use, shall be deemed to constitute a discontinuance thereof within the meaning of this chapter irrespective of whether an intention to abandon the nonconforming use may exist. On application, however, the Board of Appeals may extend the period upon a finding that it is not reasonable in its application to the particular premises, taking into consideration the

characteristics of the use, the investment which has been made in it, the circumstances of the discontinuance and the suitability of the structure for a permitted or special permit use.

- (6) If any building or structure in which any nonconforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building or structure was located and the subsequent use of any building or structure thereon shall be in conformity with the standards specified by this chapter for the district in which such land is located.

C. Dimensional nonconformity. A building or structure that is conforming in use but does not conform to the lot dimension, yard dimension, height, building coverage, off-street parking, loading or similar dimensional requirements of this chapter shall be deemed to be dimensionally nonconforming. No permit shall be issued that will result in the increase of any such dimensional nonconformity, but any building or structure or portion thereof may be altered to maintain or decrease its dimensional nonconformity.

D. Reconstruction.

- (1) Should a building or structure, the use of which or the use of a portion of which is nonconforming or which is dimensionally nonconforming, be destroyed or damaged by any means to an extent of more than 75% of the replacement cost of the building or structure as determined by the Code Enforcement Officer at the time of the reconstruction, it shall not thereafter be reconstructed or used except in conformity with the provisions of this chapter.

- (2) Should a building or structure, the use of which or the use of a portion of which is nonconforming or which is dimensionally nonconforming, be destroyed or damaged by any means to an extent of 75% or less of the replacement cost of the building or structure as determined by the Code Enforcement Officer at the time of the reconstruction, it may be reconstructed and any accompanying nonconforming use continued, provided that the reconstruction is commenced within one year of the date of such damage and completed within two years of said date, and further provided that it shall be reconstructed in accordance with a plan approved by the Planning Board so as to result, where possible, in greater conformity with this chapter.

E. Change to other nonconforming use. On application, any nonconforming use of land, buildings or structures may be changed to another nonconforming use upon approval by the Board of Appeals based upon a finding that the proposed use is more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may impose whatever conditions and safeguards it may deem necessary or appropriate to further the purposes of this chapter.

F. Improvement of nonconforming uses. In order that nonconforming uses may gradually be brought into greater conformity with this chapter and the adverse external effects of such nonconforming uses may be reduced, the owner of the land, building or structure so used may be permitted to make limited changes to such

building, structure or use in conjunction with a site plan whereby, through landscaped screening and buffer areas, control of noise, smoke, odors, lighting, architectural changes, location and layout of parking areas and access drives or by any other appropriate means, these purposes may be achieved. Such plan shall be presented to the Board of Appeals, which may then grant approval or approval with modifications, provided that said agency finds that the purposes of this section shall be met.

§ 130-16. General lot, yard and use regulations.

- A. Lot for every building. Every building hereafter erected shall be located on a lot and there shall be no more than one main building and its accessory buildings on one lot, except for nonresidential buildings in districts where such uses are permitted.
- B. Subdivision of a lot. Where a lot is formed hereafter from part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair conformity with any of the requirements of this chapter with respect to the existing building and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building on the new lot thus created unless it complies with all the provisions of this chapter.
- C. Irregularly shaped lots. Where a question exists as to the proper application of any of the requirements of this chapter to a particular lot because of its peculiar or irregular shape, the Board of Appeals shall determine how the requirements of this chapter apply as provided in § 130-28E of this chapter.
- D. Obstructions to vision at intersections in residential districts. At the intersection of two or more streets in a residential district, no fence, wall, structure or shrubbery or other obstruction more than two feet in height above the center-line grade of the streets shall be erected or placed on any part of a yard herein established that is included within the triangular area formed by the nearest edges of the street line and a straight line between two points, each a minimum of 25 feet back from the intersection of the nearest edges of the street line prolonged.
- E. New buildings on lots smaller than minimum required area. A permit may be issued for the erection of a building for a permitted use on a lot for which a valid conveyance has been recorded prior to May 28, 1968, notwithstanding that the area or dimensions of such lot are less than that required for the district in which such lot is located, provided that such lot meets the requirements of § 7-708, Subdivision 2, of the Village Law.
- F. Yard for every building. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as any part of the yard or open space for any other building. No yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.
- G. Use of yards. No accessory building or structure shall be permitted within any minimum required yard except as regulated by Subsections J and O. No parking shall

be permitted within any yard except as provided in Article VII.

- H. No reduction of required yards. No lot shall be so reduced in area as to make any yard smaller than the minimum required under this chapter.
- I. Yards on corner lots. On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be a required front yard. Where a corner lot has frontage on three streets, the remaining yard shall be a side yard.
- J. Structural projections permitted into required yards and courts.
 - (1) Limited walls and fences may be allowed in required yards, subject to the requirements of Subsection L.
 - (2) All required yards shall be unobstructed except as provided in this subsection. (Since required yards shall be open to the sky, an obstruction shall include the projection of a structure into such spaces at any level above ground.) However, an arbor, open trellis, flagpole, unroofed steps, unroofed terrace or deck at not to exceed one foot above ground level shall be permitted in any required yard up to within 10 feet of a property line.
 - (3) An awning or movable canopy may project not more than 10 feet into any required yard.
 - (4) Cornices or eaves may project not more than 18 inches into a required yard.
 - (5) Windowsills or belt courses may project not more than six inches into a required yard.
 - (6) Driveways shall be permitted in any yard, provided that they comply with the maximum impervious surface requirements of this chapter.
- K. Exceptions to height limitations. The height limitations of this chapter shall not apply to:
 - (1) Church spires, belfries, cupolas, domes, monuments, observation towers, chimneys, smokestacks, derricks, flagpoles, radio towers, masts and aerials where not used for human occupancy and where such structures do not extend more than 15 feet above the roof.
 - (2) Rooftop bulkheads, elevator penthouses, water towers, water tanks, monitors, fire towers, hose towers, cooling towers or solar energy collectors, provided that such features shall be erected only to the height necessary to accomplish the purpose they are intended to serve, the total area covered by such features shall not exceed 20% of the horizontal area of the roof on which they are located, such structures do not extend more than 15 feet above the roof and, where the lot on which they are located is in or adjacent to a residence district, such features shall be set back from the edge of the roof at least one foot

for each one foot by which such features exceed the maximum height otherwise specified for the district in which they are located.

- L. Fences and walls. Fences and walls, including retaining walls, are permitted within required yards, provided that: [Amended 11-22-2004 by L.L. No. 7-2004]
 - (1) Except as provided in Subsection Q below, such fences or walls shall not exceed four feet in height if located in a front yard and six feet in height in any other yard, except that such fences or walls shall not exceed six feet in height if located in a front yard abutting a state road. The Code Enforcement Officer may, where necessary for safety, require the addition to a retaining wall of a motor vehicle bumper guard or fence.
 - (2) The fence or wall meets the requirements of Subsection D of this section.
 - (3) All fences and walls must be inside all lot lines.
- M. Cemeteries. Cemeteries are not permitted in any district.
- N. Solar energy collectors. [Amended 2-28-1994 by L.L. No. 1-1994]
 - (1) Solar energy collectors are permitted as a part of and may be attached to any building.
 - (2) Installation of solar energy collectors shall require the issuance of a building permit and the approval of the Planning Board.
- O. Accessory buildings and structures. Accessory buildings and structures shall be permitted in all districts, subject to the following:
 - (1) Not more than three accessory buildings and structures shall be permitted on a lot in a residential district, except as approved in accordance with § 130-10D. [Amended 1-28-1991 by L.L. No. 1-1991]
 - (2) The gross floor area of all principal and accessory buildings, regardless of size, located on a lot shall comply with the maximum lot coverage requirements of this chapter.
 - (3) The following shall be considered accessory buildings and structures for the purposes of this subsection: tennis courts, paddle tennis courts, swimming pools, garages for passenger vehicles or one vehicle with commercial registration under 5,000 pounds gross vehicle weight, greenhouses, playhouses, garden houses, toolhouses, stables, barns, solar energy collectors.
 - (4) Accessory buildings and structures not greater than 100 square feet in floor area and not more than 10 feet in height measured to the highest point of the building or structure may be located not closer to a side or rear yard than 1/3 of the side yard and rear yard dimensions specified in this chapter. Accessory buildings and structures shall comply with the front yard setbacks specified herein.

(5) Individual accessory buildings and structures greater than 100 square feet in floor area or greater than 10 feet in height shall meet the following requirements: [Amended 4-24-2000 by L.L. No. 2-2000]

(a) Accessory buildings and structures permitted under this subsection shall comply with the front, rear and side yard and building coverage requirements specified herein and shall be limited in height to a maximum of 20 feet measured to the highest point of the building or structure.

(b) The construction of an accessory building or structure over 2,500 square feet in floor area or greater than 20 feet in height shall require the issuance of a special permit by the Zoning Board of Appeals.

P. Garage sales. Garage sales may be conducted from a property in a residential district, provided that:

(1) Signs advertising the garage sale shall comply with the requirements of § 130-11G(3).

(2) The number of garage sales shall be limited to two per year, each to be limited to a maximum duration of three days.

Q. Animals.⁹²

(1) General regulations. The following regulations apply to the maintenance of animals in all districts:

(a) The maintenance, breeding, raising, purchase and/or sale of all animals and their products, including but not limited to milk and eggs, is considered an accessory use and is permitted, subject to the requirements listed below.

(b) No venomous snakes or wild animals shall be permitted in residential districts.

(c) All animals living primarily within the residence and not regulated below are excluded from these regulations.

(d) All feed shall be housed in rodentproof containers.

(e) All animals shall be suitably contained to prevent damage to persons and property.

(f) Regulations for types of animals not regulated in Subsection Q(2) below and not excluded in Subsection Q(1)(c) above shall be determined by the Planning Board.

(2) Regulations for specific animals.

(a) Fowl (such as chickens and ducks). The maintenance of four or fewer fowl

⁹². Editor's Note: See also Ch. 40, Animals.

is permitted as an accessory use in the R-40 District. No unneutered roosters shall be permitted. All fowl shall be kept in an enclosed area at least 75 feet from any lot line.

(b) Horses, cattle, goats and sheep. The maintenance of these animals is permitted as an accessory use, subject to the conditions listed below:

[1] Two acres of lot area are required for the first animal. One acre of lot area shall be required for each animal above one. Abutting lots with common beneficial ownership shall be considered a single lot.

[2] All animals, barns and manure storage areas shall be contained by a fence located at least 50 feet from each property line and 150 feet from any existing residence other than that on the lot. All fences shall be at least five feet in height and shall be of one of the following types, and fencing shall be determined by the Code Enforcement Officer to be strong enough to contain the fenced animals:

[a] Chain link.

[b] Post and rail, with a minimum of two horizontal bars.

[c] Barbed wire, with a minimum of two horizontal strands.

[3] Commercial livery stables are not permitted.

(c) Dogs and cats.

[1] Dogs or cats less than one year old shall be exempt from these regulations.

[2] The maintenance of five or less dogs or cats is permitted as an accessory use in any district.

R. Storage of vehicles or boats. In all residential districts, the storage of not more than one unoccupied recreational vehicle or boat or one unregistered vehicle shall be permitted so long as such vehicle or boat is stored only within a side or rear yard. No stored vehicle or boat shall exceed 35 feet in length. [Amended 1-22-2001 by Ord. No. 2-2001]

S. Air-pressure buildings. No air-pressure buildings are permitted in any district.

T. Municipal uses. Notwithstanding any other provision to the contrary, structures owned or occupied by the Village of Pomona in the performance of its municipal functions shall be exempt from the provisions of this chapter.

U. Swimming pools. All swimming pools, as defined in this chapter, shall be completely enclosed by a fence or wall with a minimum height of five feet. All such fences must contain a maximum vertical interspace of two inches and must have self-closing and self-latching gates, with latches placed at least four feet above the ground or otherwise made inaccessible to small children. The fencing shall be

determined by the Code Enforcement Officer to be strong enough to ensure pool security.

§ 130-17. Performance standards.

- A. Conformance required. No special permit use or nonresidential use shall hereafter be established, altered, moved or expanded unless it complies with the performance standards set forth in this section. Continued conformance with such standards shall be a requirement for the continuance of any certificate of occupancy. Central utility systems serving three or more dwelling units, including but not limited to systems providing heat, water, air conditioning, sewage treatment, garbage collection and electrical power, shall be deemed to be nonresidential uses for the purposes of this section.
- B. Purposes. Consistent with the general purposes of this chapter, performance standards shall set specific controls on potentially objectionable external aspects of nonresidential uses so as to:
- (1) Reduce to a reasonable minimum the dissemination of smoke, gas, dust, odor or other atmospheric pollutant outside the building in which the use is conducted.
 - (2) Control noise perceptible beyond the boundaries of the site of the use.
 - (3) Prevent the discharge of untreated or insufficiently treated wastes into any watercourse.
 - (4) Prevent the dissemination of vibration, heat or interference beyond the immediate site on which the use is located.
 - (5) Prevent physical hazard by reason of fire, explosion, radiation or any similar cause.
 - (6) Regulate and control the generation and flow of vehicular traffic so as to prevent hazardous conditions, traffic congestion and excessive noise in the streets.
- C. Standards for noise. No land use shall be permitted which will produce a volume of noise which would violate the provisions of any law regulating noise in the Village of Pomona.⁹³
- D. Standards for vibration.
- (1) Method of measurement. For the purpose of measuring vibration, a two-component measuring system approved by the Planning Board shall be employed.
 - (2) Maximum permitted steady-state and impact vibration displacement. No

⁹³ . Editor's Note: See Ch. 96, Noise.

activity shall cause or create a steady-state or impact vibration on any lot line with a vibration displacement by frequency bands in excess of that indicated in the following table:

Vibration Displacement
(inches)

Frequency

(cycles per second)

Steady-State

Impact

Under 10

.0005

.0010

10 - 19

.0004

.0008

20 - 29

.0003

.0006

30 - 39

.0002

.0004

40 or more

.0001

.0002

E. Standards for smoke, dust and other atmospheric pollutants.

- (1) General control. The emission of smoke and other particulate matter shall not be permitted, regardless of quantity, if it will be in any way detrimental to the public health, safety, welfare or comfort or a source of damage to property.
- (2) Method of measurement of smoke. For the purpose of grading the density of smoke, the Ringelmann Smoke Chart shall be used to determine the total smoke units emitted. A reading shall be taken every minute for an hour, or if less than an hour, until the total smoke units emitted exceed the number allowed by these regulations. Each reading shall be multiplied by the number of minutes during which it was observed and the products added.

- (3) Maximum permitted emission of smoke. There shall be no measurable emission of smoke, gas or other atmospheric pollutant. The emission of one smoke unit per hour and smoke with discernible density of No. 1 on the Ringelmann Smoke Chart shall be prohibited.
 - (4) Maximum permitted emission of dust.
 - (a) The emission of dust related to combustion for indirect heating from any source shall not exceed 0.30 pound of dust per thousand pounds of flue gas adjusted to 50% excess air for combustion.
 - (b) There shall be no measurable emission of dust or other particulate matter not related to combustion for indirect heating.
 - (c) All properties shall be suitably improved and maintained with appropriate landscaping and paving or other type of improvement so that there will be no measurable windblown dust or other similar types of air pollution created.
- F. Standards for odorous matter. No land use shall be permitted which emits any discernible odor outside the building in which the use is conducted.
- G. Standards for toxic or noxious matter. No use shall be permitted which will cause any dissemination whatsoever of toxic or noxious matter outside the building in which the use is conducted.
- H. Standards for radiation and electromagnetic interference.
 - (1) Radiation. The handling, storage or disposal of radioactive materials or waste by-products, whether or not licensed by the Atomic Energy Commission, shall be conducted only in accordance with the standards established in Title 10, Chapter 1, Part 20, Code of Federal Regulations, Standards for Protection Against Radiation, as amended, and in accordance with any other applicable laws or regulations.
 - (2) Electromagnetic interference. No operation shall be permitted which produces any perceptible electromagnetic interference with normal radio or television reception in any area within or without the Village.
- I. Standards for fire, explosive hazard and heat.
 - (1) Fire and explosive hazard. No storage or manufacture of explosives, or solid materials or solid products which burn actively or which have a low-ignition temperature, a high rate of burning or create great heat under ordinary temperature conditions shall be permitted.
 - (2) Heat. There shall be no emission of heat which would cause a temperature increase in excess of 1° F. along any adjoining lot line, whether such change be in the air, in the ground or in any watercourse or water body.

- J. Standards for liquid or solid wastes. The discharge of any or all wastes shall be permitted only if in complete accordance with all standards, laws and regulations of the Rockland County Health Department, New York State Department of Environmental Conservation or any other regulatory agency having jurisdiction. Facilities for the storage of solid waste shall be so located and designed as to be screened from the street or from any adjoining property and as to discourage the breeding of rodents or insects.
- K. Standards for vehicular traffic. No home occupation or special permit use shall be permitted where it is determined by the Planning Board that the type and number of vehicle trips it is estimated to generate would be expected to produce unusual traffic hazards or congestion or cause or induce emissions which may be expected to interfere with the maintenance of air quality standards established by the United States Environmental Protection Administration, the New York State Department of Environmental Conservation or other regulatory agency having jurisdiction due to the design or capacity of the highway system, the relationship of such proposed use to surrounding or nearby uses or other factors affecting air pollution arising from mobile source activity.
- L. Procedure.
- (1) In the case of any application for the establishment of a use subject to the performance standards, the Planning Board may require the applicant, at his own expense, to provide such evidence as it deems necessary to determine whether the proposed use will conform to said standards.
 - (2) If the Planning Board deems it necessary, expert advice may be obtained, with the cost of such advice paid for in advance by the applicant as a condition of further consideration of his application. The report of any expert consultants shall be promptly furnished to the applicant.
 - (3) During the course of subdivision or special permit review, the Planning Board will determine if the applicant's proposal will conform to the performance standards.

§ 130-18. Construction regulations.

- A. New construction is permitted only on a lot which fronts on a publicly maintained road or on a road shown on a map filed at the Rockland County Clerk's office.
- B. All buildings must conform to and be erected in compliance with the New York State Uniform Fire Prevention and Building Code.
- C. Any alteration or improvement of a site, including the grading of the land and the location of facilities, shall not adversely affect adjacent properties.
- D. No person, firm or corporation shall strip, excavate or otherwise remove topsoil for sale or for any use other than on the premises from which the same shall be taken, except in connection with the construction or alteration of a building on such premises or the grading incidental thereto, except by approval of the Zoning Board

of Appeals. At least six inches of topsoil must exist or be placed on land cleared for construction.

- E. No cut trees, timber, stumps, debris, rocks, stones, junk, rubbish or other waste materials of any kind shall be buried in any land or left deposited on any lot or street. If a building permit has been previously issued for premises, no certificate of occupancy shall be issued unless the conditions described above have been remedied nor shall any building permit or certificate of occupancy in the same subdivision be issued unless such conditions have been remedied on the lot or lots in question. [Amended 4-22-1996 by L.L. No. 2-1996]
- F. Rocks unearthed during construction shall be removed from the lot unless a specific request from the home buyer, in writing, is presented to the Code Enforcement Officer.
- G. No live tree with a circumference of 25 inches or more measured at a height 4 1/2 feet above existing ground level at the base of the tree on the uphill side shall be removed from any land except where necessary for construction thereon and with the approval of the Code Enforcement Officer. Trees to be preserved as hereinabove set forth shall be fenced outside their drip lines and shall have no grade change or earthwork performed within said drip lines without written approval of the Code Enforcement Officer. Removal of each tree shall be construed as a separate offense. This section shall not apply to a residential lot improved by a residential structure which lot may not, under the bulk provisions of this Zoning Law, be further subdivided. [Amended 10-24-1988 by L.L. No. 6-1988; 11-25-2003 by L.L. No. 9-2003; 3-28-2005 by L.L. No. 2-2005]
- H. No person shall conduct or cause to be conducted any land operations to clear, fill or grade any property without securing a building permit (hereinafter referred to in this section as "permit") from the Building Inspector. [Added 6-23-1997 by L.L. No. 8-1997; 11-13-2000 by L.L. No. 9-2000]
 - (1) The following information or exhibits are required in order to secure a permit:
 - (a) Engineering drawings showing the tax lot upon which the activity will be conducted.
 - (b) The names and addresses and the section, block and lot numbers of all contiguous property owners, and the names and addresses and section, block and lot numbers of all property owners located within 500 feet of the proposed site.
 - (c) A plan showing all existing and proposed contour lines, amounts of fill to be placed or displaced, location of trees with a circumference of 25 inches or more measured at a height 4 1/2 feet above existing ground level at the base of the tree on the uphill side and road access to the site. [Amended 11-25-2003 by L.L. No. 9-2003]
 - (d) An erosion control plan and a plan for stabilizing the fill.

- (e) Preliminary copies of any contracts to perform such clearing, filling and grading, which contract shall state that it is subject to this chapter of the Code, which shall be attached to and become a part of such contract.
 - (f) Documentation regarding permit status with the New York State Department of Environmental Conservation prior to the issuance of a permit. Any New York State Department of Environmental Conservation permit required must be in effect prior to the Village issuing a permit.
 - (g) Proof of liability insurance adequate to cover the intended work pursuant to the terms of the permit. The Village shall be named as an additional insured on the applicant's policy. The applicant shall by a separate instrument agree to indemnify and hold harmless the Village from any claims arising out of the intended activity.
 - (h) Completion date and any other information which the Building Inspector deems reasonable in reviewing the application.
- (2) Operations shall be conducted only during daylight hours, but not earlier than 7:00 a.m.
 - (3) The Building Inspector may refer such application to the Village Engineer and other Village agencies for their review and recommendation.
 - (4) Clearing, filling and grading shall be done in such manner as not to result in an increase of surface water runoff onto any other properties and shall not result in any conditions which increase erosion or result in any unstable conditions upon the site or adjacent properties or wetlands.
 - (5) The Building Inspector may contract appropriate surveillance of the site on a twenty-four-hour, seven-days-per-week basis until the activity is completed. The applicant shall be required, as a condition of the permit, to sign the permit authorizing the Village, its employees or agents to enter onto the applicant's property and to conduct the appropriate surveillance. Any and all costs for this service will be estimated by the Building Inspector prior to the issuance of a permit, and the applicant will then be required to post a certified check to cover such costs.
 - (6) The Building Inspector may impose any other reasonable conditions on the permit, such as screening, access controls, dust controls, site security, etc., which the Building Inspector believes are necessary in order to adequately maintain the site.
 - (7) A permit to clear, fill or grade property shall not be required for the planting of landscaping, grading low areas with a total of 15 or fewer cubic yards of fill material, correcting hazards representing an imminent threat to life or property, removal of dead trees, harvesting of firewood not to exceed four live trees per year 25 inches in circumference or more measured at a height 4 1/2 feet above existing ground level at the base of the tree on the uphill side, or for land

development pursuant to but not prior to the issuance of a building permit, an approved and filed subdivision plat or an approved site plan. A protected tree, as defined in this chapter, shall be preserved unless such tree endangers the health or safety of any person or interferes with the use or construction of any structure on the lot or is a dead tree as determined by a landscape architect or similar professional. An application for a building permit to remove a protected tree shall include a revegetation or replacement plan for replacement of the tree to be removed, Replacement may be proposed in another location on the same lot and is not required to be of the same species or size of the tree to be removed. [Amended 11-25-2003 by L.L. No. 9-2003; 3-28-2005 by L.L. No. 2-2005]

(8) The applicant shall be required to post a letter of credit issued by a bank having a branch in Rockland County, New York, money or other security acceptable to the Village, in in amount to be determined by the Building Inspector and in a form satisfactory to the Village Attorney, to be posted with the Village Clerk to guarantee the satisfactory restoration of any state, county or Village roads or other public property which might be damaged as a result of the activities of the applicant in clearing, filling and grading pursuant to the terms of this section. In the event that the applicant fails or refuses to make the necessary repairs, the Village Board shall forfeit the letter of credit or money security deposit in order to underwrite the expense of making such repairs.

(9) All expenses incurred by the Village in connection with making the necessary repair, including but not limited to any administrative and legal costs relating thereto, either not covered by the performance security or in excess of the performance security, shall be assessed against the land on which said clearing, filling and grading has occurred and shall be levied and collected in the same manner as provided in Article 5 of the Village Law for the levy and collection of real property taxes.

I. No building permit shall be issued for construction of any residence until a plan for installation of street trees in size, species and number as required by Village specifications has been submitted and approved by the Building Inspector or Village Engineer. A cash bond or letter of credit in an amount to be determined by the cost of the number of trees to be installed shall be posted with the Village prior to issuance of the building permit. Said trees shall be installed within the right-of-way not less than six nor more than 10 feet back from the pavement prior to issuance of a certificate of occupancy for said construction. [Added 2-23-2004 by L.L. No. 1-2004; amended 8-14-2006 by L.L. No. 3-2006]

ARTICLE VII

Parking Requirements

§ 130-19. Sufficient spaces required.

All structures and uses shall be provided with a sufficient number of off-street parking and loading spaces to meet the needs of employees, residents, visitors, clients, patrons and other persons at such structures or uses, but not less than the minimum requirements of this chapter. No certificate of occupancy shall be issued for any structure or use, whether

for a new structure or for a change of use of an existing structure, until such off-street parking and loading spaces have been established in accordance with the requirements of this chapter.

§ 130-20. Location.

- A. Required off-street parking spaces shall be provided on the same lot with the structure or use they serve and may be located within a building or in a side or a rear yard, except that upon a determination made by the building inspector and the Village Engineer pursuant to § 118-25B of the Code that parking spaces are required in the front yard of such lot. [Amended 10-27-1997 by L.L. No. 12-1997]
- B. Not more than one vehicle having or eligible for commercial registration under 5,000 pounds gross vehicle weight may be parked on a lot. No vehicle having or eligible for commercial registration over 5,000 pounds gross vehicle weight may be parked overnight on any public street in the Village of Pomona or kept on a lot therein. Campers, motor homes and trailers may not be parked overnight on any street in the Village of Pomona.⁹⁴ [Amended 9-11-1989 by L.L. No. 4-1989]

§ 130-21. Driveways.

For reasons of traffic and pedestrian safety, both on- and off-street, as well as to provide for possible future road widening or other improvements, all new driveways and sidewalk crossings entering onto any street shall comply with all requirements of these regulations and shall be subject to permit approval by the Planning Board, Rockland County Highway Department or New York State Department of Transportation for access onto Village, county or state roads, respectively. No more than two driveway accesses shall be allowed for any residence.

- A. Driveway width. Unobstructed access to and from a street shall be provided for all parking spaces. Such access shall consist of one or two twelve-foot-wide lanes.
- B. Driveway gradients. The maximum gradient for new access driveways to single-family dwellings is 12 1/2%, except that the Planning Board may approve a driveway gradient in excess of 12 1/2% but not more than 15%, provided that at least two parking spaces are provided on the lot immediately adjacent to the public right-of-way. At no time shall the 10 feet of driveway from the edge of pavement into the property exceed a gradient of 4%. This 10 feet of driveway from the edge of pavement into the property shall not be included in the driveway gradient calculation. [Amended 3-22-2004 by L.L. No. 2-2004]

ARTICLE VIII

Administration and Enforcement

§ 130-22. Enforcing official; building permits and certificates of occupancy.

- A. General. No board, agency, officer or employee of the Village shall issue, grant or

⁹⁴ . Editor's Note: See also Ch. 124, Vehicles and Traffic.

approve any permit, license, certificate or other authorization for any construction or alteration of any building or structure or for any use of land, building or structure that would not be in full compliance with the provisions of this chapter, except as permitted under Article IX of this chapter, Any permit, license, certificate or other authorization issued, granted or approved in violation of the provisions of this chapter shall be null and void and of no effect without the necessity of any proceedings for revocation or nullification thereof.

B. Code Enforcement Officer.

- (1) This chapter shall be enforced by the Code Enforcement Officer and one or more Assistant Code Enforcement Officers as deemed necessary, referred to herein individually and collectively as the "Code Enforcement Officer," as appointed by the Board of Trustees, or it may be enforced by the direct action of the Board of Trustees.
- (2) The duly appointed Building Inspector for the Village of Pomona is hereby designated as a Code Enforcement Officer. [Amended 9-25-2000 by L.L. No. 7-2000]
- (3) It shall be the duty of the Code Enforcement Officer and he is hereby empowered to:
 - (a) Inspect any building, structure or land to determine whether any violations of this chapter have been committed or exist, whether or not such building, structure or land is occupied and whether or not a certificate of occupancy has been issued.
 - (b) Keep the Board of Trustees advised of all matters pertaining to the enforcement of this chapter and make and keep all records necessary and appropriate to the office, including records of written complaints of violation of this chapter and action taken on same.
- (4) The Code Enforcement Officer shall issue and post notices of violations, stop orders and revocations of certificates of occupancy and shall order the remedying of any condition or omission that is found to be in violation of this chapter. The Code Enforcement Officer shall also have the power, right and authority to issue an appearance ticket, as the same is defined in Article 150 of the Criminal Procedure Law of the State of New York, for the violation of any provision of this chapter. In addition, by resolution, the Board of Trustees may direct the Code Enforcement Officer to revoke such certificates of occupancy, issue such stop orders, make such inspection and reports, initiate and take such court proceedings and perform all other actions as required by the Board of Trustees as may be necessary to enforce this chapter or to invoke penalties for its violation.

C. Building permits and certificates of occupancy granted only in conformance with regulations.

- (1) No building permit or certificate of occupancy shall be issued unless the

proposed construction or use is in conformance with all the provisions of this chapter and other applicable laws.

- (2) (Reserved)⁹⁵
- (3) Where the determination of violation concerns a building or structure for which a certificate of occupancy has already been issued, the Code Enforcement Officer may revoke the certificate of occupancy in accordance with Subsection E(5) of this section. Upon revocation of the certificate of occupancy, the occupants then have a maximum period of 60 days in which to vacate the premises.

D. Building permits.

- (1) In addition to the requirements set forth in other sections of this Code, a building permit is required for: [Amended 3-28-2005 by L.L. No. 2-2005]
 - (a) The construction, reconstruction, moving, demolition or structural alteration or change in the use of a building or a structure affixed to the ground, except that a building permit shall not be required for a fence other than a fence surrounding a swimming pool. [Amended 11-22-2004 by L.L. No. 7-2004]
 - (b) Any change in the bulk of a building, structure affixed to the ground or nonbuilding use, but not including ordinary repairs which are not structural in nature.
- (2) Application.
 - (a) Application for a building permit shall be made to the Code Enforcement Officer on forms provided by him and shall contain the following information:
 - [1] A description, agreeing with the Tax Map of the Village of Pomona, of the land on which the proposed work is to be done.
 - [2] A statement of the use or occupancy of all parts of the land and of the building or structure.
 - [3] The valuation of the proposed work.
 - [4] The full name and address of the owner and of the applicant, including the full name and address of each officer and director of any corporation or each member of a partnership.
 - [5] A brief description of the nature of the proposed work.
 - (b) All applications shall be accompanied by two copies of the applicable site

⁹⁵. Editor's Note: Former Subsection C(2), regarding stop orders and notice of violation, was repealed 9-25-2000 by L.L. No. 7-2000.

plan, subdivision maps, drainage, grading and elevation plans and all other documents, if required for the development of the plot, building or structure.

(c) Each application for a building permit shall be accompanied by plans and specifications, including plot plans as required, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site; the nature and character of the work to be performed and the materials to be incorporated; distance from plot lines; widths and grades of adjoining streets, walks and alleys; details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data. Such plans and specifications shall include, on the plot plan or site plan, the proposed location of all underground facilities, including gas service, electric service, sewer lines, drainage lines (including routing of drainage from roof leaders and footing drains) to a positive outlet, waterlines, sprinkler lines, telephone lines, etc. The building plans shall include plans for mechanical services, including gas, electric, water, heating and air conditioning. Plans and specifications shall bear the signature of the person responsible for the design and drawings and the architect's or engineer's signature, seal and New York State license number.

(d) Site development plan; phased site plan review; inspection reports.
[Amended 3-2-1998 by L.L. No. 1-1998; 9-25-2000 by L.L. No. 7-2000]

[1] Each application for a building permit shall be accompanied by a site development plan, the procedures and standards for which shall be governed by the provisions of Chapters 119 of this Code, where applicable. The Building Inspector shall recommend to the Planning Board as to whether the proposed project shall be divided into phases, the precise number of which shall be recommended by the Building Inspector. In the event that the Planning Board decides to adopt the recommendations of the Building Inspector for phased site plan review, the phases shall include, but not necessarily be limited to, tree clearing, structural measures for erosion control installation, drainage improvements, driveway installation and construction of the building. Each such phase shall require a separate written certificate of compliance, to be issued by the Building Inspector, upon his being satisfied that the required work for each such phase has been satisfactorily completed. Such certificate of compliance shall contain an authorization for the builder to proceed to the next succeeding phase, if any. There shall be mandatory inspection of each building site to which this chapter shall be applicable, after each rain event, as well as biweekly, whether or not there is a rain event.

[2] Written inspection reports shall be prepared on a regular basis by the Building Inspector or the Village Engineer. In the event that an inspection report discloses violations of the approved erosion control

plan for the project, the builder shall be required to remedy the violation immediately. If the violation of the erosion control plan is not corrected completely within three days of the date of notice of the violation to the builder, the Building Inspector shall issue a stop-work order pursuant to Chapter 47 of this Code. [Amended 11-13-2000 by L.L. No. 8-2000]

- (e) Applications shall be made by the owner or lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make such application.
 - (f) Any amendment to the application or to the plans and specifications accompanying same must be filed with and approved by the Code Enforcement Officer prior to the commencement of the amended work, and such amendments shall comply with the provisions of this chapter. The granting or refusal of such an amendment by the Code Enforcement Officer shall be in writing and may be reviewed by appeal to the Board of Appeals within 30 days after such determination is filed in the office of the Code Enforcement Officer.
- (3) Approval or disapproval.
- (a) Issuance of building permit. The Code Enforcement Officer shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. Within 20 days of receipt of same, he shall approve or disapprove the permit.
 - (b) Upon approval of the application and upon receipt of the fees therefor, he shall promptly issue a building permit to the applicant upon the form prescribed by him and shall affix his signature or cause his signature to be affixed thereto. Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "approved."
 - (c) One set of such approved plans and specifications shall be retained in the files of the Code Enforcement Officer and the other set shall be returned to the applicant, together with the building permit, and shall be kept at the building site and open to inspection by the Code Enforcement Officer or his authorized representative at all reasonable times.
 - (d) If the application, together with plans, specifications and other documents filed therewith, describes proposed work which does not conform to all of the requirements of the applicable building, planning or zoning regulations, the Code Enforcement Officer shall disapprove the same and shall return the plans and specifications to the applicant.
- (4) Expiration and extension. Every building permit shall expire by limitation at

the end of one year from the date issued. If a construction is not completed within said one-year period, the Code Enforcement Officer may, for due cause shown, extend the permit for a period not to exceed one year.

- (5) Liability insurance. In the event any application for a building permit provides for construction or other activity involving operation of equipment, personnel or placement of materials which may hazard a public street, way, easement or public property, prior to the issuance of such building permit the applicant shall present evidence of liability insurance saving the Village harmless in the amount of \$100,000 per person and \$300,000 per occurrence, in a form acceptable to the Village Attorney. Additionally, property damage insurance or other surety acceptable to the Village Attorney may be required where such construction or activity may damage public property, including sidewalks, paving, signs or landscaping. In reviewing any application hereunder, the Code Enforcement Officer shall determine whether such hazard may exist by virtue of the nature of activity described in such application. Where, after a building permit has been issued without such liability insurance, it shall appear that such hazards are present, the Code Enforcement Officer may, on due notice given, require such insurance, and, pursuant to Subsection B(4) of this section, may suspend such activity pending receipt of the required liability policy.
- (6) Fees. Every application for a building permit pursuant to this chapter and/or the Building Code shall be accompanied by a fee in accordance with the fee schedule of the Village of Pomona.⁹⁶

E. Certificates of occupancy.

- (1) When required.
 - (a) No building or structure or portion thereof for which a building permit has been issued shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Code Enforcement Officer. Continued use or occupancy of the building or structure shall be in conformance with the issued certificate of occupancy.
 - (b) No change shall be made in the use or type of occupancy of an existing building or structure, nor change in the use of land, except to any use which is primarily agricultural, unless a certificate of occupancy authorizing such change in use shall have been issued by the Code Enforcement Officer. A "change in use" shall include a change in the type or general class of goods or services sold or manufactured and any substantial change in manufacturing operation involving new equipment and machinery.
- (2) Application and affidavit. The owner or its agent shall make application for

⁹⁶ . Editor's Note: See Ch. 67, Fees, and Ch. 47, Building Construction.

a certificate of occupancy. Accompanying this application and before the issuance of a certificate of occupancy, there shall be filed with the Code Enforcement Officer:

- (a) A complete set of as-built drawings showing the as-built locations of all the underground facilities and interior mechanical services. These plans shall be signed and certified by a New York State-licensed architect or engineer.
 - (b) An affidavit of the owner or the registered architect or licensed professional engineer who supervised the construction of the work, or of the superintendent of construction who supervised the work, and who, by reason of his experience, is qualified to superintend the work for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought and that the structure has been erected in accordance with the approved plans and, as erected, complies with this chapter and the law governing building construction, including all subdivision regulations and the requirements of any approved subdivision plat or site plan, except insofar as variations therefrom have been legally authorized. Such variations shall be specified in the affidavit.
- (3) Issuance of certificate. Before issuing a certificate of occupancy, the Code Enforcement Officer shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish or change the use or occupancy; and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. There shall be maintained by the Code Enforcement Officer a record of all such examinations and inspections, together with a record of findings of violations of the law. However, any certificate of occupancy for the establishment of any use of a building or land requiring a special permit as provided herein and any other particular use requiring the approval of the Planning Board shall be issued only with the authorization of the Planning Board. Every certificate of occupancy for a use for which a special permit or variance has been granted shall contain a detailed statement of such special permit or variance and of the conditions to which the same is subject.
- (4) Fees. Every application for a certificate of occupancy shall be accompanied by a fee as set forth in the fee schedule of the Village of Pomona.⁹⁷
- (5) Revocation. A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect so long as such building or land is used for the use authorized in the certificate of occupancy. If terms of such certificate of occupancy are violated by the holder thereof, the Code

⁹⁷ . Editor's Note: See Ch. 67, Fees.

Enforcement Officer may, by service of notice of violation, revoke such certificate of occupancy, which order of revocation is, however, subject to review by the Board of Appeals, by the holder thereof taking an appeal to the Board of Appeals within 30 days of service of said order of termination.

- (6) Copies. Copies of every certificate of occupancy issued hereafter shall be furnished, on request, to the Planning Board or Board of Appeals, and on the payment of the regular application fee therefor, to any other person. The Board of Trustees may fix the fees required from the general public for copies of public documents required under this chapter.⁹⁸

§ 130-23. (Reserved)⁹⁹

§ 130-24. Right of entry.

The Code Enforcement Officer of the Village of Pomona, upon the showing of proper credentials and in the discharge of his duties, may enter upon any building, structure or premises at any reasonable hour, and no person shall interfere with or prevent such entry. Where permission to enter is not granted, the Code Enforcement Officer is authorized to apply to the Supreme Court for an order to enter.

§ 130-25. Penalties for offenses.

A. Penalties.

- (1) Any person, as defined in this chapter, other than a corporation, who shall violate any provision of this chapter or any other regulation made under authority conferred thereby, or who shall build or alter any structure or use any land in violation of any statement or plan submitted and approved thereunder, or who shall knowingly assist therein, shall be liable to a fine of not more than \$2,000 or imprisonment for a term not exceeding 15 days, or both such fine and imprisonment. Each day's continued violation shall constitute a separate and additional violation.
- (2) Any corporation which shall violate any provision of this chapter or any other regulation made under authority conferred thereby, or which shall build or alter any structure or use any land in violation of any statement or plan submitted and approved thereunder, or which shall knowingly assist therein, shall be liable to a special corporate fine of not more than \$10,000. Each day's continued violation shall constitute a separate and additional violation.
- (3) In addition to the foregoing provisions, the Village shall have such other remedies, for any violation or threatened violation of this chapter as are now or may hereafter be provided by law or in equity.

B. Prevention. In case any land is used or structure is erected, constructed, altered or

⁹⁸ . Editor's Note: See also Ch. 67, Fees.

⁹⁹ . Editor's Note: Former § 130-23, Stop-work orders, was repealed 9-25-2000 by L.L. No. 7-2000.

maintained in violation of this chapter, any regulation made pursuant thereto or any detailed statement or plan submitted and approved thereunder, in addition to other lawful remedies, any appropriate action or proceedings may be instituted to prevent such unlawful uses, erection, construction, alteration or maintenance, to restrain, correct or abate such violation, to prevent the occupancy of such structure or land or to prevent any illegal act, conduct, business or use in or about such premises. Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any structure is being prosecuted in violation of the provisions of this chapter or not in conformity with any regulation made pursuant thereto or not in compliance with any detailed statement or plan submitted and approved thereunder or in an unsafe and dangerous manner, he may issue a stop-work order pursuant to the provisions of § 130-23 above.

- C. In addition to the penalties provided hereinabove, no person, partnership, corporation, limited-liability company, limited-liability partnership or other entity which has been found by a court of competent jurisdiction, by order or judgment, to have violated or ignored two validly issued stop-work orders in the Village of Pomona shall be eligible to receive a building permit for a period of three years from the date of such finding. No partnership, corporation, limited-liability company, limited-liability partnership or other entity, the majority ownership of which is held by a person, partnership, corporation, limited-liability company, limited-liability partnership or other entity which has been found by a court of competent jurisdiction to have violated or ignored two validly issued stop-work orders in the Village of Pomona, shall be eligible to receive a building permit for a period of three years from the date of such finding. Each stop-work order issued shall contain a copy of this subsection, under the heading "PLEASE TAKE NOTICE." [Amended 6-26-2000 by L.L. No. 4-2000]

ARTICLE IX

Zoning Board of Appeals

§ 130-26. Appointment.

The Board of Trustees shall appoint a Board of Appeals pursuant to § 7-712 of the Village Law of the State of New York,¹⁰⁰

§ 130-27. Meetings and records.

Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. The Board shall adopt rules and regulations governing its procedures. The presence of three members of the Board shall be necessary for a quorum. The concurring vote of at least three members shall be necessary to effect any variation or variance in this chapter, to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant any matter before the Board. The Board shall keep minutes of its proceedings, showing the vote of each member on every question, or if any member is absent or fails to vote, indicating that fact, and shall also keep records of its examinations

¹⁰⁰ . Editor's Note: See also Ch. 25, Planning Board and Zoning Board of Appeals.

and other official actions. Every rule, determination, regulation, amendment or appeal thereof and every order, requirement and decision of the Board shall promptly be filed in the office of the Board and in the office of the Village Clerk.

§ 130-28. Powers and duties.

- A. General. The Board of Appeals shall have all of the powers and duties prescribed by the Village Law and by this chapter, which powers and duties are summarized and more particularly specified in the following, provided that none of the following sections shall be deemed to limit any of the powers of the Board of Appeals that are conferred by the Village Law. In passing upon any matter before it, the Board shall take into specific consideration the goals of this chapter.
- B. Rules and regulations. The Board of Appeals may adopt such rules and regulations as are necessary or proper to the performance of its powers and duties hereunder and may amend or repeal the same.
- C. Nonconforming uses. The Board of Appeals is authorized to extend the permitted period for cessation of a nonconforming use in accordance with the requirements of § 130-15B(5) of this chapter; to review and approve, approve with modifications or disapprove a plan for reconstruction of a nonconforming building in accordance with the requirements of § 130-15D(2) of this chapter; to permit the change of a nonconforming use to another nonconforming use in accordance with § 130-15E of this chapter; and to review and approve, approve with modifications or disapprove a plan for the improvement of a nonconforming use in accordance with § 130-15F of this chapter.
- D. Variances. On appeal from an order, requirement, decision or determination made by an administrative official charged with the enforcement of this chapter or on referral of an applicant to the Board by an approving agency acting pursuant to this chapter, the Board of Appeals is authorized to vary or modify the strict letter of this chapter where its literal interpretation would cause practical difficulties or unnecessary hardships, as defined in this subsection, in such manner as to observe the spirit of the chapter, secure public safety and welfare and do substantial justice.
 - (1) Use variances. Where, because of unnecessary hardship relating to the land, an applicant desires to utilize land for a use not allowed in the district in which the land is located, the Board may grant a variance in the application of the provisions of this chapter in the specific case, provided that as a condition to the grant of any such variance, the Board shall make each of the following findings:
 - (a) After considering all permitted uses, that the property in question cannot yield a reasonable return if used only for a purpose allowed in that district.
 - (b) That the plight of the owner is due to unique circumstances affecting the property which is the subject of the application and not to general conditions in the neighborhood.

- (c) That the use to be authorized by the variance will not alter the essential character of the locality.
 - (d) That the use to be authorized by the variance is in reasonable harmony with the intent of this chapter.
 - (e) That the unnecessary hardship claimed as a ground for the variance has not been created by the owner or by a predecessor in title. Mere purchase of the land subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.
 - (f) That within the intent and purposes of this chapter the variance, if granted, is the minimum variance necessary to afford relief. To this end, the Board may permit a lesser variance than that applied for.
- (2) Area variances. Where, because of practical difficulty, an applicant requests a variance of the lot area or other dimensional requirements of this chapter, the Board may grant a variance in the application of the provisions of this chapter in the specific case, provided that as a condition to the grant of any such variance, the Board shall make a specific finding that the application of the requirements of this chapter to the land in question creates such practical difficulty. In making this determination, the Board shall make each and every one of the following findings:
- (a) That the variation is not substantial in relation to the requirement.
 - (b) That the effect of any increased population density which may thus be produced upon available services and facilities is not significant.
 - (c) That a substantial change in the character of the neighborhood or a substantial detriment to adjoining properties will not be created.
 - (d) That the difficulty cannot be alleviated by some method feasible for the applicant to pursue other than a variance.
 - (e) That, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.
 - (f) That the variation would not cause adverse aesthetic, environmental or ecological impacts on the property or on surrounding areas.

E. Special use permits. [Added 2-28-1994 by L.L. No. 1-1994¹⁰¹]

- (1) General provisions. Special permit uses are listed in §§ 130-9C and 130-10D of the Pomona Village Code. Special permit uses for which conformance with additional standards is required by this chapter are deemed to be permitted uses

¹⁰¹. Editor's Note: This local law also provided for the relettering of former Subsections E and F as Subsections F and G, respectively.

in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this chapter. All such uses are declared to possess such unique and special characteristics of such unique and special forms that each specific permit shall be considered as an individual case.

- (2) Approving agency. The Zoning Board of Appeals shall be the approving agency for all special use permits, except those designated by §§ 130-9C and 130-10D and E to be approved by the Board of Trustees. [Amended 5-18-1998 by L.L. No. 2-1998]
- (3) Informal application. Applicants are encouraged to submit a preliminary, informal application and to discuss it with the appropriate permitting Board prior to formal submission of a complete and detailed special permit application. The informal application should include a schematic plan showing the general layout of the property and the proposed use. The schematic plan should be submitted to the appropriate Board not less than three weeks prior to the date of the Board meeting at which it is to be considered. At that meeting, the Board shall review the schematic plan and may schedule a field inspection of the site. The Board shall notify the applicant of any changes recommended prior to the preparation of a complete site plan.
- (4) Formal application.
 - (a) Submission. Formal application for a special permit shall be made in 12 copies to the Zoning Board or Board of Trustees, as the case may be. The formal application shall include the following items:
 - [1] A completed special permit application form, including the name and address of the person, firm or corporation for whom the use is intended and the name and address of the property owner. If the applicant or owner is a firm or corporation, the full name and residence of the firm or principal officers of the corporation shall be shown;
 - [2] A written statement describing the nature of the proposed use and how it will serve to implement the purposes of this chapter and the period of time for which the permit is requested;
 - [3] Four copies of a site plan with the information required by § 118-32 of this chapter; and (4) Long environmental assessment form.
 - [4] Long environmental assessment form.
 - (b) Referrals.
 - [1] The permitting Board shall submit copies of the special permit application to the Code Enforcement Officer and Village Engineer and to other Village agencies or officials as it deems appropriate, all of whom shall inspect the premises and report their findings to the

Board, in writing, within 30 days of the date of forwarding. The Board may submit copies to the following agencies for information, review and comment regarding facilities under their jurisdiction and to any other county, state or federal agency with jurisdiction: the Rockland County Drainage Agency and the New York State Department of Transportation.

- [2] The permitting Board shall refer to the Rockland County Planning Board for its recommendation all matters within the provisions of Article 12-B, §§ 239-l and 239-m, of the General Municipal Law which includes real property lying within 500 feet of the boundary of any city, Village or town, or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway or from the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated, and any special permit affecting such use or property within a distance of 500 feet. If the Rockland County Planning Board fails to report within such period of 30 days or such longer period as has been agreed upon by it and the permitting Board, the permitting Board may act without such report. If the Rockland County Planning Board disapproves the proposal, or recommends modification thereof, the permitting Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. Within seven days after final action by the Zoning Board or Board of Trustees, a report shall be filed of the final action it has taken with the County Planning Board which had made the recommendations, modifications or disapproval.

(c) Board action.

- [1] The Zoning Board or Board of Trustees, as the case may be, shall hold a public hearing within 62 days after the receipt of a completed special permit application by the clerk of the appropriate permitting Board. Such hearing shall be advertised at least once in the official Village newspaper at least five days before such hearing; be noticed, by certified mail, return receipt requested, to each owner of the property within 500 feet of the perimeter of the subject property as indicated on the application for special permit approval and at least 10 days prior to the public hearing; and be advertised by the installation of four posters, furnished by the clerk to the appropriate permitting Board, on the four closest public roads in visible locations surrounding the proposed special permit at least 10 days prior to the public hearing.

The Zoning Board or Board of Trustees shall, thereafter, approve, with or without modification, or disapprove such special permit application within 62 days after the public hearing. The grounds for a modification or for disapproval shall be stated upon the record of the Board. Within five days of the decision of the Board, such decision shall be filed in the office of the Village Clerk, with a copy of the decision mailed to the applicant by regular mail. Notwithstanding the foregoing provisions, the time in which the Board must take action on the special permit application may be extended by mutual consent of the applicant and the permitting Board.

- [2] In approving applications for special use permits, the Zoning Board of Appeals or Board of Trustees may impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon granting of said special use permit, any such conditions must be met in connection with the issuance of any building permits by the Code Enforcement Officer.
 - [3] The Zoning Board of Appeals or Board of Trustees may, however, when reasonable and proper, waive any preestablished requirements of approval of a special use permit where such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to the particular special permit use.
 - [4] Where a proposed special use permit contains one or more features which do not comply with the Zoning Code, application may be made directly to the Zoning Board of Appeals for a variance without the necessity of a decision or determination of the Code Enforcement Officer. Said application may be taken up simultaneously with the special permit application.
- (5) Site plan application. Site plan approval under § 118-32 of this chapter is required for all special permit uses. Insofar as practicable, special use permit and site plan approval procedures shall run concurrently.
 - (6) General standards. All special permit uses shall comply with the following standards, in addition to the site plan standards of this chapter. The permitting Board shall attach such additional conditions and safeguards to any special permit as are, in its opinion, necessary to ensure initial and continual conformance to all applicable standards and requirements.
 - (a) The location and size of the special permit use, nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the area in which it is located.
 - (b) The location, nature and height of buildings, walls and fences and the nature

and extent of existing or proposed plantings on the site are such that the special permit use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

- (c) Operations in connection with any special permit use will not be more objectionable to nearby properties by reason of noise, traffic, fumes, vibration or other characteristics than would be the operations of permitted uses not requiring a special permit.
 - (d) Parking and loading areas will be of adequate size for the particular special permit use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum convenience and safety.
 - (e) The special permit use will not result in diminution of the value of property in the neighborhood or a change in the character of the neighborhood in which the use would be situated.
- (7) Expiration, temporary permits, inspection and change.
- (a) A special permit shall be deemed to authorize only the particular use or uses specified in the permit and only for the original applicant and shall expire if said use shall cease for more than one year for any reason, or if substantial construction, in accordance with the special permit, has not been completed within one year from the date of issue or if all such required improvements are not maintained and all conditions and standards complied with throughout the duration of the special permit use.
 - (b) For a use intended to be temporary, the Zoning Board may issue a special permit for a specified period of time.
 - (c) In connection with issuance of a special permit, the Zoning Board or Board of Trustees may establish a schedule of inspections by the Code Enforcement Officer of a special permit use to determine continued compliance with this chapter.
 - (d) Any change in use or reduction in lot size requires amendment to the special permit, following the application and review requirements of this section.
- (8) Existing violations. No permit shall be issued for a special use permit for a property where the Code Enforcement Officer has found a violation of this chapter and where such violation has not been corrected.
- (9) Fees. Application for a special use permit shall be accompanied by fee as listed in the fee schedule adopted by the Board of Trustees.¹⁰²

¹⁰² . Editor's Note: See Ch. 67, Fees.

- F. Other appeals. On appeal from an order, requirement, decision or determination made by an administrative official charged with the enforcement of this chapter or on request from any official, agency or board of the Village, the Board of Appeals is authorized to decide any question involving the interpretation of any provision of this chapter. Interpretations shall be made in accordance with the intent of the particular provision being interpreted.
- G. Conditions and safeguards. The Board of Appeals may prescribe such conditions or restrictions applying to the grant of a variance as it may deem necessary in each specific case, in order to minimize the adverse effects of such variance upon the character and property values of the neighborhood and to protect the public health, safety and welfare. Such conditions or restrictions shall be incorporated in the building permit and certificate of occupancy. Failure to comply with such conditions or restrictions shall constitute a violation of this chapter and may constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies.

§ 130-29. Procedures.

- A. Appeal or application. An appeal shall be taken within 60 days of the order, requirement, decision, interpretation or determination appealed from, by filing with the official or agency from whom the appeal is taken and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The official or agency from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. A referral to the Board for a variance or a request for an interpretation may be made at any time. All such appeals and applications to the Board shall be made by the owner or agent duly authorized, in writing, and shall be on forms prescribed by the Board. Each appeal or application shall fully set forth the circumstances of the case, shall refer to the specific provision of the chapter involved and shall exactly set forth, as the case may be, the interpretation that is claimed or the details of the adjustment that is applied for and the grounds on which it is claimed that the same should be granted. [Amended 2-28-1994 by L.L. No. 1-1994]
- B. Review by other agencies.
 - (1) Upon receipt of a completed appeal or application, the Board of Appeals shall forward copies for review and report to the Code Enforcement Officer, Village Engineer and Planning Board and to other such officials and agencies of the Village as it deems appropriate. All such agencies shall have 30 days from the date of forwarding to submit a report. If approval of a site plan or issuance of a special permit is involved, the Board of Appeals shall forward sufficient copies for review and report to the applicable approving agency and shall not act on the matter until it has received the report of the approving agency or 30 days have passed since such forwarding.
 - (2) The Board of Appeals shall refer to the Rockland County Planning Board for its recommendation all matters within the provisions of Article 12-B, §§ 239-l and 239-m, of the General Municipal Law which include real property lying within

500 feet from the boundary of any city, Village or town or from the boundary of any existing or proposed county or state parkway, throughway, expressway, road, highway or from the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated, and any special permit or variance affecting such use or property within a distance of 500 feet. The Rockland County Planning Board shall render its decision within 30 days of referral or within an extended period if agreed upon. If the Rockland County Planning Board fails to report within such period of 30 days or such longer period as has been agreed upon by it and the Board of Appeals, the Board of Appeals may act without such report. If the Rockland County Planning Board disapproves the proposal or recommends modifications thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. Within seven days after final action by the Board of Appeals, a report shall be filed of the final action it has taken with the County Planning Board which had made the recommendations, modifications or disapproval.

- C. Public hearing. The Board of Appeals shall conduct a public hearing on any appeal, application or request made pursuant to this chapter. Such public hearing shall be held within 45 days of the date an appeal is taken or an application or request is made to the Board.
- D. Notice of hearing. Notice of the hearing shall be published in the official newspaper at least 10 days prior to the date of such hearing. Notice shall also be sent by the applicant 10 days prior to the date of such hearing to all property owners within 500 feet of the perimeter of the property, in the same manner as is required for amendments pursuant to § 130-41 of this chapter. The applicant shall cause signs to be posted on such property on each street frontage indicating the date and purpose of such hearing. The costs of all such notice shall be paid by the applicant.
- E. Action. Every decision of the Board of Appeals shall be by resolution, shall be recorded and shall fully set forth the facts of the case, the findings and the conclusions on which the decision was based. The Board shall immediately file its resolution in the office of the Board and with the Village Clerk and shall, within 10 days thereafter, mail a copy of such resolution to the applicant.

§ 130-30. Expiration of variance.

A variance granted under this chapter shall automatically expire if substantial construction, in accordance with the plans for which such variance was granted, has not been completed within one year, or such other time limit as may be chosen by the Board of Appeals in connection with its decision, from the date of granting such variance by the Board, or, if judicial proceedings to review the Board's decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals.

§ 130-31. Fees.

Every application or appeal to the Board shall be subject to a fee as set forth in the fee schedule of the Village of Pomona.¹⁰³

ARTICLE X

Density Zoning

§ 130-32. Purpose.

It is the purpose of this Article to enable and encourage flexibility of design and development of land in such a manner as to preserve its natural and scenic qualities, protect areas of meaningful ecological value, reduce flood hazards, facilitate the adequate and economical provision of streets and utilities, minimize negative environmental impacts, improve the aesthetic quality of new residential developments, expand the variety of housing opportunities, encourage the conservation of energy, increase recreational opportunities and otherwise promote the planned and environmentally desirable use of land by permitting the Board of Trustees to authorize the Planning Board, simultaneously with the approval of subdivision plats, to modify otherwise applicable provisions of the Zoning Law in accordance with the standards, conditions and limitations as set forth herein and in § 7-738 of the Village Law.

§ 130-33. Procedure.

- A. After the submission of the preliminary plat to the Planning Board of the Village of Pomona, if either the applicant requests the use of density zoning or the Planning Board on its own motion determines that density zoning is suitable for the plat, then the preliminary plat, together with a Planning Board study setting forth the basis for the recommendation regarding utilization of the procedures in § 7-738 of the Village Law, shall be submitted to the Board of Trustees.
- B. Upon submission of the preliminary plat and recommendations, the Board of Trustees shall expeditiously cause to be published in the official newspaper of the Village a notice stating that an application for the utilization of the provisions of § 7-738 of the Village Law has been submitted to the Board of Trustees, said notice generally describing the area covered in the application, and that such application will be placed on the agenda of the meeting of the Board of Trustees.
- C. In the event that the plat shows lands available for a sewer plant or school purposes, the Board of Trustees will conduct a public hearing on the matter in lieu of placing the matter on the agenda as set forth in Subsection B hereof. Such public hearing shall be held after due notice in the official newspaper of the Village, such notice to be published not less than 10 nor more than 20 days prior to such public hearing.
- D. If the Board of Trustees determines that the preliminary plat is suitable for the utilization of the procedures allowed under § 7-738 of the Village Law, the Board of Trustees shall adopt a resolution authorizing the utilization of the procedures contained in said § 7-738 of the Village Law.

¹⁰³ . Editor's Note: See Ch. 67, Fees.

§ 130-34. Development standards and controls.

Except as modified by the Planning Board pursuant to the authority hereby conferred, all regulations normally applicable to residential uses in the zoning district in which the property is located shall continue to apply. In addition, the following requirements are hereby established specifically for average-density developments:

- A. Permitted uses. The permitted uses within an average-density development shall be the same as permitted in the zoning district in which the property is located.
- B. Density. The number of dwelling units permitted in an average-density development shall in no case exceed the number which could be subdivided into lots conforming to all normally applicable requirements of this chapter, the Land Subdivision Regulations and other related land use and development controls. The basis for this determination by the Planning Board shall be a sketch layout of a conventional subdivision prepared and submitted by the applicant, which layout shall include topographic information and such other data as may be required by the Planning Board to assist in making its determination.
- C. Common lands and facilities.
 - (1) In general, common open space land areas shall be preserved in their natural state, and their use shall be limited to appropriate conservation and passive recreation purposes. A portion of such common open space, not to exceed 10% of the gross land area of the average-density development, may be reserved and designated for active recreation purposes, provided that the size, shape, access and location of such areas is approved by the Planning Board. Within a designated active recreation area, there may be located swimming pools, ball fields, facilities for court games, clubhouses, playground equipment and so forth, provided that the use of all such facilities shall be limited to the residents of the average-density development and their guests, and further provided that such facilities shall be subject to site plan approval by the Planning Board.
 - (2) The permanent preservation of common open space lands and facilities for their intended purpose shall further be legally assured to the satisfaction of the Board of Trustees and the Village Attorney by the filing of appropriate covenants, deed restrictions, easements or other forms of agreements. The permitted uses within such areas shall be limited to those specifically approved by the Planning Board and shown on the subdivision plat, plus uses customarily incidental and accessory thereto. Subsequent to the approval of the subdivision plat, the uses permitted within privately owned common land areas may be modified only upon approval by the Planning Board and only upon application by the entity owning such common land area. In each such case, a public hearing shall be held with the same notice as required by law for final subdivision plats. Such modification may permit a use in the same general category of uses previously approved or may allow a change in the location of a particular use from one portion of the common land area to another.
 - (3) Dedication of the common land areas, including any common facilities or

improvements thereon, to the common use of all property owners within an average-density development shall be recorded directly on the subdivision plat or by reference on the subdivision plat to a declaration of covenants, conditions and restrictions in a separate document recorded or to be recorded at or about the time of the filing of the approved subdivision plat. Such declaration of covenants, conditions and restrictions shall permanently grant to each property owner in common with all other property owners within such average-density development an easement in and to the common land areas and the common facilities thereon and of the use thereof.

- (4) As another alternative, all or a portion of the conserved land areas may be dedicated to the Village of Pomona, provided that the Board of Trustees has voted to accept such offer.

ARTICLE XI

Amendments

§ 130-35. Power to amend.

The Board of Trustees may from time to time on its own motion, on petition or on recommendation of any board, agency or official of the Village, after public notice and hearing, amend, supplement, repeal or change the regulations and districts established under this chapter.

§ 130-36. Amendments on petition.

A petition for any amendment of this chapter shall be made to the Village Clerk and shall describe the proposed changes. For proposed amendments to the Zoning Map, a copy shall be included of the applicable portion of the official copy of the Zoning Map, as kept by the Village Clerk, showing existing and proposed, zoning, as well as a map drawn to an appropriate scale showing all properties within 500 feet of the periphery of the subject property and any contiguous property of the petitioner in the same ownership. The petitioner shall be responsible for complying with the requirements as to notice in § 130-41 below.

§ 130-37. Amendments on motion.

An amendment on motion or an amendment proposed to the Board of Trustees by any board, agency or official of the Village shall contain the information required in § 130-36 above. The Village Clerk shall be responsible for complying with the requirements as to notice in § 130-41 below.

§ 130-38. Initial consideration.

On the making of a motion, on receipt of a petition or on receipt of a recommendation of any board, agency or official of the Village for a zoning amendment, the Board of Trustees may decide not to formally consider such amendment.

§ 130-39. Referrals for review and report.

If any amendment is to be considered by the Board of Trustees, it shall be referred for

review and report to the Planning Board, the Village Attorney, the Village Engineer, Code Enforcement Officer and any other board, agency or official of the Village which the Board of Trustees deems appropriate. The Planning Board shall confer with any petitioner and assist such petitioner, where necessary, to place the amendment in the most appropriate form. Such conference and assistance shall not be deemed to constitute any commitment by the Planning Board as to its position on the advisability of the proposed amendment. After said conference, the petitioner shall be allowed to revise his petition and to provide copies of such revision to the Board of Trustees and to any board, agency or official to which the original proposed amendment was referred. The Village Attorney shall report to the Board of Trustees regarding the form of the proposed amendment. The Planning Board shall report to the Board of Trustees regarding the form and the advisability of the proposed amendment. Its report shall analyze the proposed amendment and shall state the Board's reasons for its recommendation, describing any conditions it believes make the amendment advisable or not, and specifically stating whether the amendment would or would not be in accordance with the Comprehensive Plan and in furtherance of the purposes of this chapter. All such boards, agencies and officials shall have 45 days from the date of forwarding or from the date of revision by the petitioner, whichever is later, to submit reports. Failure of the Planning Board or other board, agency or officials to report within 45 days shall be construed as approval of the proposed amendment. In no case shall this section restrict the right of an applicant to come before the Planning Board for an informal discussion and review prior to formal submission.

§ 130-40. Public hearing.

On receipt of the requested reports and any revised proposed amendment from an application or notification by the petitioner that no revision will be made, the Board of Trustees shall schedule and hold a public hearing on the proposed amendment.

§ 130-41. Notice of hearing.

Notice of the public hearing shall be published once in the official newspaper not less than 10 nor more than 30 days prior to the date of the hearing. A copy of the notice, with proof of mailing, together with proof of notice in the official newspaper, shall be filed in the Village Clerk's office on or before the date of the public hearing. The applicant shall cause notice by certified mail to owners of property within 500 feet of the perimeter of the property to which such change applies, to be mailed not less than 10 days prior to the required hearing. In the event that such amendment changes the district classification of land, there shall be posted not later than 10 days prior to the hearing a notice of the proposed change upon the property to which such change applies, said notice to be visible from each public street abutting such property. The cost of all notices shall be paid by the applicant except as provided in § 130-37.

§ 130-42. Procedure upon protest.

In accordance with the procedures of § 7-708, Subdivision 1, of the Village Law, in the event a protest against such change is signed by the owners of 20% or more of the area of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending one hundred feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending one hundred feet from the street

frontage of such opposite land, such amendment shall not become effective except by the favorable vote of four members of the Board of Trustees.

§ 130-43. Records.

The Village Clerk shall keep record copies of all Zoning Maps and text sections superseded by any amendment of this chapter.

§ 130-44. Referral to adjacent municipalities and other agencies.

Not less than 10 days prior to the public hearing, the Village Clerk shall send copies of the proposed amendment and notice of hearing on any amendment affecting property within 500 feet of the boundaries of any state park, parkway, Village or town to the Regional State Park Commission having jurisdiction over such state park or parkway or to the Village or Town Clerk.

§ 130-45. Fees.

All petitions for amendment of this chapter, except those amendments recommended by the Board of Trustees, by the Planning Board or other municipal board or agency of the Village, shall be accompanied by a fee in accordance with the fee schedule of the Village of Pomona.¹⁰⁴

ARTICLE XII

Miscellaneous Provisions

§ 130-46. Title.

This chapter shall be known and may be cited as the "Zoning Law of the Village of Pomona."

§ 130-47. Effect on current building permits.

Except as provided in this section, nothing herein shall require any change in the plans, construction or designated use of a building or structure for which a building permit has been lawfully issued prior to or, under the circumstances noted below, within 60 days after the effective date of this chapter, provided that the proposed use complies with the use requirements of this chapter and further provided that construction shall begin within six months of the date of such permit, the foundation or 15% of the construction valuation shall be completed within one year of the date of such permit and the entire building or structure shall be completed within two years of the date of such permit.

¹⁰⁴ . Editor's Note: See Ch. 67, Fees.

Chapter A134

STREET SPECIFICATIONS

[HISTORY: Adopted by the Board of Trustees of the Village of Pomona 1-18-69; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks generally -- See Ch. 115.

Subdivision of land -- See Ch. 118.

Zoning -- See Ch. 130.

~ A134-1. Purpose.

It is the purpose of these specifications to establish minimum acceptable standards of street construction for subdivisions in the Village of Pomona, including but not limited to width, design, drainage, construction of base and pavement, curbs and sidewalks, monuments and signs. Dedication of the right-of-way will not be accepted until the developer's professional engineer and the Village Engineer shall have certified to the Village Board in writing that the construction of the street or streets has been completed in accordance with the approval plans and the specifications which follow.

~ A134-2. Certification by engineer.

In his written certification, as required above, the developer's professional engineer shall state clearly that he or his authorized representative has inspected all phases of the street construction and that all work has been completed in accordance with the approved plans and these specifications.

~ A134-3. Preparation and submission of street plan.

The plan of the proposed street shall be prepared by a qualified engineer properly licensed by the State of New York. The plan shall clearly define the limits of the proposed right-of-way and shall include the location, widths, profiles and grades of proposed roadways, storm drainage, including culverts and other drainage structures, and the location of easements and utilities. The plan shall first be submitted to the Village Engineer and then to the Planning Board for review and approval under the applicable subdivision regulations of the village. Editor's Note: See Ch. 118, Subdivision of Land. Such plans so submitted shall not be altered or amended after having been approved by the Planning Board, unless amended plans are resubmitted and approved as above. However, the developer shall, at his own expense, provide additional storm drainage facilities as may be ordered by the Village Engineer if, during the progress of the work, in the opinion of the Village Engineer, such additional structures or facilities are necessary to assure the durability of pavement, the future maintenance of the right-of-way or the welfare or safety of the public, except that the Planning Board may vary the requirements of such order where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such order, unless such variance conflicts with the provisions of a town or county official drainage map, in which event the official map shall prevail. If construction has not been started within one (1) year from the date of final approval by the Planning Board, plans shall be resubmitted and approved as above.

~ A134-4. Performance bond.

A. Prior to the start of construction of any improved street, the developer shall deposit with the Village Clerk a performance bond of acceptable surety or shall deposit with the chief fiscal officer of the village acceptable negotiable government bonds, cash or certified check or letter of credit drawn upon a national or state bank, payable at sight to the Village Board, guaranteeing:

(1) That within two (2) years the developer will complete all the construction within the right-of-way, including roadway, shoulders, sidewalks, curbs, gutters, storm drainage, etc., and all utilities, including hydrants and house connections for each lot, in accordance with the approved plan and these specifications.

(2) That, upon certification by the developer's professional engineer and by the Village Engineer that the

construction of the street has been completed in accordance with the approved plans and specifications, the developer will dedicate the completed street to the village for use as a public highway free and clear of all liens and encumbrances. This guaranty of dedication shall apply to the owner of the property as well as the developer where the two are not synonymous.

B. As guaranty for the performance of the above requirements, the developer shall deposit as heretofore set forth a surety bond, letter of credit, negotiable government bond, cash or certified check, the minimum total amount of which shall be determined by applying to the quantities or dimensions shown on the approved plan the following rates per unit:

TABLE OF RATES FOR COMPUTING TOTAL AMOUNT
OF THE PERFORMANCE BOND

1987 Base

Price*

For each linear foot of

Suburban street	\$75.00
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For each cubic yard of rock excavation	20.00
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For each linear foot of storm drain pipe

15-inch round or 18 x 11-inch oblate	18.50
18-inch round or 22 x 13-inch oblate	20.00
21-inch round or 25 x 16-inch oblate	25.00
24-inch round or 29 x 18-inch oblate	30.00
30-inch round or 36 x 22-inch oblate	36.00
36-inch round or 43 x 27-inch oblate	50.00
42-inch round or 50 x 31-inch oblate	60.00

Rates for pipe over 42 inches in diameter, for concrete culverts and for bridges shall be established by the

Planning Board.

For each catch basin

Up to 5 feet in depth	1,500.00
For each additional foot to 10 feet	100.00
For each additional foot over 10 feet	100.00
For each vertical foot of manhole	200.00
For each concrete headwall	1,500.00
For each block headwall	1,500.00
For each monument	150.00
For each street name sign	300.00

*The escalation price over the 1987 base price will be determined by the Planning Board at time of approval.

~ A134-5. Maintenance bond.

A. Prior to acceptance by the village of the dedication of the street as guaranteed by ~ A134-4A(2) above, the developer shall deposit with the Village Clerk a maintenance bond of acceptable surety or shall deposit with the chief fiscal officer of the village acceptable negotiable government bonds, cash or certified check or letter of credit drawn upon a national or state bank, payable at sight to the Village Board, guaranteeing that, for a period of one (1) year from the date of acceptance of the dedication of the street by the village, the developer will maintain the street to the standard of construction set by these specifications, normal wear and tear excepted. This shall be interpreted to mean that the developer will, at his own expense, repair and make good any defects or damage which may develop during this maintenance period as a result of faulty construction within the right-of-way or as a result of other construction by the developer off the right-of-way. During the maintenance period the village shall be responsible for snow and ice control, street cleaning, cleaning of culverts and catch basins and other work of

a similar routine nature, provided that such work has in no way been caused by the developer's operations.

B. The amount of the maintenance bond shall be at least equal to ten percent (10%) of the original amount of the performance bond.

C. Subsequent to the acceptance of the dedication of the street and after receipt of the maintenance bond, the Village Board shall release the performance bond, letter of credit or other security.

~ A134-6. General requirements.

A. The proposed street will serve subdivisions with lots one (1) acre in size.

B. The proposed street shall not be or be reasonably expected to become a through, commercial or industrial street.

C. The proposed street shall be a dead-end, loop or other minor street within a development as distinguished from a principal collector street.

~ A134-7. Construction specifications.

A. The drawings and diagrams attached hereto show cross sections of subdivision streets. These give the required design, dimensions and construction details. Editor's Note: The drawings and diagrams are included at the end of this chapter. EFN!

B. The engineer shall design and construct streets which shall conform to both the specific and the general specifications.

~ A134-8. Development of right-of-way; layout.

The developer shall establish and clearly mark on site the limits

of the road right-of-way and easements, the center line and grades of the road pavement and the location and elevation of drainage and drainage structures in accordance with the approved plans. Such markers shall be maintained at the developer's expense until the construction of drainage, road pavement, curbs, sidewalks and shoulders has been completed, inspected and approved by the Village Engineer.

~ A134-9. Clearing and grubbing.

A. The developer shall clear the entire area within the limits of:

- (1) The road right-of-way.
- (2) Stream channels and ditches.
- (3) Easement areas.

B. All roots and stumps shall be grubbed, excavated and removed from the above areas.

~ A134-10. Excavation, filling and rough grading.

A. The developer shall complete the shaping of the road right-of-way, streams and ditches and easement areas to the line and grade as shown on the approved plan and as otherwise may be directed by the Village Engineer. All unsuitable or unstable materials shall be completely excavated and removed from the right-of-way and all rock or boulders larger than six (6) inches in diameter shall be excavated at least eight (8) inches below the finished subgrade of road pavement, drainage or drainage structures, curbs and sidewalks.

B. Where fills are necessary to complete the required line and grade or to backfill trenches or other excavation, the materials incorporated in the work shall be acceptable to the Superintendent of Highways and shall be placed in layers not exceeding eight (8) inches in depth, each layer to be thoroughly compacted by rolling with a three-wheel, sheepsfoot, pneumatic tired or padded wheel roller, or by impact rammer or vibrator equipment in areas inaccessible to power rollers. All compaction

shall continue until the fills are firm and unyielding.

C. The rough grade of the road pavement, curb and sidewalk areas shall be completed within one (1) inch above or below finished subgrade as shown on the approved cross section of the right-of-way improvement.

D. Earth shoulders and flow line of ditches and gutters shall be maintained in satisfactory condition at the developer's expense at all times during the course of construction of the subdivision and until such time as the Board of Trustees has accepted dedication of the right-of-way.

~ A134-11. Storm drainage design.

The storm drainage system shall be designed in accordance with the criteria established by the County of Rockland based on its 1959 county-wide drainage study. The minimum grade of any drainage pipe shall be one percent (1%).

~ A134-12. Drainage pipe excavation, laying and backfilling.

A. The widths of the trench in which the pipe is placed shall be sufficient to permit thorough tamping of the backfill under the haunches and around the pipe. Where rock, in either boulder or ledge formation, is encountered, it shall be removed below grade and replaced with suitable materials in such a manner as to provide an earth cushion having a thickness under the pipe of not less than eight (8) inches; and where there are excessively heavy fills over the top of the pipe, the Village Engineer may specify that an earth cushion up to one-half ($\frac{1}{2}$) inch in thickness per foot of fill be placed over the top of the pipe. In no case shall the top of any drainage pipe be less than eighteen (18) inches below the finished grade of the pavement. Where soft, spongy or other unstable soil is encountered at the grade established, all such unstable soil under the pipe and for a width of one (1) diameter on each side of the pipe shall be removed and replaced with run-of-bank gravel or other acceptable material. In all cases the bed shall be thoroughly compacted and shall provide a firm foundation for the pipe.

B. Pipe shall be laid to true line and grade on the prepared bed of the trench. All connections for making field joints in corrugated metal pipe shall consist of corrugated metal bands so constructed as to lap on equal portions of each of the culvert

sections to be connected. All joints in making field connections of reinforced concrete pipe shall be filled with portland cement mortar.

C. Backfilling of trenches shall be done in accordance with ~ A134-10B above.

D. Any additional drainage facilities not shown on the approved plan and which may be ordered by the Village Engineer shall be constructed by the developer at the developer's expense and in accordance with these specifications.

~ A134-13. Drainage and culvert pipe.

A. Storm drain and culvert pipe shall be reinforced concrete with a minimum diameter of fifteen (15) inches.

B. Reinforced concrete pipe shall conform to the standard specifications for reinforced concrete culvert pipe adopted by the American Society for Testing Materials and designated as C 76-59T Class III.

C. All reinforced concrete pipe shall be manufactured with slip joints or bell and spigot joints.

D. Each piece of reinforced concrete pipe shall be marked with the specification number and the date of manufacture.

~ A134-14. Catch basins and curb inlets.

The specifications and drawings at the end of this chapter show the minimum acceptable construction for typical catch basins and curb inlets. Whenever, in the opinion of the Village Engineer, ground conditions or other circumstances require it, larger or heavier materials, additional materials, reinforcing or other modifications and improvements in design and construction shall be made as directed by the Village Engineer any time prior to paving.

A. Location. Catch basins shall be constructed at all points of change of slope or alignment and at all junction points. At no

time shall catch basins be spaced farther apart than three hundred (300) feet on slopes less than three percent (3%), two hundred fifty (250) feet on slopes from three percent (3%) to six percent (6%) and two hundred (200) feet on slopes over six percent (6%) in steepness.

B. Excavation and concrete base. The hole for a catch basin shall be excavated to a depth of thirty-five (35) inches below the designated elevation of the invert of the effluent pipe. Crushed stone or run-of-bank gravel to a uniform depth of nine (9) inches leveled and compacted over the entire area under the base shall be laid in the hole. On this stone or gravel shall be laid an eight-inch-thick slab of one-to-two-to-four-mix portland cement concrete. The slab shall extend four (4) inches beyond the outside of the walls of the catch basin on every side. The slab shall be smooth and level. Through the center of the slab there shall be an opening for drainage one (1) square foot in area, which shall be protected and kept clean of concrete, mortar or other obstructing materials during construction.

C. Walls. Only precast catch basins shall be used.

D. Curb inlets.

(1) All catch basins shall be capped with curb inlets having a minimum frame opening of thirty by forty-eight (30 x 48) inches. Curb inlets shall be similar or equal to either Campbell Foundry Company Pattern No. 2501 or Campbell Foundry Company Pattern No. 2541 (stream flow grating), as designated by the Superintendent.

(2) Curb inlets shall be installed so that the top of the grating is two (2) inches below the finished grade, and the pavement shall be sloped toward the inlet as shown on the drawings at the end of this chapter.

(3) Curb-front openings on all curb inlets shall have, centered in the opening, a solid horizontal bar to prevent the ingress of small children. This bar shall be part of the casting or solidly welded in place subsequent to manufacture.

E. Steps. Catch basins having a depth greater than forty-eight (48) inches from the finished surface to the top of the concrete base shall be provided with steps. Steps shall be of wrought iron having a minimum diameter of three-fourths (3/4) inch, which shall be hot-bent to shape and hot-dipped galvanized after bending. They shall be solidly set in the masonry at the time of construction and shall extend all the way through the wall. The

steps shall extend four and one-half (4 ½) inches inside the wall of the catch basin. The top step shall be not more than eighteen (18) inches below the finished surface, and thence to the base, steps shall be no more than eighteen (18) inches apart.

~ A134-15. Fine grading.

A. Before fine grading or construction of curbs and sidewalks is started, all storm and sanitary sewers and all utilities, including house connections and hydrants, shall have been installed and all fill and backfill shall have been thoroughly compacted to the satisfaction of the Village Engineer.

B. Also before fine grading or construction of curbs and sidewalks is started, all heavy trucking for building or site construction purposes shall have been completed.

C. After completion of the rough grade and prior to the laying of the foundation course, the subgrade shall be shaped to line and grade and thoroughly compacted with an approved self-propelled roller weighing not less than ten (10) tons. All hollows and depressions which develop under rolling shall be filled with acceptable granular material and again rolled, this process to be continued until no depressions develop. The subgrade shall not be muddy or otherwise unsatisfactory when the foundation course is laid upon it.

D. Any soft or unstable portions of the subgrade which develop under the roller shall be completely excavated and removed from the right-of-way and shall be replaced with acceptable granular material and the area regraded and compacted as above.

E. Fine grade shall conform to the prescribed width of pavement and shall extend equidistant from the center line of the road right-of-way and shall conform to the typical cross section of the road pavement and to the approved line and grade.

~ A134-16. Foundation course; granular material.

A. After the fine grade and all curbs have been constructed to the satisfaction of the Village Engineer, the developer shall furnish and place a foundation course of approved run-of-bank gravel, crusher-run stone or crusher-run gravel, to the depths as

called for in these specifications. All materials acceptable for this course shall be hard, durable and sound and shall be well graded from coarse to fine, the maximum diameter of the large particles not to exceed two-thirds (2/3) of the thickness of the compacted foundation course, and ninety to one hundred percent (90 to 100%) by weight of the particles shall be of such size as will pass through a four-inch square hole, not more than seventy percent (70%) by weight to pass the No. 40 mesh sieve and not more than ten percent (10%) by weight to pass the No. 200 mesh sieve.

B. The materials shall be placed on the finished subgrade by means of mechanical spreaders and shall be thoroughly compacted by rolling with a self-propelled ten-ton roller. Water shall be added to the materials in such amounts as the Village Engineer may consider necessary for proper compaction. After compaction, the course shall be true to grade and cross sections, and any depressions shall be eliminated by the use of additional granular materials, thoroughly rolled in place. In all cases, the foundation course must be so thoroughly compacted that it will not weave under the roller.

~ A134-17. Base course.

A. After the foundation course has been completed as the applicable sections of these specifications dictate and to the satisfaction of the Village Engineer, the developer shall construct an asphaltic cement base course four (4) inches thick as called for in these specifications. Since it is imperative that this course conform accurately to the line, grade and cross section specified and as called for on the plans, the developer shall set up pins and lines or other controlled devices to attain the desired accuracy. Rolling shall begin at the sides or curblines and continue towards the center and shall continue until there is no movement of the course ahead of the roller.

B. The developer shall install an asphaltic concrete base course to a four-inch compacted thickness. After the foundation course has been completed to the satisfaction of the Village Engineer, asphaltic concrete conforming to the current specifications of the NYSDPW of 1957 for item 45SX, bottom course asphaltic concrete Type 1A, shall be uniformly spread by a self-propelled mechanical spreader equipped with tamping bars and heating unit and in sufficient depth so as to provide a finished compacted thickness after rolling equal to that specified above. The base material in place shall be thoroughly rolled with a ten-ton roller.

C. No trucking or construction traffic shall be permitted on any base course until the wearing surface has been constructed.

~ A134-18. Surface course.

A. After the stone or asphaltic concrete base course has been completed to the satisfaction of the Village Engineer, a two-course bituminous concrete wearing course shall be constructed conforming to the NYSDPW specifications of 1957 for item 51M, asphalt concrete.

B. After the base course has been thoroughly cured and cleaned of all foreign material, a bituminous concrete binder course shall be uniformly spread by a self-propelled mechanical spreader with tamping bars and heating unit in sufficient depth so as to provide a finished compacted thickness after rolling of not less than one and one-half ($1 \frac{1}{2}$) inches. The course in place shall be thoroughly rolled with a ten-ton roller.

C. After the binder course has been completed and thoroughly cleaned of foreign material and a tack coat of asphalt emulsion applied to the surface at the rate of one-tenth ($1/10$) to one-twentieth ($1/20$) gallon per square yard in the event that the binder course has been subject to traffic for an extended period of time, a final wearing course of fine bituminous concrete shall be uniformly spread by a self-propelled mechanical spreader equipped with tamping bars and heating unit and in sufficient depth so as to provide a finished compacted thickness after rolling of not less than one and one-half ($1 \frac{1}{2}$) inches. The fine wearing course in place shall be thoroughly compacted with a two- or three-wheel tandem roller weighing approximately ten (10) tons.

D. Extreme care shall be exercised in the placing of bituminous concrete to ensure that all longitudinal joints shall be lapped in the placing of adjoining strips and that all lateral joints are trimmed before continuing with the placing of additional materials on that strip.

~ A134-19. Curbs.

A. Six-inch portland cement concrete curbs shall be constructed on both sides of the street as shown on Figure 4 attached hereto and to the dimensions and specifications shown on Figure 8. !Editor's Note: Figures 4 and 8 are included at the end of this chapter. !EFN!

B. Three-inch porous tile shall be laid in coarse washed sand under all curbs as shown on Figure 8. This underdrain shall be

so graded that any water under the curbs will drain to the nearest catch basin where the underdrain shall be connected as shown on Figure 7. !Editor's Note: Figures 8 and 7 are included at the end of this chapter. !EFN!

C. Concrete shall be finished and cured to the satisfaction of the Village Engineer. The developer shall, at his own expense, replace any curbing damaged before dedication and any curb which proves defective or is damaged by his operations during the two-year maintenance period.

~ A134-20. Driveways.

A. The developer shall so design, lay out and construct all driveways both within and without the limits of the right-of-way that the latest models of modern cars may enter and leave the right-of-way without difficulty.

B. Driveway entrances.

(1) The developer shall construct all driveway entrances according to the dimensions and specifications shown on Figure 10 attached hereto. !Editor's Note: Figure 10 is included at the end of this chapter. !EFN!

(2) All entrance construction shall be finished and cured to the satisfaction of the Village Engineer.

(3) All necessary driveway entrances within the subdivision shall be constructed at the time of construction of the curbs.

~ A134-21. Sidewalks.

The developer shall construct four-inch-thick reinforced portland cement concrete sidewalks on both sides of streets as shown on Figure 4. !Editor's Note: Figure 4 is included at the end of this chapter. !EFN! Concrete shall be of a four-thousand-five-hundred-pound-per-square-inch mix, air-entrained with Durex or equal, one (1) course, properly screened and finished to true grade with wooden float, and shall be cured, all to the satisfaction of the Village Engineer.

~ A134-22. Intersections.

The developer shall construct all street intersections in accordance with Figure 12 except in the case of a new street intersecting an existing narrow road, when such construction shall be modified as shown on Figure 13. !Editor's Note: Figures 12 and 13 are included at the end of this chapter. !EFN!

~ A134-23. Street name signs.

The developer shall furnish and install a four-way street name sign at every street intersection made by the streets he constructs. Signs and posts shall conform to the standards established by the Village Board.

~ A134-24. Monuments.

A. Monuments shall be set on all right-of-way lines of streets at all street intersections, angle points, points of curve and subdivision corners. There shall be a clear foresight and backsight to adjacent monuments on the right-of-way line or lines on which a monument is set.

B. Monuments shall be thirty-six (36) inches long, five (5) inches square at the top tapering to six (6) inches square at the bottom, and shall have centered in the top a three-eighths-inch or one-half-inch drill hole, three-eighths-inch or one-half-inch steel rod slightly protruding, or some other permanent and satisfactory center mark. Monuments shall be of cut granite free from imperfections or of concrete and similar or equal to those supplied by Bergen Building Block, Inc., Ridgefield Park, New Jersey.

C. Monuments shall not be set before final grading has been completed nor shall they be set while frost is in the ground. They shall be so set that the top is flush with the finished grade. They shall be so set and tamped as to prevent settlement or shifting.

D. The developer's engineer and/or licensed land surveyor shall certify that the location of all monuments is accurate before acceptance of the street by the Village Board.

~ A134-25. Easements.

Where surface water must be lead through other than right-of-way gutters and storm drains or existing stream channels, drainage easements having a minimum width of fifteen (15) feet shall be provided in the approved plans. A greater width than fifteen (15) feet shall be provided where called for by other provisions of these specifications.

~ A134-26. Open ditches.

No open ditches will be permitted in lieu of storm drain pipe.

~ A134-27. House drains.

Roof and cellar drains shall in no case be allowed to flow onto the right-of-way. With the approval of the Village Engineer in writing, these drains may be piped to the street stormwater pipe drain, to which they shall be connected on top only. Such drains must be installed prior to the start of fine grading of the streets.

~ A134-28. Culs-de-sac.

Wherever a temporary or permanent dead end is allowed on a subdivision street, a turnaround shall be constructed. This turnaround shall take the form of a tee or a circle as required by the Village Planning Board and shall be constructed as shown on Figures 17 and 18. !Editor's Note: Figures 17 and 18 are included at the end of this chapter. !EFN! The temporary type of construction shall be used only when authorized by the Planning Board because of the foreseeable future extension of the street. The circular-shaped turnaround shall be completely paved, with no center island.

~ A134-29. Grades and vertical curves.

A. Streets shall be so designed that finished tangent grades will not be less than one percent (1%) nor more than ten percent

(10%).

B. Every change in grade shall be effected with a vertical curve of sufficient length to ensure adequate stopping sight distance and to provide for smooth transition. These vertical curves shall be designed in accordance with the graph shown on Figure 19 of these specifications, !Editor's Note: Figure 19 is included at the end of this chapter.!EFN! which is taken from New York State standards for thirty-mile-per-hour speeds.

~ A134-30. Interpretation.

Final decision as to the interpretation of any part of these street specifications shall rest with the Village Engineer. He shall have the authority to modify the requirements of these specifications when, in his opinion, conditions make it impracticable to follow the strict letter of these specifications or when conditions make it unnecessary to do so, such as for example:

A. When a storm drain meets or follows an existing brook so that a one-percent grade cannot be obtained without unreasonable channel changes, the Village Engineer may allow a grade of less than one percent (1%), provided that the pipe size is adequately increased.

B. When the subbase of a street or road is already composed of an acceptable granular material, the Village Engineer may waive or modify the requirement of a foundation course.

C. When the existing soil under the concrete curb is already composed of a sufficiently porous material to ensure a proper underdraining of the pavement, the Village Engineer may waive or modify the requirements for curb underdrains.

SUMMARY OF STREET SPECIFICATIONS

Right-of-way width (feet)	50
Clearing width (feet)	50
Grading width (feet)	50

Pavement width (feet)	30
Storm drains	Yes
Foundation course	6 inches thick
Base	4-inch asphaltic cement
Pavement	1 1/2-inch top 1 1/2-inch binder
Curbs	6-inch concrete
Sidewalks	Yes
Monuments	Yes
Street name signs	Yes

SEE CODE BOOK FOR DRAWINGS AND DIAGRAMS



OFFICIALS

OF THE

VILLAGE OF POMONA

Village Hall
100 Ladentown Road
Pomona, New York 10970
Telephone: (845) 354-0545
FAX: (845) 354-0604

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