

**OFFICIALS
OF THE
VILLAGE OF TULLY**

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2010

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Mayor**

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CHARLES YONKO, JR.
DANIEL F. POELLOT

**RUTH C. VAN BUSKIRK
Village Clerk/Treasurer**



CERTIFICATION

VILLAGE OF TULLY

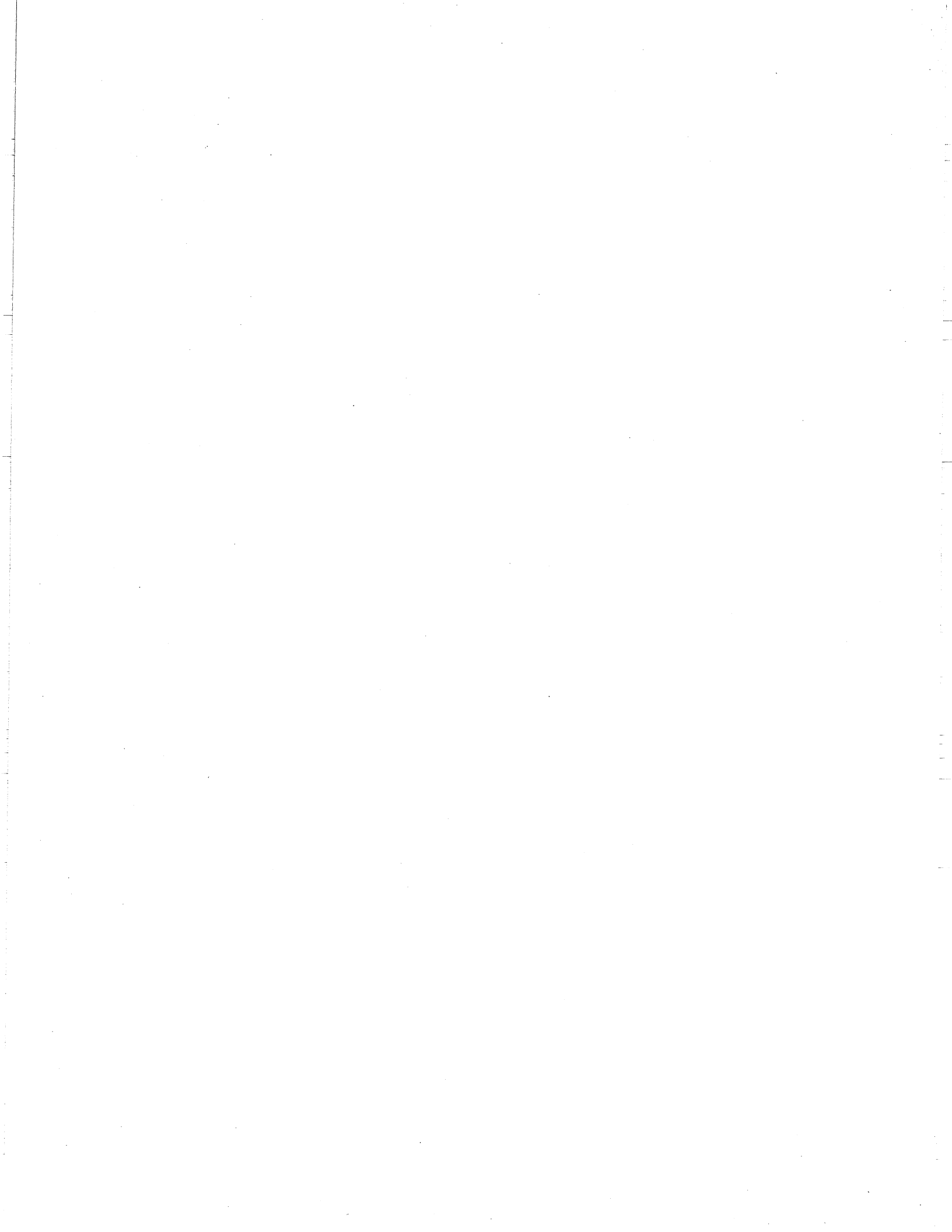
Office of the Village Clerk

I, **RUTH C. VAN BUSKIRK**, Village Clerk of the Village of Tully, hereby certify that the chapters contained in this volume are based upon the original local laws, ordinances and resolutions of the Board of Trustees of the Village of Tully, and that said local laws, ordinances and resolutions, as revised and codified, renumbered as to sections and rearranged into chapters, constitutes the Code of the Village of Tully, County of Onondaga, State of New York, as adopted by local law of the Board of Trustees on March 21, 1989.

Given under my hand and the Seal of the Village of Tully, County of Onondaga, State of New York, this _____ day of _____ 20 ____, at Tully, New York.

s/RUTH C. VAN BUSKIRK

Village Clerk



**Code
of the
Village of Tully**

COUNTY OF ONONDAGA

NEW YORK

SERIAL NO.

GENERAL CODE
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2021



PREFACE

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

Contents of Code

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

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, contains all Village legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other Village legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Grouping of Legislation and Arrangement of Chapters

The various items of legislation are organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more items of legislation dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation pertaining to the regulation of streets and sidewalks may be found in Part II, in the chapter entitled "Streets and Sidewalks." In such chapters, use of Article or Part designations has preserved the identity of the individual items of legislation.

Table of Contents

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

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Reserved Chapters

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new enactments. In this manner, new subject matter can be included alphabetically.

Pagination

A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 would begin on page 6:1. By the use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

Numbering of Sections

A chapter-related section-numbering system is employed in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 would be § 6-1, while the fourth section of Chapter 53 would be § 53-4.

Scheme

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

Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing Parts or Articles derived from more than one item of legislation, the source of each Part or Article is indicated in the History. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

Codification Amendments and Revisions

New chapters adopted or sections amended or revised during the process of codification are specifically enumerated in chapter Histories with reference to "Ch. 1, General Provisions," where the legislation adopting this Code and making such revisions will appear after final enactment. Sections so amended or revised are also indicated in the text by means of Editor's Notes referring to the chapter cited above.

PREFACE

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

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

Index

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

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or complete new additions, should be adopted as amending the Code. In doing so, existing material that is not being substantively altered should not be renumbered. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 45-5 and 45-6 should be designated § 45-5.1). New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the table of contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the table of contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 45 and 46 should be designated Chapter 45A). New Articles may be inserted between existing Articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" Articles (e.g., a new Article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 45-30 and Article XVII begins with § 45-31, Article XVIA should contain §§ 45-30.1 through 45-30.6).

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Supplementation

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

Acknowledgment

The cooperation and effort of all Village officials involved in the preparation of this Code is gratefully acknowledged by the editor. In particular, the assistance of Alvah D. Cook, Jr., Mayor; John H. English, Fire Marshal/Building Inspector; and Raymond R. D'Agostino, Esq., Village Attorney, has enabled this project to be completed swiftly and satisfactorily. The dedication to the tasks involved in the preparation of the Code by all concerned make it an outstanding achievement of the Village of Tully.

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

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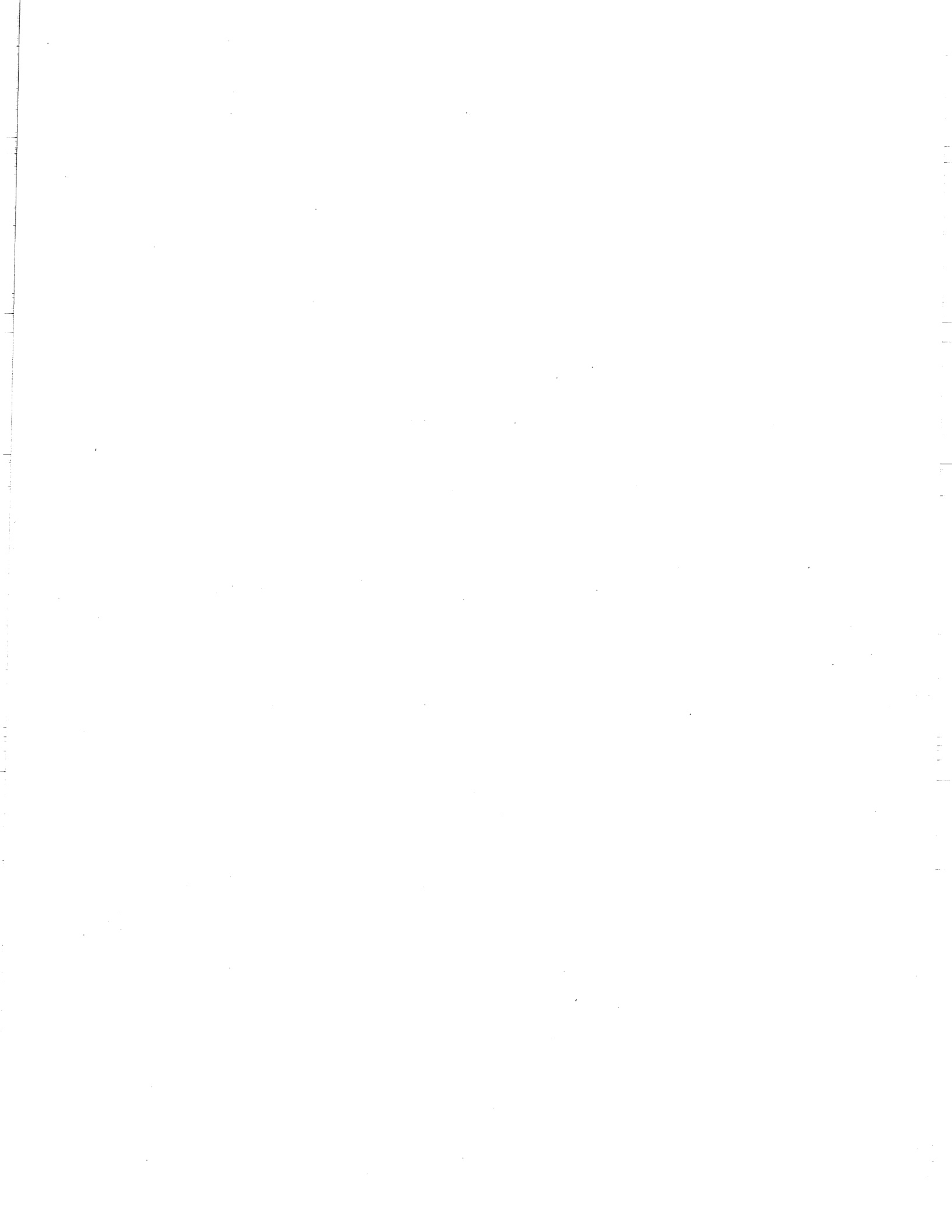
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PART I

**ADMINISTRATIVE
LEGISLATION**



Chapter 1

GENERAL PROVISIONS

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- § 1-2. Distribution of local laws, ordinances and resolutions.
- § 1-3. Continuation of existing provisions.
- § 1-4. Repeal of enactments not included in Code.
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- § 1-6. Severability.
- § 1-7. Copy of Code on file.

- § 1-8. Amendments to Code.
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- § 1-10. Sale of Code book; supplementation.
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[HISTORY: Adopted by the Board of Trustees of the Village of Tully: Art. I, 3-21-1989 as L.L. No. 2-1989. Amendments noted where applicable.]

ARTICLE I

Adoption of Code

[Adopted 3-21-1989 as L.L. No. 2-1989]

§ 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 Tully referred to in § 1-2 below shall be known collectively as the "Code of the Village of Tully," hereafter termed the "Code," and the various parts and sections of such local laws, ordinances and resolutions shall be distributed and designated as provided and set forth in § 1-2 of this Article. Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Village of Tully" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, Article number or section number appearing below, as if such local law, ordinance or resolution had been formally amended to so read.

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

Derivation Table

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

| New Number (chapter, title, Article, section) | Old Number (source) | Adoption or Amendment Date |
|--|--------------------------------|---|
| Ch. 4, Appearance Tickets | L.L. No. 5- 1982 | 11-18-1982 |
| § 4-1 | § I | |
| § 4-2 | § II | Amended 8-4-1987 by L.L. No. 2-1987; at time of adoption of Code |
| § 4-3 | § III | |
| Omitted | § IV | |
| Omitted | § V | |
| Ch. 8, Clerk- Treasurer | L.L. No. 1- 1984 | 7-3-1984 |
| § 8-1 | First paragraph | |
| § 8-2 | Second paragraph | |
| Ch. 11, Defense and Indemnification | L.L. No. 2- 1982 | 1-14-1982 |
| § 11-1 | § 1 | |
| § 11-2 | § 2 | |
| § 11-3 | § 3 | |
| § 11-4 | § 4 | |
| § 11-5 | § 5 | Amended at time of adoption of Code |
| § 11-6 | §§ 6, 7, 8 and 9 | |
| Omitted | § 10 | |
| Omitted | § 11 | |
| Ch. 14, Ethics, Code of | Resolution | 10-5-1970 |
| § 14-1 | § 1 | |
| § 14-2 | § 2 | Amended at time of adoption of Code |
| § 14-3 | § 3 | Amended at time of adoption of Code |
| § 14-4 | § 4 | |
| § 14-5 | § 5 | Amended at time of adoption of Code |
| § 14-6 | § 6 | |

| New Number (chapter, title, Article, section) | Old Number (source) | Adoption or Amendment Date |
|--|--------------------------------|--|
| Omitted | § 7 | |
| Ch. 20, Planning Board | Resolution | 8-25-1976 |
| § 20-1 | First paragraph | Amended at time of adoption of Code |
| § 20-2 | Second paragraph | |
| Ch. 25, Trustees, Board of | | |
| Art. I, Vacancies in Office | L.L. No. 4- 1983 | 7-14-1983 |
| § 25-1 | § I | |
| § 25-2 | § II | Amended 10-6-1987 by L.L. No. 3-1987 |
| Omitted | § III | |
| Art. II, Membership | Resolution | 11-26-1985 |
| § 25-3 | First paragraph | |
| § 25-4 | Second paragraph | |
| Omitted | Third paragraph | |
| Ch. 35, Animal Control | | |
| Art. I, Apiaries | | 8-23-1941; amended in its entirety at time of adoption of Code |
| § 35-1 | | |
| § 35-2 | | |
| § 35-3 | | |
| Art. II, Dogs | L.L. No. 5- 1977 | 9-12-1977 |
| § 35-4 | § 1 | |
| § 35-5 | § 2 | Amended at time of adoption of Code |
| § 35-6 | § 3 | |
| § 35-7 | § 4 | Amended at time of adoption of Code |
| § 35-8 | § 5 | |
| § 35-9 | § 6 | Amended at time of adoption of Code |

| New Number (chapter, title, Article, section) | Old Number (source) | Adoption or Amendment Date |
|--|--------------------------------|---------------------------------------|
| § 35-10 | § 7 | Amended at time of adoption of Code |
| § 35-11 | § 8 | |
| § 35-12 | § 9 | Amended at time of adoption of Code |
| Omitted | 10 | |
| Omitted | 11 | |
| Omitted | 12 | |
| Ch. 48, Electrical Standards | | Adopted at time of adoption of Code |
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| § 51-1 | § 1 | |
| § 51-2 | § 2 | |
| § 51-3 | § 3 | Amended at time of adoption of Code |
| § 51-4 | § 4 | |
| § 51-5 | § 5 | |
| § 51-6 | § 6 | |
| § 51-7 | § 7 | |
| § 51-8 | § 8 | |
| § 51-9 | § 9 | |
| § 51-10 | § 10 | |
| § 51-11 | § 11 | |
| § 51-12 | § 12 | |
| § 51-13 | § 13 | |
| § 51-14 | § 14 | |

| New Number (chapter, title, Article, section) | Old Number (source) | Adoption or Amendment Date |
|--|--------------------------------|--|
| § 51-15 | §§ 15 and 16 | |
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| Ch. 59, Flood Damage Prevention | L.L. No. 1- 1987 | 3-17-1987 |
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| § 59-2 | § 1.2 | |
| § 59-3 | § 1.3 | |
| § 59-4 | § 2.0 | |
| § 59-5 | § 3.1 | |
| § 59-6 | § 3.2 | |
| § 59-7 | § 3.3 | |
| Omitted | § 3.4 | |
| § 59-8 | § 3.5 | |
| § 59-9 | § 3.6 | |
| § 59-10 | § 4.1 | |
| § 59-11 | § 4.2 | |
| § 59-12 | § 4.3 | |
| § 59-13 | § 5.1 | |
| § 59-14 | § 5.2 | |
| § 59-15 | § 5.3 | |
| § 59-16 | § 6.0 | |
| Omitted | § 7.0 | |
| Omitted | § 8.0 | |
| Ch. 62, Games of Chance | L.L. No. 1- 1979 | 1-8-1979, approved 3-20-1979; amended in its entirety 5- 17-1979 by L.L. No. 3-1979 |
| § 62-1 | § 1 | |
| § 62-2 | § 2 | |
| § 62-3 | § 3 | |
| § 62-4 | § 4 | |
| § 62-5 | § 5 | |
| § 62-6 | § 6 | |
| § 62-7 | § 7 | |
| § 62-8 | § 8 | |
| § 62-9 | § 9 | |
| § 62-10 | § 10 | |

| New Number (chapter, title, Article, section) | Old Number (source) | Adoption or Amendment Date |
|--|--------------------------------|---------------------------------------|
| § 62-11 | § 11 | |
| § 62-12 | § 12 | |
| § 62-13 | § 13 | |
| § 62-14 | § 14 | |
| § 62-15 | § 16 | |
| § 62-16 | § 17 | |
| Omitted | § 18 | |
| Omitted | § 19 | |
| Ch. 65, Garbage, Rubbish and Refuse | | 5-13-1963 |
| § 65-1 | § 1 | Amended at time of adoption of Code |
| § 65-2 | § 2 | |
| § 65-3 | § 3 | Amended at time of adoption of Code |
| § 65-4 | § 4 | |
| § 65-5 | § 5 | Amended at time of adoption of Code |
| § 65-6 | § 6 | |
| Omitted | § 7 | |
| Ch. 75, Parks | L.L. No. 2- 1979 | 5-7-1979 |
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| § 75-4 | § 4 | |
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| § 75-6 | § 6 | |
| § 75-7 | § 7 | |
| § 75-8 | § 8 | Amended at time of adoption of Code |
| § 75-9 | § 9 | Amended at time of adoption of Code |
| | § 10 | Deleted at time of adoption of Code |
| § 75-10 | § 11 | |
| Omitted | § 12 | |
| Omitted | § 13 | |
| Ch. 78, Peddling and Soliciting | L.L. No. 2- 1976 | 7-12-1976 |
| § 78-1 | § 1 | |

| New Number (chapter, title, Article, section) | Old Number (source) | Adoption or Amendment Date |
|--|--------------------------------|---|
| § 78-2 | § 2 | |
| § 78-3 | § 3 | Amended at time of adoption of Code |
| § 78-4 | § 4 | |
| § 78-5 | § 5 | |
| § 78-6 | § 6 | Amended at time of adoption of Code |
| Omitted | § 7 | |
| Ch. 83, Records, Public Access to | | Adopted at time of adoption of Code |
| § 83-1 | | |
| § 83-2 | | |
| § 83-3 | | |
| § 83-4 | | |
| Ch. 87, Sewers | | 12-1-1969; amended in its entirety 1-13-1983 by L.L. No. 1-1983 |
| § 87-1 | Art. I | |
| § 87-2 | Art. II | |
| § 87-3 | Art. III | |
| § 87-4 | Art. IV | |
| § 87-5 | Art. V | Amended at time of adoption of Code |
| § 87-6 | Art. VI | |
| § 87-7 | Art. VII | Amended at time of adoption of Code |
| § 87-8 | Art. VIII | Amended at time of adoption of Code |
| § 87-9 | Art. IX | Amended 3-18-1986 by L.L. No. 2-1986 |
| Omitted | Art. X | |
| Omitted | Art. XI | |
| Ch. 91, Snowmobiles | L.L. No. 1- 1982 | 1-14-1982 |
| § 91-1 | § 1 | |
| § 91-2 | § 2 | |
| § 91-3 | §§ 3 and 4 | Amended at time of adoption of Code |
| Omitted | § 5 | |
| § 91-4 | § 6 | Amended at time of adoption of Code |
| § 91-5 | § 7 | Amended at time of adoption of Code |
| § 91-6 | § 8 | |
| § 91-7 | § 9 | |
| § 91-8 | § 10 | Amended at time of adoption of Code |

| New Number (chapter, title, Article, section) | Old Number (source) | Adoption or Amendment Date |
|--|--------------------------------|---------------------------------------|
| § 91-9 | § 11 | Amended at time of adoption of Code |
| Omitted | § 12 | |
| Ch. 95, Subdivision of Land | L.L. No. 4- 1976 | 8-25-1976 |
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| § 95-1 | § 1-100 | |
| § 95-2 | § 2-200 | |
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| Art. II | | |
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| § 95-5 | § 3-303 | Amended at time of adoption of Code |
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| § 95-12 | § 3-316 | |
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| Art. IV | | |
| § 95-14 | § 3-320 | Amended at time of adoption of Code |
| § 95-15 | § 3-322 | |
| § 95-16 | § 3-323 | |
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| § 95-18 | § 3-325 | |
| § 95-19 | § 3-326 | |
| Art. V | | |
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| New Number (chapter, title, Article, section) | Old Number (source) | Adoption or Amendment Date |
|--|--------------------------------|---------------------------------------|
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| § 95-47 | §§ 5-520 through 5-523 | |
| § 95-48 | §§ 5-530 through 5-532. | |
| Art. XII | | |
| § 95-49 | § 6-600 | |

| New Number (chapter, title, Article, section) | Old Number (source) | Adoption or Amendment Date |
|--|--|---------------------------------------|
| § 95-50 | § 6-610 | |
| Omitted | § 7-700 | |
| Omitted | § 15-500 | |
| Ch. 98, Taxation | | |
| Art. I, Fire Fighters Tax Exemption | Resolution | 3-1-1976, approved 3-16-1976 |
| § 98-1 | First paragraph, first sentence, first clause | |
| Omitted | First paragraph, first sentence, second and subsequent clauses and second and subsequent sentences | |
| Art II, Utility Tax | L.L. No. 4- 1977 | 6-6-1977 |
| § 98-3 | § 1 | Amended at time of adoption of Code |
| § 98-4 | § 2 | |
| § 98-5 | § 3 | |
| § 98-6 | § 4 | Amended at time of adoption of Code |
| § 98-7 | § 5 | |
| § 98-8 | § 6 | |
| § 98-9 | § 7 | |
| § 98-10 | § 8 | |
| § 98-11 | § 9 | |
| § 98-12 | § 10 | |
| § 98-13 | § 11 | |
| § 98-14 | § 12 | |
| § 98-15 | § 13 | |
| § 98-16 | § 14 | |
| Omitted | § 15 | |

| New Number (chapter, title, Article, section) | Old Number (source) | Adoption or Amendment Date |
|---|--------------------------------|---------------------------------------|
| Art. III, Proportional Adjustment to Veterans Exemption | L.L. No. 4- 1980 | 12-18-1980 |
| § 98-17 | § 1 | |
| § 98-18 | § 2 | |
| § 98-19 | § 3 | Amended at time of adoption of Code |
| § 98-20 | § 4 | |
| Omitted | § 5 | |
| Omitted | § 6 | |
| Omitted | § 7 | |
| Art. IV, Senior Citizens Tax Exemption | | Adopted at time of adoption of Code |
| § 98-21 | | |
| § 98-22 | | |
| Ch. 103, Vehicles and Traffic | L.L. No. 1- 1980 | 8-4-1980 |
| Art. I | | |
| § 103-1 | § 100.1 | |
| § 103-2 | § 100.2 | |
| § 103-3 | § 105.1 | |
| Art. II | | |
| § 103-4 | § 110.1 | |
| Article III | | |
| § 103-5 | § 120.1 | |
| | § 130.1 | Deleted at time of adoption of Code |
| § 103-6 | § 130.2 | Amended at time of adoption of Code |
| § 103-7 | § 130.3 | Amended at time of adoption of Code |
| § 103-8 | § 130.4 | Amended at time of adoption of Code |
| § 103-9 | | Added at time of adoption of Code |
| § 103-10 | | Added at time of adoption of Code |
| Art. IV | | Amended at time of adoption of Code |
| § 103-11 | § 140.1 | |
| § 103-12 | § 140.2 | |
| Art. V | | Amended at time of adoption of Code |

| New Number (chapter, title, Article, section) | Old Number (source) | Adoption or Amendment Date |
|--|--------------------------------|--|
| § 103-13 | § 150.1 | |
| § 103-14 | § 150.2 | |
| § 103-15 | § 150.3 | |
| § 103-16 | | |
| Art. VI | | Amended 7-8-1982 by L.L. No. 3-1982; at time of adoption of Code |
| 103-17 | § 160.1 | |
| Omitted | § 170.1 | |
| Ch. 108, Water | L.L. No. 4-1979 | 12-17-1979 |
| § 108-1 | §§ 1, 2 and 3 | Amended at time of adoption of Code |
| § 108-2 | § 4 | Amended at time of adoption of Code |
| § 108-3 | §§ 5 and 6 | |
| § 108-4 | §§ 7, 8 and 9 | |
| § 108-5 | § 10 | |
| § 108-6 | § 11 | |
| § 108-7 | §§ 12 through 15 | Amended at time of adoption of Code |
| § 108-8 | § 16 | Amended 12-18-1980 by L.L. No. 2-1980; 6-9-1983 by L.L. No. 2-1983 |
| § 108-9 | § 17 | |
| § 108-10 | § 18 | |
| § 108-11 | | Added at time of adoption of Code |
| § 108-12 | § 19 | |
| § 108-13 | § 20 | |
| § 108-14 | § 21 | |
| § 108-15 | | Added at time of adoption of Code |
| Omitted | § 22 | |

§ 1-3. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, as distributed and renumbered in § 1-1 above, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Board of Trustees of the Village of Tully, 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 § 1-4 below.

§ 1-4. Repeal of enactments not included in Code.

All local laws and ordinances of a general and permanent nature of the Village of Tully 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.

§ 1-5. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-4 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 Tully 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 Tully, 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 Tully.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Tully.
- E. Any local law or ordinance of the Village of Tully 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 Tully or any portion thereof.
- F. Any local law or ordinance of the Village of Tully 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 Tully 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 legislation dealing with zoning.

- L. Any legislation dealing with fire prevention and building construction administration.
- M. All legislation adopted subsequent to 12-1-1988.

§ 1-6. Severability.

If any clause, sentence, paragraph, section, Article or part of this local law or of any local law, ordinance or resolution cited in the table in § 1-2 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.

§ 1-7. 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 Tully 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 Tully by impressing thereon the Seal of the Village of Tully, 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.

§ 1-8. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Village of Tully," 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.

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

It shall be the duty of the Village Clerk to keep up-to-date the certified copy of the book containing the Code of the Village of Tully 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.

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

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

§ 1-11. Penalties for tampering with Code.

Any person who, without authorization from the Village Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Village of Tully, or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Village of Tully 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.

§ 1-12. 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 Tully, as distributed and designated in the table in § 1-2 hereof, 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
- C. In addition to the changes set forth in Subsection A and B above, the following sections are hereby amended to replace specific fees with the wording "as set forth from time to time by resolution of the Village Board of Trustees."²
- D. In addition to the changes set forth in Subsections A, B and C above, the following sections are hereby amended to delete any references to disorderly conduct or

1. Editor's Note: Pursuant to § 1-12B, the following sections, Articles and chapters were added or amended: §§ 4-2D, 11-5, 14-2, 14-3A, 14-5 and 20-1; Art. I of Ch. 35; §§ 35-5, 35-7, 35-9, 35-10A, C and D and 35-12; Ch. 48; §§ 51-3B 65-1B, 75-3 and 75-9; Ch. 83; §§ 87-5D, 87-7, 91-3A, 91-4A and B, 91-5, 91-8, 91-9, 95-5B, 95-11, 98-3, 98-6 and 98-19; Art. IV of Ch. 98; §§ 103-6, 103-7, 103-8, 103-9 and 103-10; Arts. IV, V and VI of Ch. 103; §§ 108-1D, 108-2A, 108-7D, 108-11 and 108-15. A complete description of these changes is on file in the office of the Village Clerk.

In addition, the following original sections were deleted: §§ 8 and 10 of L.L. No. 2-1979 and § 130.1 of L.L. No. 1-1980.

2. Editor's Note: Pursuant to § 1-12C, the following sections were amended: §§ 35-10C, 65-3, 78-3, 95-7B, 95-14B and 95-20B.

disorderly persons and to provide for a maximum fine of \$250 and/or maximum term of imprisonment of 15 days.³

§ 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 Tully, 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.

ARTICLE II

Legislation Adopted During Codification

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

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

3. Editor's Note: Pursuant to 1-12D, the following sections were amended: §§ 65-5, 75-10A, 78-6 and 87-8B.

Chapter 4

APPEARANCE TICKETS

§ 4-1. Statutory authorization.

§ 4-3. Forms.

§ 4-2. Designation of officers authorized to issue tickets.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 11-18-1982 by L.L. No. 5-1982. Amendments noted were applicable.]

GENERAL REFERENCES

Animal control — See Ch. 35.

Snow and ice — See Ch. 94.

Electrical standards — See Ch. 48.

Vehicles and traffic — See Ch. 103.

Fire prevention and building construction — See Ch. 56.

Zoning — See Ch. 112.

§ 4-1. Statutory authorization.

The Village Board hereby authorizes the use of appearance tickets to be issued by the below-designated village officers to enforce all local laws heretofore or hereafter adopted or amended as provided for in § 10, Subdivision 4(a), of the Municipal Home Rule Law of the State of New York.

§ 4-2. Designation of officers authorized to issue tickets. [Amended 8-4-1987 by L.L. No. 2-1987]

- A. The Village of Tully Zoning Enforcement Officer is hereby authorized to issue appearance tickets for violations of any local law or ordinance of the Village of Tully, including but not limited to local laws and ordinances relating to zoning enforcement and traffic and parking regulations.
- B. The Village of Tully Fire Marshal and the Village of Tully Building Inspector are hereby authorized to issue appearance tickets for violations of the New York State Fire Prevention and Building Code and for violations of Village of Tully local laws or ordinances relating to traffic and parking regulations, fire prevention and/or safety, building construction, use and occupancy and the enforcement of the New York State Fire Prevention and Building Code.
- C. The Village of Tully Superintendent of Public Works is hereby authorized to issue appearance tickets for violations of any Village of Tully local law, ordinance, rule or regulation, or the Code of the Village of Tully regulating public safety, sidewalks, crosswalks, traffic and parking, snow and ice, fire hydrants or firesafety. [Amended 2-1-2000 by L.L. No. 1-2000]
- D. The Animal Control Officer of the Village of Tully is hereby authorized to issue appearance tickets for violation of Village of Tully local laws or ordinances dealing with animal control. [Added 3-21-1989 by L.L. No. 2-1989]

§ 4-3. Forms.

Any officer authorized to issue appearance tickets by this chapter shall be empowered to use any approved form designated for such purpose as may from time to time be adopted by the Village Board by resolution or local law.

Chapter 8

CLERK-TREASURER

§ 8-1. Consolidation of positions.

§ 8-3. Residency.

§ 8-2. Deputy Clerk-Treasurer.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 7-3-1984 by L.L. No. 1-1984. Amendments noted where applicable.]

§ 8-1. Consolidation of positions.

Pursuant to the powers given it by the Municipal Home Rule Law of the State of New York, the Village Board of the Village of Tully hereby consolidates the positions of Village Clerk and Village Treasurer into one new position to be known hereinafter as "Village Clerk-Treasurer." The Village Clerk-Treasurer shall perform all the duties and have all of the powers and responsibilities of the offices of the Village Clerk and Village Treasurer as they are set forth in the various statutes of New York State.

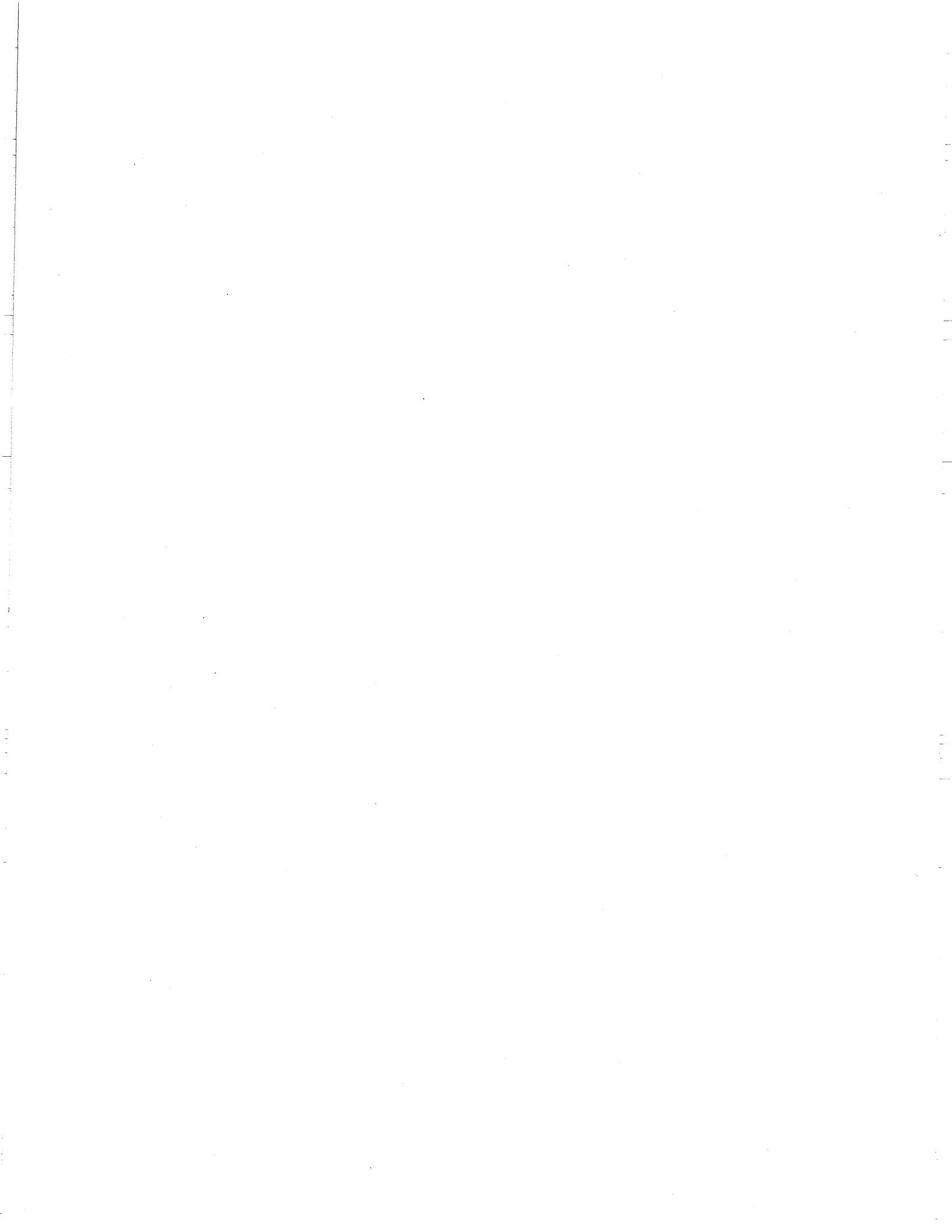
§ 8-2. Deputy Clerk-Treasurer.

There is hereby created the office of Deputy Clerk-Treasurer, who shall be appointed by the Mayor and whose powers, duties and responsibilities shall be assigned by the Mayor. The Deputy Clerk-Treasurer shall have the power to sign checks and otherwise encumber the funds of the Village of Tully to the extent and in the manner as may be authorized by law or specified by further resolution of the Village Board. Said Deputy Clerk-Treasurer shall perform said duties at the pleasure of the Mayor and shall be compensated for services in such amount as may be budgeted therefor by said village.

§ 8-3. Residency. [Added 12-7-1999 by L.L. No. 2-1999]

Persons appointed to the offices of Village Clerk-Treasurer and Village Deputy Clerk-Treasurer must reside within Onondaga County or a county abutting or adjacent to Onondaga County.

1. Editor's Note: This local law stated that it superseded the provisions of § 3, Subdivision 1, of the New York Public Officers Law and § 3-300 of the New York Village Law pursuant to § 10 of the New York Municipal Home Rule Law.



Chapter 8A

CODES ENFORCEMENT OFFICER

§ 8A-1. Appointment.

§ 8A-2. Powers and duties.

[HISTORY: Adopted by the Village Board of the Village of Tully 11-4-2009 by L.L. No. 3-2009. Amendments noted where applicable.]

GENERAL REFERENCES

Electrical standards — See Ch. 48.

Unsafe buildings — See Ch. 101.

Fire prevention and building construction — See Ch. 56.

Zoning — See Ch. 112.

§ 8A-1. Appointment.

The Village Board is hereby authorized to appoint and employ a Codes Enforcement Officer. Such Codes Enforcement Officer may be employed on a full- or part-time basis, and the compensation of the Codes Enforcement Officer shall from time to time be determined by the Village Board. When relying upon the contracted-for services of an individual, partnership, business corporation or similar firm for the principal part of an administration and enforcement program, hereunder the Village Board shall satisfy itself that any such provider has qualifications comparable to those of an individual who has satisfied the requirements of Part 434 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

§ 8A-2. Powers and duties.

- A. Except as otherwise specifically provided by law, ordinance or regulation or except as otherwise provided in this Code, the Codes Enforcement Officer shall administer and enforce all of the provisions of the New York State Uniform Fire Prevention and Building Code,¹ and any other law, ordinance, rule and regulation applicable to building construction, alteration, repair, removal and demolition of buildings and structures and the installation of materials and equipment therein and the location, use, occupancy and maintenance thereof.
- B. The Codes Enforcement Officer shall act as Zoning Enforcement Officer, Fire Marshal and Building Inspector and shall possess all of the powers authorized to these officers by virtue of the Code of the Village of Tully or by any other law, ordinance, rule or regulation pertaining to the Village of Tully.

1. Editor's Note: See Ch. 56, Fire Prevention and Building Construction.



Chapter 9

CREDIT CARD POLICY

§ 9-1. Purpose.

§ 9-3. Procedure.

§ 9-2. Policy.

Credit Cardholder Agreement

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 6-4-2008. Amendments noted where applicable.]

GENERAL REFERENCES

Procurement policy — See Ch. 21.

§ 9-1. Purpose.

The purpose of this policy is to establish a convenient, efficient and cost-effective method of purchasing goods and services when vendors will not accept purchase orders.

§ 9-2. Policy.

The Village of Tully will provide a credit card to the Mayor and to the DPW to be used for purchases of goods and services when vendors will not accept purchase orders, or when attending conferences, workshops or courses if purchase orders are not accepted.

§ 9-3. Procedure.

- A. The Village of Tully will obtain two credit cards from the financial banking institute in which it has established its account.
- B. Mayor's credit card.
 - (1) One credit card will be issued in the name of the Mayor. A credit limit of \$2,000 shall be established.
 - (2) The Mayor may use the card to subscribe to goods, software, and other materials that require prepayment through the Internet.
 - (3) The Mayor may use the card to pay for lodging, business meals, fuel, airline tickets, car rentals, and any other goods and services that cannot be obtained by purchase order.
 - (4) Employees may request the use of the Mayor's credit card through the Mayor.
 - (5) Employees and Board members may use the Mayor's card when attending conferences, workshops or courses if purchase orders are not accepted.

- C. DPW credit card. A second card will be issued to the Department of Public Works with a credit limit of \$5,000 and with a maximum spending limit of \$5,000 per day. The card may be used for DPW purchases that cannot be done with vouchers. As per standard procedures, all except emergency purchases must be preapproved.
- D. General.
- (1) Employees and Trustees will be required to sign out the card as per the format shown below.¹
 - (2) Credit cards will be blocked for cash advances, casinos, and drinking establishments.
 - (3) The cardholder is responsible for the security of his purchases. The cardholder shall return the card and provide itemized receipts for each purchase to the Village Clerk upon returning to his place of work. The receipts will indicate the reason and nature of purchase. All receipts and expenditures will be reconciled with the monthly statements and audited by the Village Board of Trustees.
 - (4) If the cardholder cannot produce a receipt, he shall be responsible for reimbursement to the Village.
 - (5) No personal purchases may be made with the card. All purchases not expressly authorized in the budget must be Board approved.
 - (6) No expenditures for entertainment or nonbusiness purposes shall be made.
 - (7) In the event of willful or negligent default of the obligations of the cardholder, the Mayor of Tully shall take such recovery action as deemed appropriate by law.
 - (8) The Mayor shall return his card upon request from the Board of Trustees or upon termination of his term of office. The DPW card shall be returned upon request from the Board of Trustees.
 - (9) When cards are not in use, they shall be in the custody of the Village Clerk's office.

1. Editor's Note: The Credit Cardholder Agreement is included at the end of this chapter.

CREDIT CARD POLICY

9 Attachment 1

Village of Tully

Credit Cardholder Agreement

Requirements for use of a Municipal Credit Card:

1. The credit card is to be used only to make purchases at the request of and for the legitimate business benefit of the Village of Tully.
2. The credit card must be used in accordance with the provisions of the Credit Card Policy established by the Village of Tully, as attached hereto.

Violations of these requirements may result in revocation of use privileges. Employees found to have inappropriately used the credit card will be required to reimburse the Village of Tully for all costs associated with such improper use through direct payment or payroll deduction. Disciplinary action(s) may be taken per the Village's Personnel Policies, up to and including termination. The Village of Tully will investigate and commence, in appropriate cases, criminal prosecution against any employee found to have misused the credit card or who violates the provisions of the cardholder agreement.

Credit Card Account Number: _____

Received by: _____
Name (Please Print)

I acknowledge receipt of the attached Credit Card Policy and agree to abide by said Policy.

Signature: _____

Date: _____

(Below, for Village Clerk's Office Use Only)

Credit Card Returned

Authorized Signature: _____

Date: _____



Chapter 11

DEFENSE AND INDEMNIFICATION

- | | |
|---------------------------------------|--|
| § 11-1. Purpose. | § 11-5. Conditions for defense or indemnification. |
| § 11-2. Definitions. | § 11-6. Applicability; construal. |
| § 11-3. Defense of employees. | |
| § 11-4. Indemnification of employees. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 1-14-1982 as L.L. No. 2-1982. Section 11-5 amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics — See Ch. 14.

§ 11-1. Purpose.

The purpose of this chapter is to provide legal and financial protection for those individuals serving the Village of Tully from losses which may be brought against them in their individual capacity for actions taken while in the performance of their official duties and responsibilities. In enacting this chapter, the Village Board of the Village of Tully finds that the State of New York has enacted similar provisions for the legal and financial security of its officers and employees and further finds that such security is also required for local personnel. By the enactment of this chapter, the Village Board does not intend to limit or otherwise abrogate any existing right or responsibility of the village or its employees with regard to indemnification or legal defense. It is solely the intent of this chapter to provide similar coverage for local employees as is presently provided for state employees, so as to continue to attract qualified individuals to local government service.

§ 11-2. 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 Tully, whether or not compensated, or a volunteer expressly authorized to participate in a municipally sponsored volunteer program, but shall not include an independent contractor. The term "employee" shall include a former "employee," his estate or judicially appointed personal representative.

§ 11-3. Defense of employees.

- A. Upon compliance by the employee with the provisions of § 11-5 of this chapter, the village shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred

or which is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties, or which is brought to enforce a provision of Section 1981 or 1983 of Title 42 of the United States Code. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the Village of Tully.

- B. Subject to the conditions set forth in Subsection A of this action, the employee shall be entitled to be represented by the Attorney for the village; provided, however, that the employee shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the Attorney for the village determines, based upon his investigation and review of the facts and circumstances of the case, that representation by the Attorney for the village would be inappropriate, or whenever a court of competent jurisdiction, upon appropriate motion or by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of his choice. The Attorney for the village shall notify the employee in writing of such determination that the employee is entitled to be represented by private counsel of his choice. The Attorney for the village may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. If the employee or group of employees is entitled to representation by private counsel under the provisions of this section, the Attorney for the village shall so certify to the Village Board. Reasonable attorney's fees and litigation expenses shall be paid by the village to such private counsel from time to time during the pendency of the civil action or proceeding, subject to certification that the employee is entitled to representation under the terms of this section by the head of the department, commission, division, office or agency in which such employee is employed and upon an audit and warrant of the Village Mayor. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorney's fees shall be resolved by the court upon motion or by way of a special proceeding.
- C. Where the employee delivers process and a request for a defense to the Attorney for the village as required by § 11-5 of this chapter, the Attorney shall take the necessary steps, including the retention of private counsel under the terms and conditions provided in Subsection B of this section, on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

§ 11-4. Indemnification of employees.

- A. 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, provided that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of his public employment or duty. The duty to indemnify and save harmless prescribed by this subsection shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.
- B. An employee represented by private counsel shall cause to be submitted to the Village Board any proposed settlement which may be subject to indemnification by the village,

and if not inconsistent with the provisions of this section, the Village Board shall certify such settlement and submit such settlement and certification to the Attorney for the village. The Attorney shall review such proposed settlement as to form and amount and shall give his approval if in his judgment the settlement is in the best interest of the village. Any compromise or settlement shall be presented and prosecuted pursuant to the terms of § 4-412 of the Village Law to the extent that they are applicable. Nothing in this subsection shall be construed to authorize the village to indemnify or save harmless an employee with respect to a settlement not so reviewed and approved pursuant to the provisions of this section.

- C. Upon entry of a final judgment against the employee or upon the settlement of a claim, the employee shall cause to be served a copy of such judgment or settlement personally or by certified or registered mail, within 30 days of the date of entry or settlement, upon the Mayor; and if not inconsistent with the provisions of this section, such judgment or settlement shall be certified for payment by such Mayor. If the Attorney concurs in the certification, the judgment or settlement shall be paid upon audit by the Village Treasurer.

§ 11-5. Conditions for defense or indemnification.¹

The duty to defend or indemnify and save harmless provided by this chapter shall be conditioned upon delivery to the Attorney for the village or his assistant, at his office, by an employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within 10 days after he is served with such document, and upon 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 state based upon the same act or omission and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the village provide for his defense pursuant to this chapter.

§ 11-6. Applicability; construal.

- A. 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, nor shall any provision of this chapter be construed to affect, alter or repeal any provision of the Workers' Compensation Law.
- B. 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.
- C. The provisions of this chapter shall apply to all actions and proceedings pending upon the effective date of this chapter or thereafter instituted.
- 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 unit, entity, officer or employee of the village or any right to defense and/or indemnification provided for any governmental

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

officer or employee by, in accordance with or by reason of any other provision of state or federal statutory or common law.

Chapter 14

ETHICS, CODE OF

§ 14-1. Purpose.

§ 14-2. Definitions.

§ 14-3. Standards of conduct.

§ 14-4. Effect on filing of claims.

§ 14-5. Filing and distribution of copies.

§ 14-6. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 10-5-1970 by resolution. Sections 14-2, 14-3A and 14-5 amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 11.

§ 14-1. Purpose.

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

§ 14-2. Definitions.

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

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

MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the Village of Tully, 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 Fire Chief or Assistant Fire Chief.¹

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

§ 14-3. Standards of conduct.

Every officer or employee of the Village of Tully 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 \$75 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his part.²
- 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 Village Board and any officer or employee of the Village of Tully, whether paid or unpaid, who participates in the discussion or gives official opinion to the Village Board on any legislation before the Village Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.
- F. Investments in conflict with official duties. He shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction which creates a conflict with his official duties.
- G. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- H. Future employment. He shall not, after the termination of service, disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.

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

§ 14-4. Effect on filing of claims.

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 Tully 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.

§ 14-5. Filing and distribution of copies.³

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

§ 14-6. Penalties for offenses.

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

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



Chapter 16

INTERNET AND COMMUNICATIONS SYSTEMS USAGE AND PRIVACY POLICIES

- | | |
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| § 16-1. Title. | § 16-5. Inspection and monitoring. |
| § 16-2. Legislative intent and purpose. | § 16-6. General policies. |
| § 16-3. Statutory authority; applicability. | § 16-7. Internet policy. |
| § 16-4. Definitions. | § 16-8. Village website privacy policy. |
| | § 16-9. Severability. |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 4-6-2011 by L.L. No. 1-2011.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Notification of information security breaches — See Ch.
19.

§ 16-1. Title.

This chapter shall be known as "Internet and Communications Systems Usage and Privacy Policies."

§ 16-2. Legislative intent and purpose.

These policies set forth the Village's policies regarding the use of its computers, computer networks, electronic mail (e-mail) systems, telephone systems (including voicemail) and other electronic communication systems, and its privacy practices regarding information collected from users of its network system and website, including the information collected and how same is used.

§ 16-3. Statutory authority; applicability.

- A. These policies are consistent with the provisions of State Technology Law § 208, the Internet Security and Privacy Act, the Freedom of Information Law,² and the Personal Privacy Protection Law.³

1. Editor's Note: Former Ch. 16, Fire Department, Art. I, Driver's License Required for Certain Positions, adopted 10-3-1989, was repealed 7-2-2008 by L.L. No. 5-2008.

2. Editor's Note: See Art. 6 of the Public Officers Law.

3. Editor's Note: See Art. 6A of the Public Officers Law.

- B. These policies shall apply to all Village officers and employees and to all the Village computers, the Village website, computer networks, e-mail systems, telephone systems and other electronic communication systems.

§ 16-4. Definitions.

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

EMPLOYEE(S) — Village of Tully employees and public officers.

PERSONAL INFORMATION — Any information concerning a natural person, as opposed to a corporate entity, which, because of name, number, symbol, mark, or other identifier, can be used to identify that natural person. The Village will only collect personal information about you when you provide that information voluntarily by sending an e-mail or by initiating an online transaction, such as a survey, registration or order form.

§ 16-5. Inspection and monitoring.

The Village reserves the right to inspect, examine and monitor the use of its computers, computer networks, e-mail systems, telephone systems (including voicemail), and all other electronic communications systems at any time and without notice.

§ 16-6. General policies.

- A. Voicemail, e-mail, computers, computer networks, computer files, software programs, all communications created on, received by, stored on or transmitted through those systems are the sole and exclusive property of the Village. Records, data, files, software, and all electronic communications contained in these systems are likewise the property of the Village. These systems and their contents are subject to inspection, examination and/or monitoring by authorized Village personnel (or authorized third-party contractors) at any time and without notice. The authorized personnel are your respective supervisor or department head, the Village Mayor and Deputy Mayor (or their designee) and/or the Village Clerk-Treasurer.
- B. These systems and equipment should not be used for personal reasons and should remain on Village property at all times unless specific authorization is given to do so.
- C. Examples of reasons for which the Village may access employee voicemail, e-mail, computer files, computer networks or other Village property include, but are not necessarily limited to:
- (1) Instances when an employee is unavailable, but the Village must access a system to operate its business.
 - (2) Instances when the Village management suspects that its property is being used in an unauthorized or illegal manner.
 - (3) For quality control purposes or for training activities.
 - (4) To monitor job performance.

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- (5) For any other appropriate business purpose.
- D. Village employees are advised to use voicemail and e-mail as cautiously as they would use any other type of communication medium such as a memorandum or letter. Employees must realize, for example, those electronic messages:
 - (1) May be copied, saved and read by the Village or other third parties.
 - (2) May be retrieved even after having been deleted.
 - (3) May be accessed by authorized Village personnel for business purposes.
- E. Employees are advised that the computers, computer networks, e-mail systems, telephone systems (including voicemail), and other electronic communication systems (and all communications created on, received by, stored on or transmitted through those systems) are the sole and exclusive property of the Village. Accordingly, employees should have no expectation of privacy regarding any such communications.
- F. Passwords are only intended to prevent unauthorized access to e-mail, computer files or voicemail. The Village reserves the right to allow authorized Village personnel to access messages and files on the Village's systems at any time. All employees must supply their current passwords to the Village Clerk-Treasurer.
- G. Voicemail and e-mail should be deleted if not needed.
- H. Communications created, received, stored on or transmitted through the Village's electronic communications systems may not contain content that could be reasonably considered offensive or disruptive to any employee. Offensive content would include, but is not limited to, sexual comments or images, racial slurs, gender-specific comments or any comments that would offend someone on the basis of his or her age, sexual orientation, religious or political beliefs, national origin or disability.
- I. Department heads and supervisors are responsible for their respective subordinates' use of the Internet, e-mail, computer systems, etc. Employees who learn of any misuse of the Village's voicemail, e-mail or similar systems or other violations of this policy shall notify the Village immediately.

§ 16-7. Internet policy.

- A. The term "Internet" includes for purposes hereof the networks historically referred to as the "Internet" and "world wide web" and includes the Village network, its website, and similar means provided to certain employees for the benefit of the Village and also includes any social networking, blogging, bulletin, news or comment boards accessible therefrom. Every employee has a responsibility to maintain and enhance the Village's public image and to use the Internet in a productive manner.
- B. Acceptable uses of the Internet. Employees accessing the Internet are representing the Village. All communications should be for business reasons. Employees are responsible for seeing that the Internet is used in an effective, ethical and lawful manner.
- C. Unacceptable uses of the Internet. The Internet must not be used for personal reasons. Solicitation of non-Village business or any use of the Internet for personal gain is

- strictly prohibited. Accessing social networks, blogs, bulletin, news or comment boards, or similar means is likewise strictly prohibited including comment relating to Village business. Use of the Internet must not disrupt the operation of the Village network or the networks of other users.
- D. Communications. Each employee is responsible for the content of all text, audio or images that he/she places or sends over the Internet. Fraudulent, harassing or obscene messages are prohibited. All messages communicated on the Internet must have the employee's name attached. No messages will be transmitted under an assumed name. Users may not attempt to obscure the origin of any message. Information published on the Internet should not violate or infringe upon the rights of others. No abusive, profane or offensive language is to be transmitted through the system.
- E. Authorized software. All software installed on the Village's computers must be authorized software. Authorized software is that software purchased by and licensed to the Village. Confirmation of whether certain software is authorized can be obtained from the Village Clerk-Treasurer. Employees are not permitted to load any unauthorized software. The only media (CD, DVD, zip disk, memory card, etc.) that are authorized for use are those which were purchased and provided by the Village. An employee in conjunction with any Village computer may use no unauthorized media. To prevent computer viruses from being transmitted through the system, there will be no unauthorized downloading of any software or the utilization of unauthorized media. All software downloads must be first approved by and implemented through the Village Clerk-Treasurer.
- F. Copyright issues. Copyrighted materials belonging to entities other than the Village may not be downloaded or transmitted by employees on the Internet. Users are not permitted to copy, transfer, rename, add or delete information or programs belonging to other users unless given express permission to do so by the owner. Failure to observe copyright or license agreements may result in disciplinary action from the Village or legal action by the copyright owner.
- G. Security. All messages created, sent or retrieved over the Internet are the property of the Village and should be considered public information. The Village reserves the right to access and monitor all messages and files on the computer system as deemed necessary and appropriate. Internet messages are public communications and are not private. All communications, including text and images, can be disclosed to law enforcement or other third parties without prior consent of the sender or the receiver.
- H. Programs and databases. Employees are not permitted to make programming changes to any software programs. Only authorized individuals whose primary responsibility it is to administer or maintain particular aspects of the Village's business are permitted to make changes to the databases for which they have responsibility.
- I. Violations. Violations of this policy may result in disciplinary action up to and including termination. If necessary, the Village will advise appropriate legal officials of any illegal activity.
- J. Notification. For purposes hereof, notification to the Village shall mean notification in writing to the employee's immediate supervisor or department head and to the Village Mayor or Deputy Mayor, with a copy to the Village Clerk-Treasurer. If a particular

employee is concerned with notification relative to a supervisor/department head or fellow employee's acts, same may be given anonymously in writing and delivered in an envelope marked "Personal-Confidential" to the Village Mayor or Deputy Mayor.

§ 16-8. Village website privacy policy.

- A. Information collected automatically when visiting Village website.
- (1) When visiting the Village website, the Village may automatically collect and store the following information about your visit:
 - (a) The Internet protocol address and domain name used, but not the e-mail address. The Internet protocol address is a numerical identifier assigned either to your Internet service provider or directly to your computer;
 - (b) The type of browser and operating system you used;
 - (c) The date and time you visited this site;
 - (d) The web pages or services you accessed at this site;
 - (e) The website you visited prior to coming to this website;
 - (f) The website you visit as you leave this website; and
 - (g) If you downloaded a form, the form that was downloaded. None of the foregoing information is deemed to constitute personal information.
 - (2) This information that is collected automatically is used to improve this website's content and to help the Village understand how users are interacting with the website. This information is collected for statistical analysis, to determine what information is of most and least interest to our users, and to improve the utility of the material available on the website. The information is not collected for commercial marketing purposes and the Village is not authorized to sell or otherwise disclose the information collected from the website for commercial marketing purposes.
- B. Cookies. Cookies are simple text files stored on your web browser to provide a means of distinguishing among users of this website. The use of cookies is a standard practice among Internet websites. To better serve you, we may use "session cookies" to enhance or customize your visit to this website. Session cookies can be created automatically on the device you use to access this website. These session cookies do not contain personal information and do not compromise your privacy or security. We may use the cookie feature to store a randomly generated identifying tag on the device you use to access this website. A session cookie is erased during operation of your browser or when your browser is closed. The software and hardware you use to access the website allows you to refuse new cookies or delete existing cookies. Refusing or deleting these cookies may limit your ability to take advantage of some features of this website.
- C. Information collected automatically when e-mail or initiating an online transaction through Village website.

- (1) During your visit to this website you may send an e-mail to the Village. Your e-mail address and the contents of your message will be collected. The information collected is not limited to text characters and may include audio, video, and graphic information formats included in the message. Your e-mail address and the information included in your message will be used to respond to you, to address issues you identify, to improve this website, or to forward your message to another government agency for appropriate action. Your e-mail address is not collected for commercial purposes and the Village is not authorized to sell or otherwise disclose your e-mail address for commercial purposes.
 - (2) During your visit to this website you may initiate a transaction such as a survey, registration, or order form. The information, including personal information, volunteered by you in initiating the transaction is used by the Village to operate Village programs, which include the provision of goods, services, and information. The information collected by the Village may be disclosed by the Village for those purposes that may be reasonably ascertained from the nature and terms of the transaction in connection with which the information was submitted.
 - (3) The Village does not knowingly collect personal information from children or create profiles of children through this website. Users are cautioned, however, that the collection of personal information submitted in an e-mail or through an online transaction will be treated as though it was submitted by an adult, and may, unless exempted from access by federal or state law, be subject to public access. The Village strongly encourages parents and teachers to be involved in children's Internet activities and to provide guidance whenever children are asked to provide personal information online.
- D. Information and choice. As noted above, the Village does not collect any personal information about you during your visit to this website unless you provide that information voluntarily by sending an e-mail or initiating an online transaction such as a survey, registration, or order form. You may choose not to send us an e-mail, respond to a survey, or complete an order form. While your choice not to participate in these activities may limit your ability to receive specific services or products through this website, it will not prevent you from requesting services or products from the Village by other means and will not normally have an impact on your ability to take advantage of other features of the website, including browsing or downloading most publicly available information.
- E. Disclosure of information collected.
- (1) The collection of information through this website and the disclosure of that information are subject to the provisions of the Internet Security and Privacy Act. The Village will only collect personal information through this website or disclose personal information collected through this website if the user has consented to the collection or disclosure of such personal information. Participation in an online transaction resulting in the disclosure of personal information to the Village by the user, whether solicited or unsolicited, constitutes consent to the collection and disclosure of such information by the Village for the purposes reasonably ascertainable from the nature and terms of the transaction.

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- (2) The foregoing notwithstanding, the Village may collect or disclose personal information without user consent if the collection or disclosure is:
 - (a) Necessary to perform the statutory duties of the Village, or necessary for the Village to operate a program authorized by law, or authorized by state or federal statute or regulation;
 - (b) Made pursuant to a court order or by law;
 - (c) For the purpose of validating the identity of the user; or
 - (d) Of information to be used solely for statistical purposes that is in a form that cannot be used to identify any particular person.
 - (3) Further, the disclosure of information, including personal information, collected through the Village website is subject to the provisions of the Freedom of Information Law and the Personal Privacy Protection Law.
 - (4) The Village may disclose personal information to federal or state law enforcement authorities to enforce the Village's rights against unauthorized access or attempted unauthorized access to the Village's information technology assets or against other inappropriate use of this website.
- F. Retention of information collected. In general, the Internet services logs of the Village's web site, comprising electronic files or automated logs created to monitor access and use of Village services provided through this website, are retained for 90 days and then destroyed. Information, including personal information, that you submit in an e-mail or when you initiate an online transaction such as a survey, registration form, or order form is retained in accordance with the records retention and disposition schedule established for the records of the program unit to which you submitted the information. Information concerning these records retention and disposition schedules may be obtained through the Internet privacy policy contact listed in this policy.
- G. Access to and correction of personal information collected.
- (1) Any user may submit a request to the Village privacy compliance officer to determine whether personal information pertaining to that user has been collected through this website. Any such request shall be made in writing to the address below and must be accompanied by reasonable proof of identity of the user. Reasonable proof of identity may include verification of a signature, inclusion of an identifier generally known only to the user, or similar appropriate identification. The address of the privacy compliance officer is:

Village of Tully
Attn: Privacy Compliance Officer
5823 Meetinghouse Road
Tully, New York 13159
 - (2) The privacy compliance officer shall, within five business days of the date of the receipt of a proper request, provide access to the personal information; deny access in writing, explaining the reasons therefor, or acknowledge the receipt of the request in writing, stating the approximate date when the request will be

granted or denied, which date shall not be more than 30 days from the date of the acknowledgment.

- (3) In the event that the Village has collected personal information pertaining to a user through the Village's website and that information is to be provided to the user pursuant to the user's request, the privacy compliance officer shall inform the user of his or her right to request that the personal information be amended or corrected under the procedures set forth in § 95 of the Public Officers Law.

H. Confidentiality and integrity of information collected.

- (1) The Village is strongly committed to protecting personal information collected through this website against unauthorized access, use, or disclosure. Consequently, the Village limits employee access to personal information collected through this website to only those employees who need access to the information in the performance of their official duties. Employees who have access to this information are required to follow appropriate procedures in connection with any disclosures of personal information.
- (2) In addition, the Village has implemented procedures to safeguard the integrity of its information technology assets, including, but not limited to, authentication and monitoring. These security procedures have been integrated into the design, implementation, and day-to-day operations of this website as part of our continuing commitment to the security of electronic content as well as the electronic transmission of information.
- (3) For website security purposes and to maintain the availability of the website for all users, the Village employs software to monitor traffic to identify unauthorized attempts to upload or change information or otherwise damage this website.

I. Disclaimer. The information provided in this privacy policy should not be construed as giving business, legal, or other advice, or warranting as fail-proof, the security of information provided through this website.

J. Links. In order to provide users with certain information, the Village may provide links to the websites of local, state, and federal government agencies, and to the websites of other organizations. A link does not constitute an endorsement of the content, viewpoint, accuracy, opinions, policies, products, services, or accessibility of that website. Once you link to another website from this website, you are subject to the terms and conditions of that website, including, but not limited to, its Internet privacy policy.

K. Contact Information. For questions regarding this policy, please contact:

Village of Tully
5823 Meetinghouse Rd.
Tully, New York 13159

§ 16-9. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this chapter or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstances is adjudged invalid or unconstitutional by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances. Further, in adjudging such invalid provision, the court shall attempt to modify same to a provision which is not invalid or unconstitutional and which best achieves the intent of the invalid provision.



Chapter 18

INVESTMENT AND DEPOSIT POLICY AND PROCEDURES

§ 18-1. Objective.

§ 18-5. Collateral; insurance coverage.

§ 18-2. Authorization to invest; eligible investments.

§ 18-6. Purchased obligations; possession of securities.

§ 18-3. Deposits.

§ 18-7. Audit and control.

§ 18-4. Operating procedures.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 1-5-1993. Amendments noted where applicable.]

§ 18-1. Objective.

The objectives of this investment and deposit policy and procedures are three-fold:

- A. Investments and bank deposits (hereafter collectively referred to as "investments") shall be made in a manner so as to safeguard the funds of the village.
- B. Investments shall be sufficiently liquid so as to allow funds to be available as needed to meet the obligations of the village.
- C. Funds shall be invested in such a way as to earn the maximum yield possible given the first two investment objectives.

§ 18-2. Authorization to invest; eligible investments.

- A. The authority to deposit and invest funds is delegated to the Village Treasurer pursuant to and in accordance with the applicable sections of the Village Law and the General Municipal Law of the State of New York.
- B. The Village Treasurer may invest funds in the following eligible investments:
 - (1) Obligations of the State of New York.
 - (2) Obligations of the United States government or any obligation for which principal and interest are fully guaranteed by the United States government.
 - (3) Time deposit accounts placed in a commercial bank authorized to do business in the State of New York, provided that the account is collateralized as described within this policy.
 - (4) Transaction accounts (demand deposits), both interest-bearing and non-interest-bearing, that do not require notice of withdrawal, placed in a commercial bank authorized to do business in the State of New York, provided that the account is collateralized as described within this policy.

- (5) Certificates of deposit in a commercial bank authorized to do business in the State of New York, provided that the certificates are collateralized as described within this policy.
- (6) Securities purchased pursuant to a repurchase agreement whereby one party purchases securities from a second party and the second party agrees to repurchase those same securities on a specific future date at an agreed-upon rate of return (interest rate).

§ 18-3. Deposits.

- A. The Village Board of Trustees, upon the recommendation of the Village Treasurer, shall annually designate authorized depositories for funds of the village. These depositories shall only be commercial banks authorized to conduct business in the State of New York. Each authorized depository shall execute a security agreement which will provide that collateral is being pledged by the bank as security for the village's deposits. Each authorized custodial bank or trust company shall execute a custodial agreement. This agreement must acknowledge that the pledged collateral is being held by the custodian bank or trust company as agent of and custodian for the village. The depository and custodian may be the same bank or trust company.
- B. Terms and conditions (options).
 - (1) Certificates of deposit. Investments in certificates of deposit shall be collateralized as described in the executed security/custodial agreement. The Village Treasurer shall take possession of the actual certificate and maintain it in a safekeeping area.
 - (a) Minimum term: seven days.
 - (b) Maximum term: 180 days.
 - (2) Repurchase agreements. Repurchase agreements shall be as follows:
 - (a) Minimum term: overnight.
 - (b) Maximum term: 15 days.
 - (c) Underlying securities:
 - [1] Maturity cannot exceed one year.
 - [2] Must be a direct United States obligation.

§ 18-4. Operating procedures.

- A. The Village Treasurer is responsible for the investment of the village's funds and will make investments based upon projections of cash flow needs so that investments shall mature at such time when funds are estimated to be needed for the orderly payment of the village's obligations. The Village Treasurer shall annually receive and review the financial statements of all institutions with which the village is depositing funds or entering into investment transactions.

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- B. Investments should be based upon competitive bids solicited by telephone by the Village Treasurer and shall be awarded to the highest bidder who is able to pledge according to this policy.
- C. Funds will only be transferred between institutions in the name of the village by using the Federal Reserve Wire Transfer (Fed Wire) system or by check and only by the Village Treasurer or his/her designee. Funds may be transferred within the same institution only between accounts and as authorized by the Village Treasurer.
- D. All investments shall be in the name of the village. The Village Treasurer will maintain an investment log detailing the specific information relative to each investment. All investment transactions will be promptly entered into the accounting system.
- E. Comparisons of the existing investments to those recorded in the accounting system will be performed routinely.

§ 18-5. Collateral; insurance coverage.

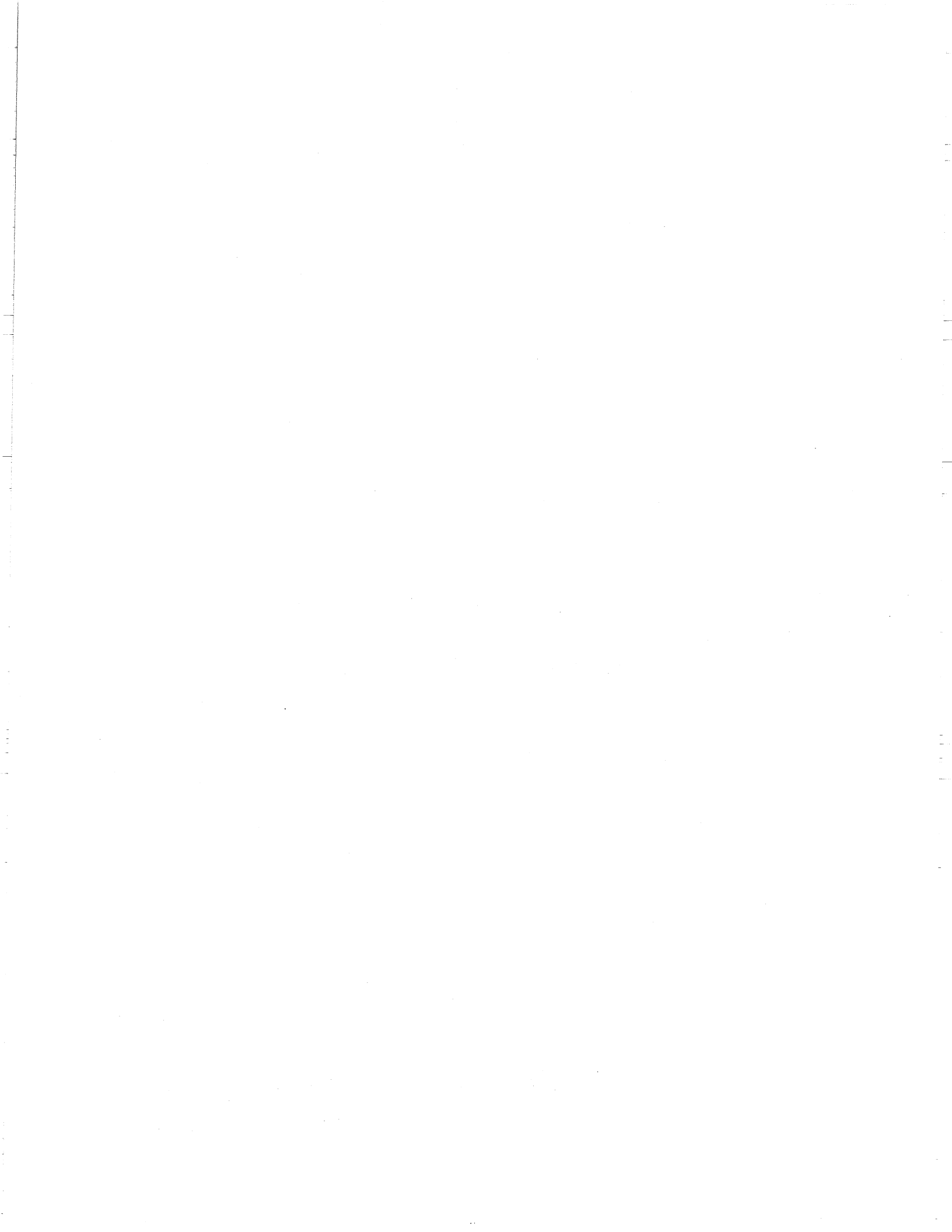
- A. All investments of the village, except repurchase agreements and direct purchases of obligations of the federal government, shall be secured (collateralized) by the pledging of eligible securities. All such investments shall first be secured by Federal Deposit Insurance Corporation (FDIC) insurance coverage to the extent available. Collateral required in excess of FDIC insurance coverage shall be pledged in accordance with Chapter 708, Laws of 1992, and the executed security/custodial agreement. The agreement should be approved by the New York State Office of the Comptroller.
- B. Federal Deposit Insurance Corporation (FDIC). Coverage is as follows:
 - (1) Transaction accounts: \$100,000.
 - (2) Time deposits: \$100,000.

§ 18-6. Purchased obligations; possession of securities.

When obligations of the United States of America or obligations guaranteed by the United States of America are purchased directly by the village, the village, as owner, shall be inscribed on the securities and they shall be delivered to the village or its designated depository for safekeeping. If in book entry form, such securities shall be registered in the name of the village.

§ 18-7. Audit and control.

- A. The Village Board of Trustees shall annually review the investment policies and procedures as stated herein and as used by the Village Treasurer to be certain they are in conformance with all applicable laws and regulations.
- B. The investments and deposits of the village will be made in accordance with the specifics as outlined in the above policy.



Chapter 19

NOTIFICATION OF INFORMATION SECURITY BREACHES

- | | |
|---|---|
| § 19-1. Authority; purpose. | § 19-8. Notification to Attorney General and Consumer Protection Board. |
| § 19-2. Notification required in certain circumstances. | § 19-9. Contents of notice. |
| § 19-3. Compromise of information defined. | § 19-10. Applicability to third-party information. |
| § 19-4. Compromise of encrypted data. | § 19-11. Notification to consumer reporting agencies. |
| § 19-5. Delay of notification. | § 19-12. Definitions. |
| § 19-6. Notification methods. | |
| § 19-7. Notification to CSCIC. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 4-6-2006. Amendments noted where applicable.]

§ 19-1. Authority; purpose.

This policy is consistent with State Technology Law § 208 as added by Chapters 442 and 491 of the Laws of 2005. This policy requires notification to affected New York residents and nonresidents. New York State values the protection of private information of individuals. The Village of Tully is required to notify an individual when there has been or is reasonably believed to have been a compromise of the individual's private information in compliance with the Information Security Breach and Notification Act and this policy.

§ 19-2. Notification required in certain circumstances.

The municipality, after consulting with the State's Office of Cyber Security and Critical Infrastructure Coordination (CSCIC) to determine the scope of the breach and restoration measures, must notify an individual when it has been determined that there has been, or is reasonably believed to have been, a compromise of the individual's private information through unauthorized disclosure.

§ 19-3. Compromise of information defined.

A compromise of private information means the unauthorized acquisition of unencrypted computerized data with private information.

§ 19-4. Compromise of encrypted data.

If encrypted data is compromised along with the corresponding encryption key, the data is considered unencrypted and thus falls under the notification requirements.

§ 19-5. Delay of notification.

Notification may be delayed if a law enforcement agency determines that the notification impedes a criminal investigation. In such case, notification will be delayed only as long as needed to determine that notification no longer compromises any investigation.

§ 19-6. Notification methods.

The municipality will notify the affected individual directly by one of the following methods:

- A. Written notice:
- B. Electronic notice, provided that the person to whom notice is required has expressly consented to receiving notice in electronic form and a log of each notification is kept by the municipality that notifies affected persons in such form:
- C. Telephone notification, provided that a log of each notification is kept by the municipality that notifies affected persons; or
- D. Substitute notice, if the municipality demonstrates to the State Attorney General that the cost of providing notice would exceed \$250,000, that the affected class of persons to be notified exceeds \$500,000, or that the municipality does not have sufficient contact information. The following constitute sufficient substitute notice:
 - (1) E-mail notice when the municipality has an e-mail address for the subject persons;
 - (2) Conspicuous posting of the notice on the municipality's web site page, if the municipality maintains one; and
 - (3) Notification to major statewide media.

§ 19-7. Notification to CSCIC.

The municipality must notify CSCIC as to the timing, content and distribution of the notices and approximate number of affected persons.

§ 19-8. Notification to Attorney General and Consumer Protection Board.

The municipality must notify the Attorney General and the Consumer Protection Board, whenever notification to a New York resident is necessary, as to the timing, content and distribution of the notices and approximate number of affected persons.

§ 19-9. Contents of notice.

Regardless of the method by which notice is provided, the notice must include contact information for the municipality making the notification and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are reasonably believed to have been, so acquired.

§ 19-10. Applicability to third-party information.

This policy also applies to information maintained on behalf of the municipality by a third party.

§ 19-11. Notification to consumer reporting agencies.

When more than 5,000 New York residents must be notified at one time, then the municipality must notify the consumer reporting agencies as to the timing, content and distribution of the notices and the approximate number of affected individuals. This notice, however, will be made without delaying notice to the individuals.

§ 19-12. Definitions.

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

CONSUMER REPORTING AGENCY — Any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. The State Attorney General is responsible for compiling a list of consumer reporting agencies and furnishing the list upon request to the municipality.

DATA — Any information created, stored (in temporary or permanent form), filed, produced or reproduced, regardless of the form or media. Data may include, but is not limited to, personally identifying information, reports, files, folders, memoranda, statements, examinations, transcripts, images, communications, electronic or hard copy.

INFORMATION — The representation of facts, concepts, or instructions in a formalized manner suitable for communication, interpretation, or processing by human or automated means.

PERSONAL INFORMATION — Any information concerning a natural person, which, because of name, number, personal mark or other identifier, can be used to identify such natural person.

PRIVATE INFORMATION —

- A. Personal information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted or encrypted with an encryption key that has also been acquired:
- (1) Social security number; or
 - (2) Driver's license number or non-driver identification card number; or
 - (3) Account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account.

- B. Private information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

THIRD PARTY — Any nonmunicipal employee such as a contractor, vendor, consultant, intern, other municipality, etc.

Chapter 20

PLANNING BOARD

§ 20-1. Powers and duties.

§ 20-2. Exercise of powers.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 8-25-1976 by resolution. Section 20-1 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 95.

§ 20-1. Powers and duties.¹

Pursuant to § 7-728 of the Village Law, the Board of Trustees hereby empowers the Planning Board to approve plats showing lots, blocks or sites, with or without streets or highways, and to approve the development of entirely or partially undeveloped plats already filed in the Clerk's office of the County of Onondaga and to conditionally approve preliminary plats within the Village of Tully.

§ 20-2. Exercise of powers.

The Planning Board shall exercise such powers in accordance with the standards and procedures set forth in the Subdivision Regulations of the Village of Tully adopted simultaneously herewith.²

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

2. Editor's Note: See Ch. 95, Subdivision of Land.



Chapter 21

PROCUREMENT POLICY

§ 21-1. Procedures.

§ 21-2. Use of best value procurement standard.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 3-2-2011. Amendments noted where applicable.]

§ 21-1. Procedures.

- A. Guideline 1. Every prospective purchase of goods or services shall be evaluated to determine the applicability of General Municipal Law § 103. Every Village officer, board, department head or other personnel with the requisite purchasing authority (hereinafter "purchase") shall endeavor in good faith to estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvass of other Village departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.
- B. Guideline 2. All purchases of supplies or equipment which will exceed \$20,000 in the fiscal year or public works contracts over \$35,000 shall be formally bid pursuant to GML § 103.
- C. Guideline 3.
- (1) All estimated purchases of:
 - (a) Less than \$20,000 but greater than \$3,000 require standardized contract terms and specifications requiring responsive written hand-delivered, mailed/faxed or e-mailed quotes from not less than three vendors.
 - (b) Less than \$3,000 but greater than \$1,000 require an oral request for the goods and an oral/faxed, e-mailed, mailed or hand-delivered quote from not less than two vendors.
 - (c) Less than \$1,000 are left to discretion of the purchaser when included in the respective budget and/or by approval of the Village Board.
 - (2) All estimated public works contracts of:
 - (a) Less than \$35,000 but greater than \$10,000 require standardized contract terms and specifications requiring responsive written/hand-delivered, mailed, faxed or e-mailed proposals from not less than three contractors.

1. Editor's Note: The resolution adopted this date also superseded former Ch. 21, Procurement Policy, adopted 1-7-1992.

- (b) Less than \$10,000 but greater than \$3,000 require written hand delivered, mailed, fax or e-mailed.
 - (c) Less than \$3,000 are left to discretion of the purchaser when included in the respective budget and/or by approval of the Village Board.
- (3) The term "standardized contract terms and specifications" shall mean and require that uniform specifications for the work to be performed or the subject matter of the purchase shall be utilized, and that such specifications shall include sufficient detail of the work/subject matter of the purchase, as well as such other relevant and mandatory municipal contract provisions as the Village shall develop and implement by duly adopted resolution from time to time.
- (4) All information gathered in complying with the procedures of this guideline shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.
- D. Guideline 4. The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the purchaser prepares a written justification providing reasons why it is in the best interest of the Village and its taxpayers to make an award to other than the low bidder. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.
- E. Guideline 5. A good faith effort shall be made to obtain the required number of proposals or quotations. In the case of procurements requiring standardized contract terms and specifications (as above provided) such good faith effort shall require that the public works contracts/purchase be solicited from the above required number of contractors unless there are not such number of potential contractors located or able to deliver such goods or services from within an area or region outside of which, due to the reasonably estimated cost of shipping or travel, precludes a competitive pricing of such goods or services. In any event, and notwithstanding such good faith efforts, if for any reason the purchaser is unable to obtain the required number of proposals or quotations, the purchaser shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.
- F. Guideline 6. Attach a voucher with a completed claimant's certification signed and dated to the Village Board for audit and payment upon receipt of goods or services.
- G. Guideline 7. Except when otherwise directed by the Village Board (and with specific reference to GML § 103 and applicable law thereunder as to the applicability of same to a particular case), no solicitation of written proposals or quotations shall be required relative to contracts to be entered into with, or otherwise under, the following circumstances:
- (1) Acquisition of professional services;
 - (2) Emergencies;
 - (3) Sole source situations;
 - (4) Agencies for the blind or severely handicapped;

- (5) Correctional facilities;
 - (6) Another governmental agency;
 - (7) At auction;
 - (8) Under state contract;
 - (a) Under County Contract.
- H. Guideline 8. This policy shall be reviewed annually by the Village Board at its organizational meeting or as soon thereafter as is reasonably practicable.

§ 21-2. Use of best value procurement standard. [Added 4-3-2013 by L.L. No. 2-2013]

- A. Authorization to accept best value. On or after the effective date of this section, the Village of Tully may award purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of (the New York State Labor Law) on the basis of best value, as defined in the New York State Finance Law § 163, to a responsive and responsible bidder or offerer.
- B. Applicability; dollar thresholds. The provisions of this § 21-2 apply to Village purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of (the New York State Labor Law) involving an expenditure of more than \$20,000. If the dollar thresholds of New York State General Municipal Law § 103 are increased or decreased in the future by the State Legislature, the dollar thresholds set forth herein shall be deemed simultaneously amended to match the new General Municipal Law standards.
- C. Standards for best value. Purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of (the New York State Labor Law) awarded on the basis of best value are those that the Village Board determines achieve the intent of the Village Board as stated at Section One (1), Legislative Intent,² including, without limitation, to optimize quality, cost and efficiency, among responsive and responsible bidders or offerors. Where possible, the determination shall be based on an objective and quantifiable analysis of clearly described and documented criteria as they apply to the rating of bids or offers. The criteria may include, but shall not be limited to, any or all of the following: cost of maintenance, proximity to the end user if distance or response time is a significant term; durability; availability of replacement parts or maintenance contractors; longer product life; product performance criteria; and quality of craftsmanship.
- D. Documentation. Whenever any purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of (the New York State Labor Law) are awarded on the

2. Editor's Note: This refers to Section One (1) of L.L. No. 2-2013. The complete text of L.L. No. 2-2013, including said section, is on file in the Village offices.

basis of best value, the basis for determining best value shall be thoroughly and accurately documented.

- E. Procurement policy superseded where inconsistent. Any provision of the Village's procurement policy, as adopted prior to the effective date of this § 21-2 by resolution of the Village Board, or as amended thereafter, shall be deemed superseded by the provisions of this § 21-2.

Chapter 22

RECORDS RETENTION

§ 22-1. Adoption of schedule.

§ 22-2. Disposition of records.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 4-4-1989 by resolution. Amendments noted where applicable.]

GENERAL REFERENCES

Public access to records — See Ch. 83.

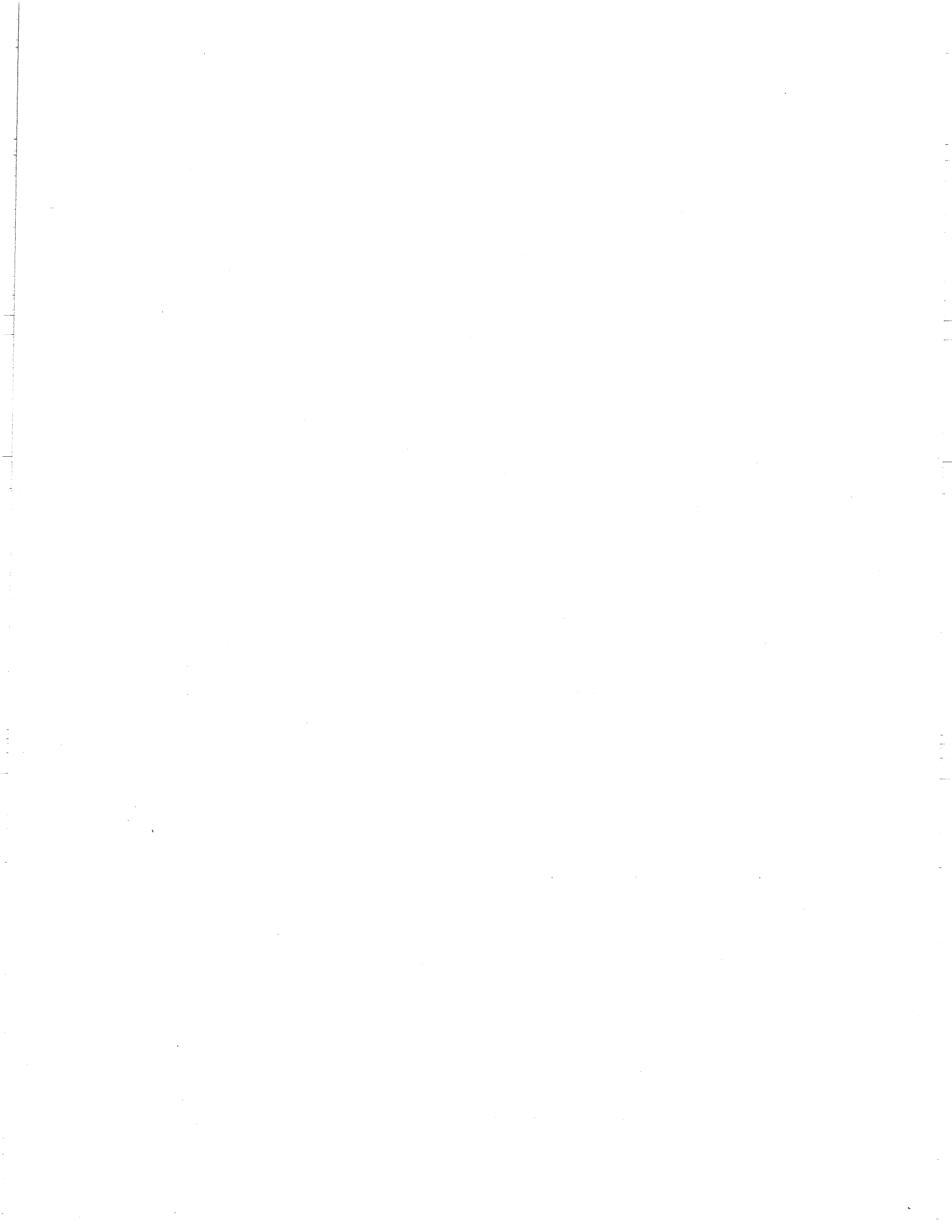
§ 22-1. Adoption of schedule.

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

§ 22-2. Disposition of records.

In accordance with Article 57-A:

- A. Only those records will be disposed of that are described in the Records Retention and Disposition Schedule MU-1 after they have met the minimum retention period prescribed therein.
- B. Only those records will be disposed of that do not have significant administrative, fiscal, legal or historical value to merit retention beyond established time periods.



Chapter 24
SEXUAL HARASSMENT

§ 24-1. Findings; prohibition.

§ 24-3. Reporting procedure.

§ 24-2. Definitions.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 9-7-1993. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and Indemnification — See Ch. 11.

Code of Ethics — See Ch. 14.

§ 24-1. Findings; prohibition.

Harassment on the job is a discriminatory practice which violates Title VII of the Civil Rights Act of 1964. It is the policy of the Village of Tully that all employees are entitled to work in an environment free from all forms of illegal discrimination, including that based upon sex. Aside from being illegal, sexual harassment undermines the integrity of individual work relations and damages the morale of the entire work force. Any practice or activity which constitutes sexual harassment is strictly forbidden within village work places.

§ 24-2. Definitions.

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

SEXUAL HARASSMENT — Does not refer to occasional compliments of a socially acceptable nature. It is defined as any unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- A. Submission to such conduct by a person is made either explicitly or implicitly a term or condition of a person's employment.
- B. Submission to, or rejection of, such conduct by a person is used as a basis for employment decisions affecting that person, including but not limited to evaluation, advancement, wages, assigned duties or shifts.
- C. Such conduct has the purpose or effect of unreasonably interfering with a person's work performance.
- D. Such conduct creates an intimidating, hostile or offensive work environment.

§ 24-3. Reporting procedure.

- A. Every effort will be made to handle complaints in confidence. All information during the procedure will only be disclosed on a need-to-know basis in order to investigate and resolve the matter. Any employee who believes that he/she has been the subject of

sexual harassment should report the alleged harassment immediately in accordance with the following procedure:

- (1) Any employee who believes that he/she has been sexually harassed should promptly file a sealed written complaint with the Mayor. The Village Clerk may accept the complaint on behalf of the Mayor. The Village Clerk shall not review the complaint but shall forward it to the Mayor as soon as possible.
 - (2) The Mayor may choose to interview the complainant and, in any event, will undertake an immediate investigation into the allegations.
 - (3) The results of the investigation shall be reported to the Village Board, which may then conduct a hearing in executive session, if warranted. The hearing shall include the investigative report of the Mayor. The accused employee shall be entitled to attend the hearing and testify and present evidence on his or her own behalf.
 - (4) The Village Board shall make a determination, based upon the results of the investigation or the evidence presented at the hearing, if applicable, whether or not the accused employee committed acts of sexual harassment. The Board shall then determine the penalty to be imposed. The determination of the Board shall be filed with the Village Clerk. A copy of the Board's determination shall be sent to the complainant and the accused employee.
- B. No person filing a complaint under this regulation in good faith shall be subjected to retribution for doing so.

Chapter 25

TRUSTEES, BOARD OF

ARTICLE I Vacancies in Office

- § 25-1. Purpose.
- § 25-2. Procedure.

ARTICLE II Membership

- § 25-3. Increase in number of Trustees; powers and duties.
- § 25-4. Transitional provisions.
- § 25-5. (Reserved)

[HISTORY: Adopted by the Board of Trustees of the Village of Tully: Art. I, 7-14-1983 as L.L. No. 4-1983; Art. II, 11-26-1985 by resolution. Amendments noted where applicable.]

ARTICLE I Vacancies in Office [Adopted 7-14-1983 as L.L. No. 4-1983]

§ 25-1. Purpose.

Section 3-312 of the Village Law of the State of New York specifies the manner in which vacancies in the Board of Trustees caused other than by expiration of term shall be filled and specifies the manner in which a vacancy in the office of Mayor caused other than by expiration of term shall be filled. The purpose of this Article is to amplify upon that statute and to provide for a mechanism when the procedure specified in § 3-312 of the Village Law fails to result in the appointment of a Mayor. This Article is to be read in concert with § 3-312 of the Village Law and does not change the law of succession to the office of Mayor of the village.

§ 25-2. Procedure. [Amended 10-6-1987 by L.L. No. 3-1987]

- A. Whenever a vacancy in the office of Mayor of the Village of Tully shall occur other than by expiration of the term thereof and the Board of Trustees is unable, for a period of 30 days from the date of such vacancy, to reach a conclusion regarding the appointment of a new Mayor in accordance with § 3-312 of the Village Law, then and under those circumstances the Deputy Mayor shall be deemed to have been appointed Mayor by the Board of Trustees on the 30th day subsequent to such vacancy and shall assume the office of Mayor in accordance with § 3-312 of the Village Law.
- B. The Board of Trustees shall conclusively be deemed to have failed to reach a conclusion if it has not adopted a resolution appointing a new Mayor within such thirty-day period.

- C. In the event that the Deputy Mayor becomes the Mayor pursuant to this Article, he shall appoint a person to fill the vacancy in the Board of Trustees in accordance with § 3-312 of the Village Law.

ARTICLE II

Membership

[Adopted 11-26-1985 by resolution]

§ 25-3. Increase in number of Trustees; powers and duties.

The Board of Trustees of the Village of Tully shall consist of four Trustees elected in accordance with the procedures set forth in the Village Law and the Election Law of the State of New York, and said Board of Trustees hereafter elected shall have the same powers and the same duties as are set forth in the Village Law of the State of New York.

§ 25-4. Transitional provisions. [Amended 6-4-1996 by L.L. No. 2-1996]

The present Trustees [two in number] shall continue to hold office for the remainder of the terms for which they have been elected. At the 1986 General Village Election, the person elected to fill the office of the present Trustee whose term expires in 1986 shall be elected for a two-year term; and one of the two additional Trustees hereby authorized shall be elected at the 1986 General Village Election for a term of one year and the other for a term of two years.

§ 25-5. (Reserved)¹

1. Editor's Note: Former § 25-5, which contained procedural requirements regarding the enactment of this Article, was deleted at the request of the village.

PART II

**GENERAL
LEGISLATION**



Chapter 35

ANIMAL CONTROL

ARTICLE I Apiaries

- § 35-1. Permitted apiaries by Village Board special authorization.
- § 35-2. Rules and regulations.
- § 35-3. Application/Village Board special authorization criteria.

ARTICLE II Dogs

- § 35-4. Purpose.
- § 35-5. Authority.
- § 35-6. Title.
- § 35-7. Definitions.
- § 35-8. Restrictions.
- § 35-8.1. Volunteer Dog Control Officer.
- § 35-9. Enforcement.
- § 35-10. Seizure.
- § 35-11. Complaints.
- § 35-12. Penalties for offenses.

ARTICLE III Pooper Scooper Regulations

- § 35-13. Defecation on public or private property prohibited.

§ 35-14. Removal and disposal by owner.

§ 35-15. Exceptions.

§ 35-16. Penalties for offenses.

ARTICLE IV Large Farm Animals

- § 35-17. Legislative intent, authority and findings.
- § 35-18. Definitions.
- § 35-19. Prohibition.
- § 35-20. Permitted large farm animals by Village Board special authorization.
- § 35-21. Rules and regulations.
- § 35-22. Application/Village Board special authorization criteria.

ARTICLE V Poultry

- § 35-23. Legislative intent, authority and findings.
- § 35-24. Definitions.
- § 35-25. Permit required.
- § 35-26. Regulations for keeping of hens.

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

GENERAL REFERENCES

Appearance tickets — See Ch. 4.

ARTICLE I

Apiaries

[Adopted 1-2-2019 by L.L. No. 1-2019¹]

§ 35-1. Permitted apiaries by Village Board special authorization.

Beekeeping shall be permitted within the Village of Tully by Village Board special authorization according to the terms and conditions of the regulations set forth herein.

§ 35-2. Rules and regulations.

- A. All bee colonies shall be kept in appropriately sized, designed and maintained apiaries with removable frames, which shall be kept and maintained at all times in sound and usable condition.
- B. Each apiary shall be labeled by the beekeeper with the name and contact information of the responsible beekeeper and alternate emergency contact information, which information shall be visible from a distance of no less than 15 feet from the apiary as well as visible from the road.
- C. An independent and reliable source of water shall be provided on the property housing the bee colony within a reasonable distance from the apiary in order to encourage use by the bee colony.
- D. An appropriate flight barrier shall be located in proximity to the entrance of the hive to encourage an upward flight pattern for all bees in the bee colony as they enter and depart the apiary.
- E. Beekeepers must engage in all appropriate best practices to avoid creating a beekeeping-related nuisance. Beekeepers must be prepared at all times to respond immediately and to remediate all nuisance conditions, including but not limited to:
 - (1) Bees from bee colonies that injure or threaten injury to persons, domestic pets, or property;
 - (2) The presence of bees from bee colonies on neighboring or nearby properties in significant quantities, except that behavior necessary to the routine foraging for pollen by bees shall not constitute per se nuisance behavior.
 - (3) Bees from bee colonies that engage in aggressive, swarming or similarly objectionable behavior;
 - (4) A bee colony housed in an apiary which is placed so that the apiary or bee movement to/from such apiary unreasonably interferes with pedestrian traffic or persons residing on or adjacent to the property upon which such apiary is located;

1. Editor's Note: This local law also repealed former Art. I, Apiaries, adopted 8-23-1941, as amended.

- (5) An apiary which is overcrowded, diseased, abandoned or maintained in any condition or location where the bee colony cannot thrive.

§ 35-3. Application/Village Board special authorization criteria.

- A. Applicants must submit a detailed sketch plan of the proposed apiary, including location, flyaway barriers, any pollinator plantings, independent water sources, relevant structures, fences, distances from property lines, and the like.
- B. Village Board special authorization; general requirements. Any application for Village Board special authorization pursuant to this Article I of Chapter 35 shall be subject to the notice provisions of § 112-20C(3) and (4) of the Village Code, and shall be submitted to the Joint Planning Board for an advisory opinion. No decision shall be made on any application for Village Board special authorization by the Village Board until the Joint Planning Board has reviewed the application and has, as it deems appropriate, filed an advisory report on the proposed apiary, or 60 days have passed since the filing of the application, after which sixty-day period a decision by the Village Board may be made.
- C. Upon issuance of Village Board special authorization, a permit shall be issued to the applicant, and same shall be filed with the Village Clerk and shall also be subject to an annual permit renewal inspection and fee. The initial registration and inspection fee shall be \$100 per apiary, with an annual renewal fee thereafter of \$25. Thereafter, any increase in registration and inspection and/or renewal fees shall be set by resolution of the Village Board.
- D. The Codes Enforcement Officer shall be authorized, in the performance of their duties, to conduct annual and independent inspections of the permitted apiaries, at such times and in such manner as they may find necessary, with the consent of the property owner and/or occupant. The Codes Enforcement Officer shall, in his discretion, determine the severity of any code and/or permit violations following inspection. If a property owner and/or occupant is cited with a code and/or permit violation, the Codes Enforcement Officer shall notify the property owner and/or occupant of the violation and the allotted time within which it must be corrected. This provision shall not apply to emergency or similar exigent circumstances. If the violations are not corrected by the date indicated by the Codes Enforcement Officer and unless extended by the Codes Enforcement Officer upon request made prior to such expiration date, an appearance ticket may be issued, and/or the permit may be revoked.
- E. The Village Board reserves the right to revoke or suspend any permit at any time due to violations of any laws, codes, ordinances, and regulations of New York State, County of Onondaga, or the Village of Tully.

ARTICLE II

Dogs**[Adopted 9-12-1977 by L.L. No. 5-1977]****§ 35-4. Purpose.**

The Village Board of Trustees of the Village of Tully finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs have caused physical harm to persons, damage to property and have created nuisances within the Village. The purpose of this article is to protect the health, safety and well-being of persons and property by imposing restrictions on the keeping and running at large of dogs within the Village.

§ 35-5. Authority. [Amended 3-21-1989 by L.L. No. 2-1989]

This article is enacted pursuant to the provisions of § 124 of the Agriculture and Markets Law of the State of New York.

§ 35-6. Title.

The title of this article shall be the "Dog Control Law of the Village of Tully."

§ 35-7. Definitions.

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

AGRICULTURE AND MARKETS LAW — The Agriculture and Markets Law of the State of New York in effect as of the effective date of this article, as amended by this article and as amended thereafter.²

CONFINED — That an animal is securely confined or restrained or kept on the owner's premises either within a building, kennel or other suitable enclosure or securely fastened on a chain, wire or other effective tether of such length and so arranged that the animal cannot reach or endanger any person on any adjacent premises or on any public street, way or place, or, if the animal is being transported by the owner, that it is securely confined in a crate or other container or so restrained in a vehicle that it cannot be expected to escape therefrom.

DOG — Includes male and female, licensed and unlicensed members of the species *Canis familiaris*.

DOG CONTROL OFFICER — Any person authorized by the Village Board to enforce the provisions of this article and the provisions of the Agriculture and Markets Law, including the Volunteer Dog Control Officer appointed pursuant to § 35-8.1 of this article. **[Added 8-6-2002 by L.L. No. 1-2002]**

OWNER — The party purchasing the license unless the dog is or has been lost and such loss reported to the Animal Control Officer and reasonable search has been made. If an animal is not licensed, the term "owner" shall designate and cover any person or persons, firm,

2. Editor's Note: This definition of "Animal Control Officer," as amended, which immediately followed this definition, was repealed 8-6-2002 by L.L. No. 1-2002. See now the definition of "Dog Control Officer."

association or corporation who or which at any time owns or has custody or control of, harbors or is otherwise responsible for any animal which is kept, brought or comes within the Village. Any person owning or harboring a dog for a period of one week prior to the filing of any complaint charging a violation of this article shall be held and deemed to be the "owner" of such dog for the purpose of this article. In the event the "owner" of any dog found to be in violation of this article is a minor, the head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of the said dog in violation of this article. [Amended 3-21-1989 by L.L. No. 2-1989]

RECREATIONAL AREAS — Any real property owned by the Village of Tully which is used for recreational purposes by the public, including but not limited to parks or playgrounds.

RUN AT LARGE — To be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands.

VILLAGE — The area within the corporate limits of the Village of Tully.

§ 35-8. Restrictions.

- A. It shall be unlawful for any owner of any dog in the Village of Tully to permit or allow such dog to:
- (1) Run at large unless the dog is restrained by an adequate leash or unless it is accompanied by its owner or a responsible person able to control it by command. For the purpose of this article, a dog or dogs hunting in the company of a hunter or hunters shall be considered as accompanied by its owner.
 - (2) Bark, whine or make other noise for a period of at least 15 minutes within any one-hour period, which barking, whining or other noise can be heard from a location outside of the owner's premises and would disturb a reasonable person of normal sensitivities. [Amended 5-5-2004 by L.L. No. 2-2004]
 - (3) Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property not belonging to the owner of such dog.
 - (4) Chase, jump upon or at or otherwise harass any person in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.
 - (5) Habitually chase, run alongside of or bark at motor vehicles while on a public street or highway or upon public or private property other than the property of the owner or harbinger of said dog.
 - (6) Create a nuisance by urinating or digging on public or private property, other than the property of the said owner. [Amended 11-5-2008 by L.L. No. 6-2008]
 - (7) If a female dog, be off the owner's premises when in heat.
- B. Establishment of the fact or facts that the owner of a dog has allowed or permitted such dog to commit any of the acts prohibited by Subsection A of this section shall be

presumptive evidence against the owner or harbinger of such dog that he has failed to properly confine, leash or control his dog.

§ 35-8.1. Volunteer Dog Control Officer. [Added 8-6-2002 by L.L. No. 1-2002]

- A. Position and term. In addition to the position of Dog Control Officer, the position of Volunteer Dog Control Officer for the Village of Tully is hereby created. This position is to be filled by the appointment of the Mayor, as approved by the Village Board of Trustees, for a one-year term.
- B. Volunteer status. The Volunteer Dog Control Officer shall serve the Village in this capacity on a volunteer basis without salary or benefits.
- C. Enforcement obligations. The Volunteer Dog Control Officer shall possess the same rights and responsibilities as the Dog Control Officer pursuant to this article and the Agriculture and Markets Law, and shall accordingly be authorized to issue appearance tickets on behalf of the Village as provided for in the New York Criminal Procedure Law, to serve a summons and execute any other order or process in the execution of the provisions of this article.

§ 35-9. Enforcement. [Amended 3-21-1989 by L.L. No. 2-1989; 8-6-2002 by L.L. No. 1-2002]

This article shall be enforced by the Dog Control Officer as defined herein.

§ 35-10. Seizure. [Amended 3-21-1989 by L.L. No. 2-1989; 8-6-2002 by L.L. No. 1-2002]

- A. Only a dog found running at large in violation of this article or of § 118 of the Agriculture and Markets Law may be seized by any Dog Control Officer, as defined herein, exercising such degree of force as shall be necessary to effect such seizure without intentionally injuring or harming such dog, and such dog shall be impounded and disposed of in accordance with the provisions of Article 7 or other applicable provisions of the Agriculture and Markets Law.
- B. After any such seizure, the record owner of such dog or an adult member of his family, if the owner is ascertainable from the dog's license tag, shall be notified personally by serving such owner or adult with a notice in writing stating that the dog has been seized and may be destroyed unless redeemed.
- C. A dog owner may redeem his dog from the pound upon payment of a fee as set forth from time to time by the Board of Trustees for the impounding of dogs, plus the cost of keeping, feeding and caring for the dog while in the custody of the Dog Control Officer.
- D. No action shall be maintained against the Village of Tully, any duly designated Dog Control Officer, or any other agent or officer of the Village to recover the possession or value of any dog or for damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to the provisions of this article.

§ 35-11. Complaints.

- A. Any person who observes a dog in violation of this article may file a complaint under oath with a Town Justice, specifying the nature of the violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of the dog.
- B. Upon receipt by the Town Justice of any such complaint, he shall summon the alleged owner to appear in person before him for a hearing at which both the complainant and owner shall have an opportunity to be represented by counsel and to present evidence. If, after such hearing, the Town Justice decides that further action is warranted, he may order:
- (1) The owner to restrain such dog by collar and leash at all times, whether on or off the owner's property.
 - (2) The owner to confine such dog to the premises of the owner.
 - (3) Such other remedy authorized by law as may be warranted by the circumstances in such case.
- C. A violation of any order issued by a Town Justice under the provisions of this section shall be an offense punishable, upon conviction thereof, as provided in § 35-12 of this article.

§ 35-12. Penalties for offenses. [Amended 3-21-1989 by L.L. No. 2-1989]

Any person who violates any provision of this article shall, upon conviction thereof, be subject to the penalties set forth in § 119 of the Agriculture and Markets Law.

ARTICLE III**Pooper Scooper Regulations**

[Adopted 11-5-2008 by L.L. No. 6-2008]

§ 35-13. Defecation on public or private property prohibited.

It shall be unlawful for any dog owner or person having possession, custody or control of any dog to allow such dog to defecate on public or private property (other than the premises of the owner or person having possession, custody or control of the said dog) without the permission of the owner of such property.

§ 35-14. Removal and disposal by owner.

It shall be the duty of each dog owner or person having possession, custody or control of a dog to immediately remove any feces left by such dog on any sidewalk, gutter, street, grassy area between the street and sidewalk, park, school yard or other public or private property and to immediately dispose of the same in a safe and sanitary manner, including but not limited to pooper scoopers, small shovels, etc., for placement in suitable leakproof containers. In no event shall any feces be deposited in sewers or drains, whether storm or sanitary.

§ 35-15. Exceptions.

The provisions of this article shall not apply to a guide dog, hearing dog or service dog accompanying any person with a disability.

§ 35-16. Penalties for offenses.

Any violation of the article shall constitute a violation punishable by a fine or a civil penalty of not less than \$100 per occurrence, except that if such violation occurs on a playground area or other place of public recreation, then such fine shall not be less than \$200. Fines shall be doubled for each additional violation within two years from the date of any other violation. For the purposes of enforcing the provisions of this section, appearance tickets may be issued by police officers, dog control officers, codes enforcement officers and by any persons authorized to issue tickets for parking violations.

ARTICLE IV

Large Farm Animals

[Adopted 1-2-2019 by L.L. No. 1-2019]

§ 35-17. Legislative intent, authority and findings.

- A. This article is enacted pursuant to the authority granted the Village Board of Trustees of the Village of Tully under Article 3 of Village Law and pursuant to Article X of the New York State Constitution, Article 18 of the General Municipal Law, and Sections 10 and 20 of the Municipal Home Rule Law of the State of New York.
- B. The Village Board finds that the harboring of large farm animals within the Village could create issues involving odor, noise, and waste removal, especially given the small size of the lots and the close proximity within which neighbors live to each other. It is the purpose of this article to impose regulations on the keeping of large farm animals within the Village.

§ 35-18. Definitions.

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

LARGE FARM ANIMALS — Includes, but not limited to, horses, ponies, donkeys, mules, cows, llamas, alpacas, pigs, goats and sheep. This definition does not include poultry (defined as geese, ducks, chickens, roosters, turkeys, pigeons, and the like), cats or dogs.

§ 35-19. Prohibition.

No person owning less than five acres of continuous land within the Village of Tully shall keep, harbor or shelter any large farm animal.

§ 35-20. Permitted large farm animals by Village Board special authorization.

Large farm animals shall be permitted within the Village of Tully by Village Board special authorization according to the terms and conditions of regulations set forth herein.

§ 35-21. Rules and regulations.

- A. Property owners owning more than five acres of continuous land may, on Village Board special authorization, be permitted to keep large farm animals within the Village subject to the following conditions:
- (1) The maximum number of large farm animals will be determined by the type of animal, as follows: no more than one cow per acre or one horse per 2.5 acres shall be permitted, and for all other large farm animals as defined herein, no more than 1,000 pounds of animal weight per acre of land.
 - (2) Large farm animals shall be tagged so as to identify their owner's contact information.
 - (3) The keeping of large farm animals shall be for personal use only. No commercial gain shall be permitted.
 - (4) The property owner and/or occupant shall take out and maintain such general liability and property damage insurance as shall protect it from claims for damages for personal injury, including accidental death, as well as from claims for property damage which may arise from keeping large farm animals. The amounts of such insurance shall be as follows: general liability insurance in an amount not less than \$1,000,000 for injuries including wrongful death to any one person and subject to the same limit for each person, in an amount not less than \$2,000,000 on account of any one occurrence. Property damage insurance in an amount not less than \$1,000,000 for damage on account of all occurrences.
 - (5) Land on which such large farm animals are kept shall be properly fenced, or the large farm animals must be contained in a suitably sized structure.
 - (6) Adequate methods are in place for addressing manure management. This includes methods of odor reduction so as not to become a nuisance to adjacent properties.
 - (7) There shall be a minimum fifty-foot buffer between all buildings and structures used to store feed, other materials or manure from adjacent properties to minimize impacts of noise or odor. Such buffers may consist of plant screening, woodlands, vegetated berms, fences, or natural topographic features. A minimum of 100 feet shall be provided between any area or structure used for the storage of animal wastes and wetlands and waterways.
- B. Exemptions. Lands enrolled in a New York State Agricultural District shall be exempt from the provisions of this Article IV.

§ 35-22. Application/Village Board special authorization criteria.

- A. Village Board special authorization; General Requirements. Any application for Village Board special authorization pursuant to this Article IV of Chapter 35 shall be subject to the notice provisions of § 112-20C(3) and (4) of the Village Code, and shall be submitted to the Joint Planning Board for an advisory opinion. No decision shall be made on any application for Village Board special authorization by the Village Board until the Joint Planning Board has reviewed the application and has, as it deems appropriate, filed an advisory report on the proposed large farm animal application, or 60 days have passed since the filing of the application, after which sixty-day period a decision by the Village Board may be made.
- B. Application shall include the following information:
- (1) Location of all structures, barns, manure storage areas, ponds, equipment sheds, silos, and pastures to be included in the area used for agricultural purposes.
 - (2) Description of all fencing to be used.
 - (3) Location and ownership identification and address for all adjacent lands as shown on the latest tax records.
 - (4) Description of any farm road or access to fields, pastures and barnyards.
 - (5) Location of any wetland, stream, floodplain, vernal pool, or other water body on the parcel.
 - (6) Description of methods to remove or manage manure waste from animals.
 - (7) Description of agricultural operation and kind and number of animals to be raised.
- C. Upon issuance of Village Board special authorization, a permit shall be issued to the applicant, and same shall be filed with the Village Clerk and shall also be subject to an annual permit renewal inspection and fee. The initial registration and inspection fee shall be \$250 per application, with an annual renewal fee thereafter of \$50. Thereafter, any increase in registration and inspection and/or renewal fees shall be set by resolution of the Village Board.
- D. The Codes Enforcement Officer shall be authorized, in the performance of their duties, to conduct annual and independent inspections of the permitted large farm animals, at such times and in such manner as they may find necessary, with the consent of the property owner and/or occupant. The Codes Enforcement Officer shall, in his discretion, determine the severity of any code and/or permit violations following inspection. If a property owner and/or occupant is cited with a code and/or permit violation, the Codes Enforcement Officer shall notify the property owner and/or occupant of the violation and the allotted time within which it must be corrected. This provision shall not apply to emergency or similar exigent circumstances. If the violations are not corrected by the date indicated by the Codes Enforcement Officer and unless extended by the Codes Enforcement Officer upon request made prior to such expiration date, an appearance ticket may be issued, and/or the permit may be revoked.

- E. The Village Board reserves the right to revoke or suspend any permit at any time due to violations of any laws, codes, ordinances, and regulations of New York State, County of Onondaga, or the Village of Tully.

ARTICLE V

Poultry

[Adopted 1-2-2019 by L.L. No. 1-2019]

§ 35-23. Legislative intent, authority and findings.

The Village Board of Trustees of Tully hereby finds that the keeping of chickens can play a role in ensuring a source of local food and sustainable environment, but that the improper maintenance of chickens in residential neighborhoods can cause nuisances to nearby residential properties, and create conditions which are unsanitary and unsafe. Therefore, it is the intent of the Village Board, pursuant to Article X of the New York State Construction, Article 18 of the General Municipal Law, and Sections 10 and 20 of the Municipal Home Rule Law of the State of New York, to permit and regulate the keeping of chickens within the Village of Tully.

§ 35-24. Definitions.

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

CHICKEN — Domestic hens. Roosters and other types of domestic fowl are intentionally excluded from this definition and are not intended to be permitted by this article.

COOP — A structure that is designed to house hens, which is enclosed on all sides by a roof, doors, and walls with or without windows. A mobile or portable structure that meets this definition shall be considered a coop for purposes of this article.

HEN — A female chicken.

RUN — An outdoor area that is enclosed on all sides, including the top, by fencing that is attached to or surrounding a chicken coop. A run shall have a doorway or hatch that allows hens to access the space.

§ 35-25. Permit required.

No permit is required for keeping hens.

§ 35-26. Regulations for keeping of hens.

A. General limitations.

- (1) There shall be no more than one coop and run per parcel.
- (2) The minimum number of hens shall be six per parcel, and the maximum number of hens shall be 12 per parcel.

- (3) Roosters are prohibited within the Village.
 - (4) Hens are permitted for personal use only.
 - (5) Enclosures required. Hens shall be contained or kept in a fully enclosed coop and run. Hens may be permitted to exercise in a rear, fenced-in yard with supervision, provided the fence is a minimum of five feet high. A coop and run shall be permitted in side yards of corner lots, provided fencing at least five feet high blocks the view from the adjacent road.
 - (6) Hens must be kept in the coop and run at all times if the coop and run are not located in a fenced yard. No hen shall be permitted to run at large.
 - (7) Feed must be stored in an enclosed, rodent-proof container at all times.
- B. Minimum standards for condition of coop and run. A coop shall be designed and built so that it provides ventilation and shade for hens, and protection from precipitation, cold weather, predators, wild birds and rodents.
- (1) Openings in windows and doors are to be covered/secured with wire mesh or screens to deter predators;
 - (2) Access doors are required and are to be placed to provide for ease of cleaning;
 - (3) The enclosed run must be attached to, or surround, the coop. The sides of the run must be made of wire mesh or screening to discourage predators; and
 - (4) The run must be enclosed on all sides, including the top or roof plane.
- C. Area and setback requirements.
- (1) A coop shall provide a minimum of four square feet per hen. A run shall have a minimum of eight square feet per hen.
 - (2) A coop and run shall be at least 10 feet from the property line and at least 20 feet from a neighboring dwelling. This setback can be waived upon submission of written permission from the owner of the neighboring dwelling.
 - (3) A coop and run shall only be permitted on parcels with a minimum lot size of 1/4 acre.
- D. Sanitation and nuisance prevention.
- (1) The coop or run shall be kept clean, dry and in sanitary condition at all times. Animal waste, uneaten or discarded food, and feathers are to be removed regularly with a minimum frequency of once per week.
 - (2) Odor from hens, animal waste and related substances shall not create a nuisance for occupants of nearby buildings or properties.
 - (3) Animal waste must be collected, stored and disposed of regularly within a minimum frequency of once per week. Notwithstanding the foregoing, animal waste may be composted.

- E. Existing nonconforming coop/run. Any chicken coop and/or run existing prior to the effective date of this article shall be grandfathered and permitted to remain in place.
- F. Violations.
 - (1) Any person found to be in violation of the standards set forth in this article shall have seven days from the date of notification by the Code Enforcement Officer to achieve compliance.
 - (2) The Code Enforcement Officer shall have the discretion to immediately and permanently require that the violations be corrected, and if not, shall signify the coop as a public nuisance and the coop will be removed from the property at the owner's expense.



Chapter 43

COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM

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| § 43-1. Legislative findings; intent and purpose; authority. | § 43-5. Supplier selection; supplier contracts. |
| § 43-2. Definitions. | § 43-6. Opt-out process. |
| § 43-3. Establishment of a Community Choice Aggregation Program. | § 43-7. Customer service. |
| § 43-4. Customer eligibility. | § 43-8. Data protection requirements. |
| | § 43-9. Administration fee. |
| | § 43-10. Reporting. |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 5-2-2018 by L.L. No. 2-2018. Amendments noted where applicable.]

§ 43-1. Legislative findings; intent and purpose; authority.

- A. It is the policy of both the Village of Tully and the State of New York to seek to reduce the cost of natural gas and electricity to its residents and provide cost certainty for the purpose of economic development, to promote deeper penetration of energy efficiency and renewable energy resources such as wind and solar, and wider development of distributed energy resources as well as to examine the retail energy markets and increase participation of and benefits for eligible consumers in those markets. Among the policies and models that may offer benefits in New York is community choice aggregation (CCA), which allows local governments to determine the default supplier of electricity and natural gas on behalf of eligible consumers.
- B. The purpose of this CCA Program is to allow participating local governments including the Village of Tully to procure electricity or natural gas supply service on behalf of their residential and commercial customers while maintaining transmission and distribution service from the existing distribution utility. Residential and commercial customers will have the opportunity to opt out of any approved CCA Program. This chapter establishes a program that will allow the Village of Tully or its designated agent or administrator for that purpose to put out for bid the total amount of natural gas and/or electricity being purchased by residential and commercial customers participating in the CCA Program. Eligible consumers will have the opportunity to have more control to lower their overall energy costs, to spur clean energy innovation and investment, to improve customer choice and value, and to protect the environment; thereby, fulfilling the purposes of this chapter and fulfilling an important public purpose.
- C. The Village of Tully is hereby authorized to participate in a Community Choice Aggregation Program pursuant to § 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs (issued April 21, 2016) as may be amended, including subsequent orders of

the Public Service Commission (PSC) issued in connection with or related to Case No. 14-M-0224, to the extent that orders related to Case No. 14-M-0224 enable actions by the Village.

- D. This chapter shall be known and may be cited as the "Community Choice Aggregation (Energy) Program" law of the Village of Tully.

§ 43-2. Definitions.

For purposes of this chapter, and unless otherwise expressly stated or unless the context otherwise requires, the terms in this chapter shall have the meanings employed in the State of New York Public Service Commission's Uniform Business Practices or, if not so defined there, as indicated below:

AGGREGATED DATA — Aggregated and anonymized information including the number of consumers by service class, the aggregated peak demand (kW) (for electricity) by month for the past 12 to 24 months, by service class to the extent possible, and the aggregated energy (kWh) for electricity or volumetric consumption for gas by month for the past 12 to 24 months by service class.

CCA ADMINISTRATOR — Good Energy, L.P., the entity selected by the Village of Tully duly authorized to put out the bid for the total amount of electricity and/or natural gas being purchased by participating consumers. The CCA administrator is responsible for program organization, administration, procurement, and communications, unless otherwise specified.

CCA ORDER — The PSC's Order Authorizing Framework for Community Choice Aggregation Opt-Out Program, issued on April 21, 2016, in Case 14-M-0224, "Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs."

COMMUNITY CHOICE AGGREGATION PROGRAM or CCA PROGRAM — A municipal energy procurement program, which replaces the incumbent utility as the default supplier of energy for all residential and commercial customers within the Village of Tully who have not opted out of the CCA Program. Notwithstanding the above, the incumbent utility will continue to distribute energy as the distribution utility to all residential and commercial customers within the CCA Program.

CUSTOMER-SPECIFIC DATA — Customer-specific information, personal data and utility data for all consumers in the Village of Tully eligible for opt-out treatment based on the terms of the CCA Order and the CCA Program design including the customer of record's name, mailing address, telephone number, account number, and primary language, if available, and any customer-specific alternate billing name, address, and phone number.

DATA SECURITY AGREEMENT — An agreement between the distribution utility and the Village of Tully that obligates each party to meet, collectively, i) all national, state and local laws, regulations or other government standards relating to the protection of information that identifies or can be used to identify an individual eligible consumer with respect to the CCA administrator's or its representative's processing of confidential utility information; ii) the distribution utility's internal requirements and procedures relating to the protection of information that identifies or can be used to identify an individual eligible consumer with respect to the CCA administrator's or its representative's processing of confidential utility

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information; and iii) the CCA Order and PSC rules, regulations, and guidelines relating to confidential data.

DEFAULT SERVICE — Supply service provided by the distribution utility to consumers who are not currently receiving service from an energy service company (ESCO). Eligible consumers within the Village of Tully that receive Default Service, and have not opted out, will be enrolled in the CCA Program.

DISTRIBUTED ENERGY RESOURCES (DER) — Local renewable energy projects, shared renewables like community solar, energy efficiency, demand response, energy management, energy storage, microgrid projects and other innovative Reforming the Energy Vision (REV) initiatives that optimize system benefits, target and address load pockets/profile within the CCA's zone, and reduce cost of service for participating consumers.

DISTRIBUTION UTILITY — The local incumbent utility owning and controlling the means of distribution of the natural gas or electricity that is regulated by the PSC.

ELIGIBLE CONSUMERS — Eligible consumers of electricity and/or natural gas who receive Default Service from the distribution utility as of the effective date, or new consumers that subsequently become eligible to participate in the CCA Program, at one or more locations within the geographic boundaries of the Village of Tully, except those consumers who receive Default Service and have requested not to have their account information shared by the distribution utility. For the avoidance of doubt, all eligible consumers must reside or be otherwise located at one or more locations within the geographic boundaries of the Village of Tully, as such boundaries exist on the effective date of the energy services agreement (ESA) between the Village of Tully and the supplier.

NEW CONSUMERS — Consumers of electricity that become eligible consumers after the effective date of the ESA between the Village of Tully and the supplier, including those that opt in or move into the Village of Tully.

PARTICIPATING CONSUMERS — Eligible consumers enrolled in the CCA Program, either because they are consumers who receive Default Service from the distribution utility as of the effective date of the ESA and have not opted out, or are new consumers.

PUBLIC SERVICE COMMISSION or PSC — New York State Public Service Commission.

SUPPLIERS — An energy service company (ESCO) duly authorized to conduct business in the State of New York as an ESCO and that produces electric power and natural gas for eligible consumers in connection with this chapter or, alternatively, generators of electricity and natural gas or other entities who procure and resell electricity or natural gas.

§ 43-3. Establishment of a Community Choice Aggregation Program.

- A. A Community Choice Aggregation Program is hereby established by the Village of Tully, whereby the Village of Tully may implement a CCA Program to the full extent permitted by the CCA Order, and any subsequent orders as set forth more fully herein.
- B. The Village of Tully may act as aggregator or broker for the sale of electric supply, gas supply, or both to eligible consumers and may enter into contracts with one or more suppliers, through the CCA administrator, for energy supply and other services on behalf of eligible consumers.

- C. The CCA administrator and the Village of Tully may enter into agreements and contracts with other municipalities to develop offers of opt-in distributed energy resources (DER) products and services to participating consumers, including opportunities to participate in local renewable energy projects, solar, energy efficiency, benchmarking, microgrids, storage, demand response, energy management, and other innovative Reforming the Energy (REV) initiatives and objectives designed to optimize system benefits, target and address load pockets/profile within the CCA zone, and reduce costs for CCA customers.
- D. Under the CCA Program, the operation and ownership of distribution service shall remain with the distribution utility. The Village of Tully's procurement of energy supply through a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Village of Tully will not take over any part of the electric or gas transmission or distribution system and will not furnish any type of utility service, but will instead negotiate with suppliers through the CCA administrator on behalf of participating consumers.

§ 43-4. Customer eligibility.

- A. All consumers within the Village of Tully, including residential and nonresidential, regardless of size, shall be eligible to participate in the CCA Program in accordance with the CCA Order.
- B. All consumers that are members of [identify eligible service classes listed, by utility, in Appendix C of the CCA Order]¹ shall be enrolled on an opt-out basis except for consumers i) that are already taking service from an ESCO; ii) that have placed a freeze or block on their account; or iii) for whom inclusion in the CCA Program will interfere with a choice the consumer has already made to take service pursuant to a special rate. Those consumers may be enrolled on an opt-in basis.
- C. New consumers shall be enrolled on an opt-out basis. Those consumers will be mailed an opt-out letter consistent with the requirements in the CCA Order.

§ 43-5. Supplier selection; supplier contracts.

- A. The CCA administrator, on behalf of the Village of Tully, shall issue one or more requests for proposals to suppliers to provide energy to participants and may then award a contract in accordance with the CCA Program.
- B. The terms of the supplier contracts ("CCA Contract") shall comply with applicable laws and state programs and policies.

§ 43-6. Opt-out process.

- A. An opt-out letter, printed on municipal letterhead, shall be mailed to eligible consumers at least 30 days prior to customer enrollment. The opt-out letter shall include information on the CCA Program and the contract signed with the selected ESCO

1. Editor's Note: So in original.

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including specific details on rates, services, contract term, cancellation fee; and methods of opting-out of the CCA Program. The letter shall explain that consumers that do not opt-out will be enrolled in ESCO service under the contract terms and that information on those consumers, including energy usage data and APP status, will be provided to the ESCO.

§ 43-7. Customer service.

- A. Participating consumers shall be provided customer service including a toll-free telephone number available during normal business hours (9:00 a.m. to 5:00 p.m. Eastern time, Monday through Friday) to resolve concerns, answer questions, and transact business with respect to the service received from the supplier.

§ 43-8. Data protection requirements.

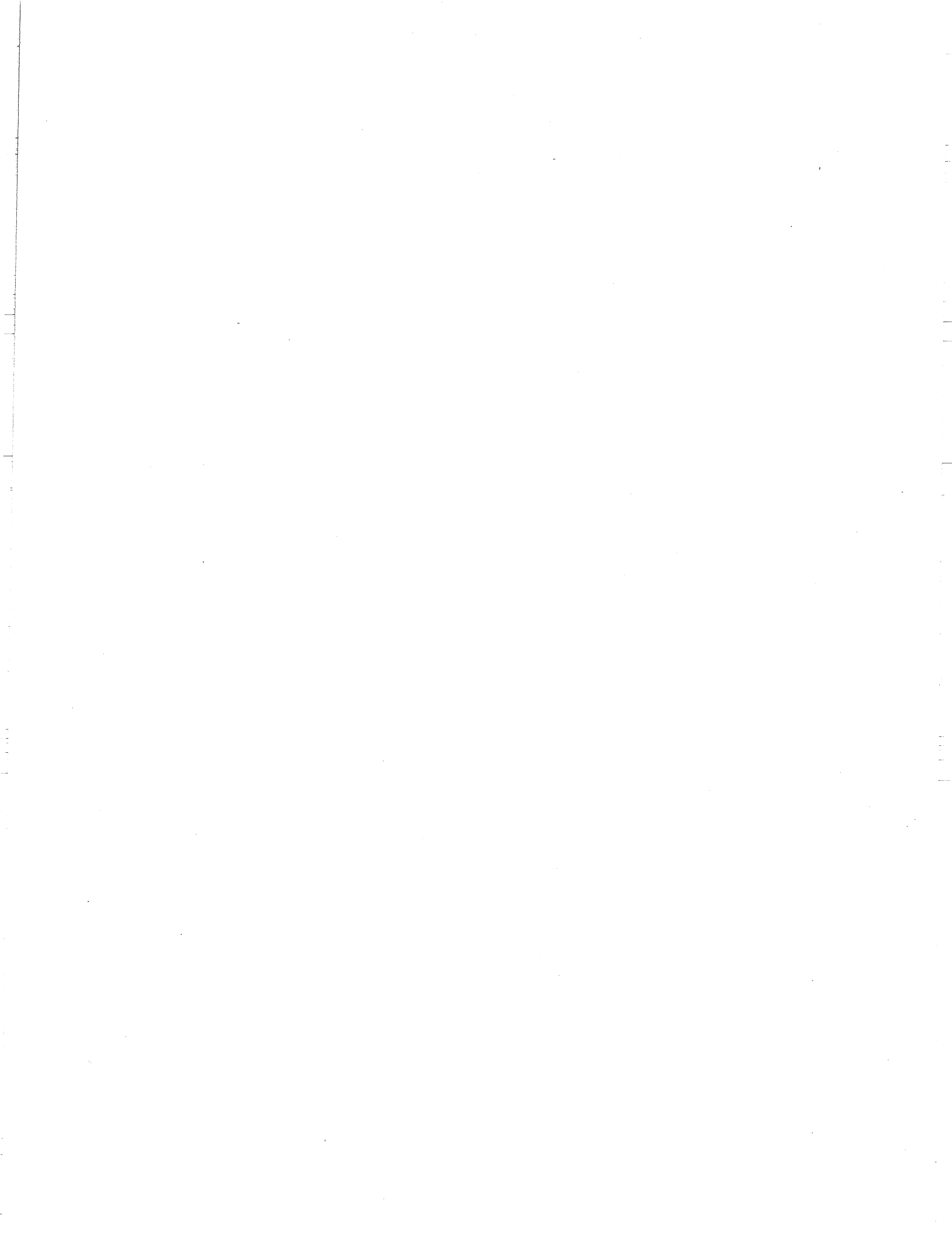
- A. The CCA administrator may request the distribution utility's aggregated customer information on all participating consumers in the Village of Tully.
- B. Customer-specific data shall be protected in a manner compliant with, collectively, i) all national, state and local laws, regulations or other government standards relating to the protection of information that identifies or can be used to identify an individual that apply with respect to the Village of Tully or its representative's processing of confidential utility information; ii) the utility's internal requirements and procedures relating to the protection of information that identifies or can be used to identify an individual that apply with respect to the Village of Tully or its representative's processing of confidential utility information; and iii) the CCA Order and PSC rules, regulations and guidelines relating to confidential data.
- C. The Village of Tully must enter into a data security agreement with the distribution utility for the purpose of protecting customer data.

§ 43-9. Administration fee.

- A. The Village of Tully may collect, or cause to be collected, funds from customer payments to pay for administrative costs associated with running the CCA Program.

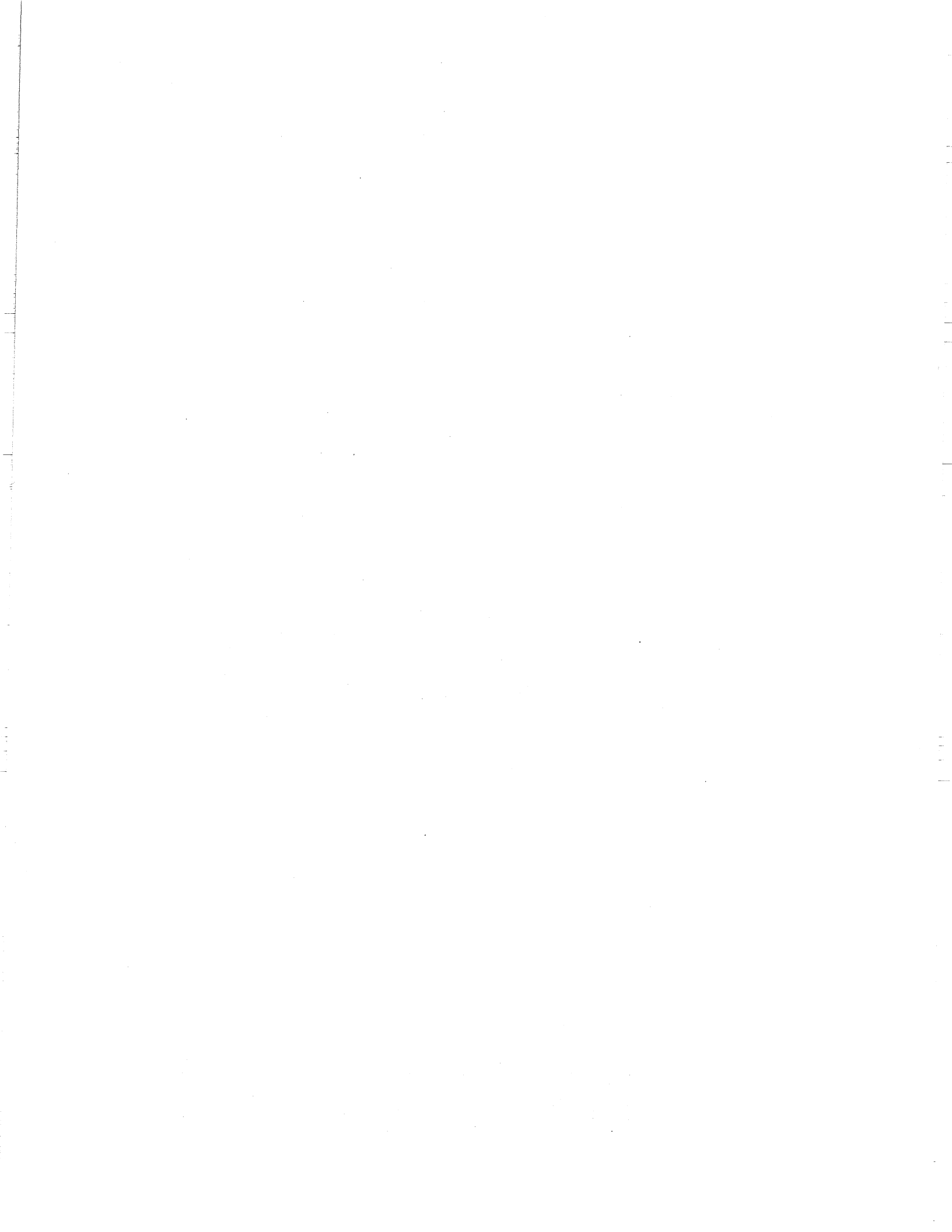
§ 43-10. Reporting.

- A. Annual reports shall be filed with the Village Clerk of the Village of Tully by March 31 of each year and cover the previous calendar year.
- B. Annual reports shall include, at a minimum: number of consumers served; number of consumers cancelling during the year; number of complaints received; commodity prices paid; value-added services provided during the year (e.g. installation of DER or other clean energy services); and administrative costs collected. The first report shall also include the number of consumers who opted out in response to the initial opt-out letter or letters.



Chapter 45
(RESERVED)

[Former Ch. 45, Development Fees, adopted 2-5-1991 by L.L. No. 2-1991, was repealed 4-6-2011 by L.L. No. 2-2011. See now Ch. 81, Professional Services Reimbursement.]



Chapter 48
ELECTRICAL STANDARDS

ARTICLE I
General Provisions

§ 48-1. Title.

§ 48-2. Purpose.

§ 48-3. Designation of inspection agencies.

ARTICLE II
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§ 48-4. Authorization; nonliability for costs.

§ 48-5. Duties of inspectors.

ARTICLE III
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Construal of Provisions

§ 48-7. No waiver or assumption of liability.

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

GENERAL REFERENCES

Appearance tickets — See Ch. 4.

Fire prevention and building construction — See Ch. 56.

ARTICLE I
General Provisions

§ 48-1. Title.

This chapter shall be known as the "Electrical Inspection Law of the Village of Tully."

§ 48-2. Purpose.

Since there is danger to life and property inherent in the use of electrical energy, this chapter shall regulate the inspections of the installation, alteration or repairing of wiring for electric light, heat or power in or on all real property within the Village of Tully.

§ 48-3. Designation of inspection agencies.

An "approved agency hereunder" shall mean any person, firm or corporation engaged in the business of performing electrical inspections; provided, however, that such agency:

A. Is duly qualified to do business in the State of New York.

- B. Is acceptable, as an independent electrical inspection agency, to the electrical utility or utilities furnishing electrical energy in and to the Village of Tully.
- C. Has been approved, after suitable investigation by the Board of Trustees, by a resolution.
- D. Has filed with the Village Clerk suitable proof of current liability insurance of not less than \$5,000,000 including errors and omissions, for each person and each occurrence to satisfy claims or judgments for property damage and/or personal injury arising out of failure of its inspector to properly discharge his duties and responsibilities.
- E. Has agreed in writing to indemnify, defend and hold harmless the Village of Tully and its officers and employees for all claims of personal injury, death or property damages arising out of the failure of its inspector to properly discharge his duties and responsibilities.

ARTICLE II

Inspections

§ 48-4. Authorization; nonliability for costs.

Each inspector of the independent inspection agencies approved by resolution by the Board of Trustees, hereafter referred to as "electrical inspector," is hereby authorized to make inspections and reinspections of electrical installations in the Village of Tully and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections or reinspections be a charge against the Village of Tully.

§ 48-5. Duties of inspectors.

- A. It shall be the duty of the electrical inspector to report to the Building Inspector or the Fire Marshal, who are the enforcement officers for this chapter, all violations of, deviations from or omissions of the electrical provisions of the New York State Uniform Fire Prevention and Building Code and this chapter.
- B. The electrical inspector shall make inspections and reinspections of electrical installations in and on properties in the Village of Tully upon written request of the Building Inspector or the Fire Marshal.
- C. It shall be the duty of the electrical inspector to furnish written reports to the proper officials of the Village of Tully and to the owners and/or lessees of property where defective electrical installations and equipment are found upon inspection.
- D. In the event of an emergency, it is the duty of the electrical inspector to make inspections upon oral request of the Building Inspector or the Fire Marshal of the Village of Tully.
- E. The electrical inspector shall issue a certificate of compliance only when electrical installations and equipment are in conformity with the New York State Uniform Fire Prevention and Building Code, and he shall direct that a copy of the certificate of

compliance be sent to the Building Inspector or the Fire Marshal of the Village of Tully.

- F. The electrical inspector shall perform his duties during normal business hours, Monday through Friday, and in emergencies, whenever requested by the Building Inspector or the Fire Marshal of the Village of Tully.

ARTICLE III

Fee Schedule

§ 48-6. Schedule of rates.

The schedule of rates charged for electrical inspections and reinspections shall be filed by the agency with the Village Clerk, the Building Inspector and the Fire Marshal.

ARTICLE IV

Construal of Provisions

§ 48-7. No waiver or assumption 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 Tully or the electrical inspector be deemed to have assumed any such liability by reason of any inspection made pursuant to this chapter.



Chapter 51

ENVIRONMENTAL QUALITY REVIEW

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| § 51-1. Definitions. | § 51-10. Determination of no significant effect. |
| § 51-2. Compliance required. | § 51-11. Final EIS. |
| § 51-3. Types of actions. | § 51-12. Notice of completion. |
| § 51-4. Filing of statement; form; addenda. | § 51-13. Decision required. |
| § 51-5. Procedure for determination of effect. | § 51-14. Written determination of findings. |
| § 51-6. Fees. | § 51-15. Copies on file. |
| § 51-7. Determination that action is not exempt. | § 51-16. Involvement of multiple agencies. |
| § 51-8. Procedure upon determination that action may have significant effect. | § 51-17. Exempt actions. |
| § 51-9. Completion of draft EIS. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 12-18-1980 as L.L. No. 3-1980. Section 51-3B amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 36. Zoning — See Ch. 112.
Subdivision of land — See Ch. 95.

§ 51-1. Definitions.

- A. Unless the context shall otherwise require, the terms, phrases, words and their derivatives used in this chapter shall have the same meaning as those defined in § 8-0105 of the Environmental Conservation Law and Part 617 of Title 6 of the New York Codes, Rules and Regulations.
- B. As used in this chapter, the following terms shall have the meanings indicated:
- VILLAGE BOARD — The Village Board of Trustees of the Village of Tully.

§ 51-2. Compliance required.

No decision to carry out or approve an action, other than an action listed in § 51-3B hereof or Section 617.12 of Title 6 of the New York Codes, Rules and Regulations as a Type II action, shall be made by the Village Board or by any department, board, commission, officer or employee of the village until there has been full compliance with all requirements of this

chapter and Part 617 of Title 6 of the New York Codes, Rules and Regulations; provided, however, that nothing herein shall be construed as prohibiting:

- A. The conducting of contemporaneous environmental, engineering, economic feasibility or other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action which do not commit the village to approve, commence or engage in such action; or
- B. The granting of any part of an application which relates only to technical specifications and requirements, provided that no such partial approval shall entitle or permit the applicant to commence the action until all requirements of this chapter and Part 617 of Title 6 of the New York Codes, Rules and Regulations have been fulfilled.

§ 51-3. Types of actions.

- A. Type I actions. Consistent with Part 617 of Title 6 of the New York Codes, Rules and Regulations and the criteria therein, the following actions, in addition to those listed in Section 617.12 of Title 6 of the New York Codes, Rules and Regulations as Type I actions, are likely to have a significant effect on the environment:
 - (1) Residential district developments of 10 or more units, whether or not said proposal involves in whole or in part multiple residences, including apartments, garden apartments, townhouses or condominiums.
 - (2) All commercial and industrial district projects involving five or more acres.
- B. Type II actions. The following are actions, pursuant to Section 617.12 of Title 6 of the New York Codes, Rules and Regulations, designated as Type II actions which are deemed not to have any significant effect on environment and which do not require an environmental impact statement:
 - (1) The construction or alteration of a single- or two-family residence and accessory appurtenant uses or structures not in conjunction with the construction or alteration of two or more such residences and not otherwise designated as a Type I action.
 - (2) The construction or alteration of a store, office or restaurant designed for an occupant load of 20 persons or less if not in conjunction with the construction or alteration of two or more stores, offices or restaurants and if not otherwise designated as a Type I action, and the construction of utility facilities to serve such establishments.
 - (3) The operation, repair, maintenance or minor alteration of existing structures, land uses and equipment.
 - (4) The restoration or reconstruction of a structure in whole or in part being increased or expanded by less than 50% of its existing size, square footage or usage.
 - (5) The installation of traffic control devices on existing streets, roads and highways, other than multiple fixtures on long stretches.

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

- (6) The mapping of existing roads, streets, highways, uses or ownership patterns.
- (7) Regulatory activities not involving construction or changed land use relating to one individual, business, institution or facilities, such as inspections, testing, operating certification or licensing.
- (8) Operating, expense or executive budget planning, preparation and adoption not involving new programs or major reordering of priorities.
- (9) Actions which are immediately necessary for the protection or preservation of life, health, property or natural resources.
- (10) Issuance of building permits.
- (11) The acquisition, sale or lease by the village of vehicles, equipment, materials and supplies.
- (12) The enactment, amendment or repeal of local laws, ordinances, orders and regulations the subject matter of which is limited to any one or more of the Type II actions included in this chapter or in Part 617 of Title 6 of the New York Codes, Rules and Regulations.
- (13) The execution and making of contracts and agreements between the village and third parties not involving the construction or use of land.

§ 51-4. Filing of statement; form; addenda.

For the purpose of assisting in the determination of whether an action may or will not have a significant effect on the environment, applicants for permits or other approvals shall file a written statement with the Village Clerk setting forth the name of the applicant; the location of the real property affected, if any; a description of the nature of the proposed action; and the effect it may have on the environment. In addition, applicants may include a detailed statement of the reasons why, in their view, a proposed action may or will not have a significant effect on the environment. Where the action involves an application, the statement shall be filed simultaneously with the application for the action. The statement provided herein shall be upon a form prescribed by resolution by the Village Board and shall contain such additional relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches and maps, if any, together with any other relevant explanatory material required by the Village Board.

§ 51-5. Procedure for determination of effect.

- A. Written determination; time limit. The involved agency shall thereupon render a written determination on the potential significance of the proposed action described in such application within 15 days following receipt of the completed application and statement; provided, however, that such period may be extended by mutual agreement of the applicant and the involved Board. The determination shall state whether such proposed action may or will not have a significant effect on the environment. The involved Board may hold informal open meetings with the applicant and may meet

with and consult with any other person for the purpose of aiding it in making a determination on the application.

- B. Coordination of time limitations. The time limitations provided in this chapter shall be coordinated with, to the extent practicable, other time limitations provided by statute or local law, ordinance or regulation of the village.

§ 51-6. Fees.

Every application for determination under this chapter shall be accompanied by a reasonable fee set forth in this section to defray the expenses incurred in rendering such determination. The fees shall be as set out in the Schedule of SEQR Application Fees adopted by resolution of the Village Board of the Village of Tully, as amended.

§ 51-7. Determination that action is not exempt.

If the involved Board determines that the proposed action is not an exempt action, not an action listed in § 51-3B or Section 617.12 of Title 6 of the New York Codes, Rules and Regulations as a Type II action and that it will not have a significant effect on the environment, the involved Board shall prepare, file and circulate such determination as provided in Section 617(b) of Title 6 of the New York Codes, Rules and Regulations and thereafter the proposed action shall be reviewed and processed in accordance with the provisions of this chapter and Part 617 of Title 6 of the New York Codes, Rules and Regulations.

§ 51-8. Procedure upon determination that action may have significant effect.

- A. Following the determination that a proposed action may have a significant effect on the environment, the involved Board shall, in accordance with the provisions of Part 617 of Title 6 of the New York Codes, Rules and Regulations:
- (1) Notification of applicant. In the case of an action involving an applicant, immediately notify the applicant of the determination and request the applicant to prepare an environmental impact report in the form of a draft environmental impact statement; or
 - (2) No applicant involved. In the case of an action not involving an applicant prepare a draft environmental impact statement.
- B. If the applicant decides not to submit an environmental impact report, the involved Board shall prepare or cause to be prepared the draft environmental impact statement or, in its discretion, notify the applicant that the processing of the application will cease and that no approval will be issued. The involved Board may require an applicant to submit a fee to defray the expense to it of preparing a draft environmental impact statement or reviewing same if it is prepared by the applicant. Such fees shall be as set out in the Schedule of Fees for Preparation by the Village Board of Draft Environmental Impact Statement and the Schedule of Fees for Reviewing Draft Environmental Impact Statement, adopted by resolution of the Village Board of the Village of Tully, as amended.

§ 51-9. Completion of draft EIS.

- A. Notice of completion. Upon completion of a draft environmental impact statement prepared by or at the request of the village, a notice of completion containing the information specified in Section 617.7(d) of Title six of the New York Codes, Rules and Regulations shall be prepared, filed and circulated by the involved Board as provided in Sections 617.7(e) and (f) of Title 6 of the New York Codes, Rules and Regulations. In addition, the Village Clerk shall cause the notice of completion to be published in the official newspaper and a copy thereof to be posted on a signboard maintained by the Village Clerk. Copies of the draft environmental impact statement and the notice of completion shall be filed, sent and made available as provided in Sections 617.7(e) and (f) of Title six of the New York Codes, Rules and Regulations.
- B. Public hearing; notice. If the involved Board determines to hold a public hearing on a draft environmental impact statement, notice thereof shall be filed, circulated and sent in the same manner as the notice of completion and shall be published in the official newspaper of the village at least 10 days prior to such public hearing. Such notice shall also state the place where substantive written comments on the draft environmental impact statement may be sent and the date before which such comments shall be received.
- C. Time limitation. The hearing shall be held no less than 15 calendar days nor more than 60 calendar days after the filing of the draft environmental impact statement, except as otherwise provided where the involved Board determines that additional time is necessary for the public or other agency review of the draft environmental impact statement or where a different hearing date is required as appropriate under other applicable law.

§ 51-10. Determination of no significant effect.

If, on the basis of a draft environmental impact statement or public hearing thereon, the involved Board determines that an action will not have a significant effect on the environment, the proposed action may be processed without further regard to this chapter.

§ 51-11. Final EIS.

Except as otherwise provided herein, the involved Board shall prepare or cause to be prepared a final environmental impact statement in accordance with the provisions of Part 617 of Title 6 of the New York Codes, Rules and Regulations, provided further that if the action involves an application, the involved Board may direct the applicant to prepare the final environmental impact statement. Such final environmental impact statement shall be prepared within 45 days after the close of any hearing or within 60 days after the filing of the draft environmental impact statement, whichever last occurs; provided, however, that the involved Board may extend this time as necessary to complete the statement adequately or where problems identified with the proposed action require material reconsideration or modification. Where the action involves an application, such environmental impact statement shall be accompanied by the fee specified in this section to defray the expenses of the village in preparing and/or evaluating same. The fee shall be as set out in the Schedule of Fees for Preparation by the Village Board of Final Environmental Impact Statement and the Schedule

of Fees for Evaluating Final Environmental Impact Statement, adopted by resolution of the Village Board of the Village of Tully, as amended.

§ 51-12. Notice of completion.

A notice of completion of a final environmental impact statement shall be prepared, filed and sent in the same manner as provided in § 51-9 herein and shall be sent to all persons to whom the notice of completion of the draft environmental impact statement was sent. Copies of the final environmental impact statement shall be filed and made available for review in the same manner as the draft environmental impact statement.

§ 51-13. Decision required.

No decision to carry out or approve an action which has been the subject of a final environmental impact statement by the involved Board or by any other agency shall be made until after the filing and consideration of the final environmental impact statement. Where the involved Board has been the lead agency for an action, it shall make a decision whether or not to approve the action within 30 days of the filing of the final environmental impact statement.

§ 51-14. Written determination of findings.

When the involved Board decides to carry out or approve an action which may have a significant effect on the environment, it shall make the following findings in a written determination:

- A. Consistent with social, economic and other essential considerations of state policy, to the maximum extent practicable, from among the reasonable alternatives thereto, the action to be carried or approved is one which minimizes or avoids adverse environmental effects, including the effects disclosed in the relevant environmental impact statements; and
- B. All practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.

§ 51-15. Copies on file.

- A. For public information purposes, a copy of the determination shall be filed and made available as provided in Part 617 of Title 6 of the New York Codes, Rules and Regulations.
- B. The Village Clerk shall maintain files open for public inspection of all notices of completion, draft and final environmental impact statements and written determinations prepared or caused to be prepared by the involved Board.

§ 51-16. Involvement of multiple agencies.

Where more than one agency is involved in an action, the procedures of Sections 617.4 and 617.8 of Part 617 of Title 6 of the New York Codes, Rules and Regulations shall be followed.

§ 51-17. Exempt actions.

Actions undertaken or approved prior to the date specified in Article 8 of the Environmental Conservation Law for local agencies shall be exempt from this chapter and the provisions of Article 8 of the Environmental Conservation Law and Part 617 of Title 6 of the New York Codes, Rules and Regulations; provided, however, that if, after such dates, the involved Board modifies an action undertaken or approved prior to that date and the involved Board determines that the modification may have a significant adverse effect on the environment, such modification shall be an action subject to this chapter and Part 617 of Title 6 of the New York Codes, Rules and Regulations.



Chapter 56

FIRE PREVENTION AND BUILDING CONSTRUCTION

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| § 56-1. Purpose. | § 56-10. Fire lanes. |
| § 56-2. Definitions. | § 56-11. Appeals. |
| § 56-3. Administration; fees. | § 56-12. No waiver or assumption of liability. |
| § 56-4. Building permits; cleanup required. | § 56-13. Enforcement; penalties for offenses. |
| § 56-5. Fire-prevention permits. | § 56-14. Service of orders. |
| § 56-6. Inspections. | § 56-15. Severability. |
| § 56-7. Stop-work orders. | § 56-16. Repealer. |
| § 56-8. Certificates of occupancy. | |
| § 56-9. Certificates of compliance. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 5-1-1990 by L.L. No. 3-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.
Electrical standards — See Ch. 48.

Subdivision of land — See Ch. 95.
Zoning — See Ch. 112.

§ 56-1. Purpose.

The purpose of this chapter is to protect and promote the safety, health and well-being of the residents of the Village of Tully and their property and to provide for administration and enforcement of the New York State Uniform Fire Prevention and Building Code in the Village of Tully and to establish powers, duties and responsibilities in connection therewith.

§ 56-2. Definitions.

- A. The words and terms used in this chapter shall have the same meanings as those contained in the New York Executive Law, Article 18, as added by Chapter 707 of the Laws of 1981, and the New York State Uniform Fire Prevention and Building Code, unless the context may otherwise require.
- B. As used in this chapter, the following terms shall have the meanings indicated: [Amended 11-4-2009 by L.L. No. 4-2009]

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

BUILDING PERMIT — A permit issued pursuant to § 56-4 of this chapter. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this chapter.

CERTIFICATE OF COMPLIANCE — A certificate issued pursuant to § 56-9 of this chapter.

CERTIFICATE OF OCCUPANCY — A certificate issued pursuant to § 56-8 of this chapter.

CODES ENFORCEMENT OFFICER — The Codes Enforcement Officer appointed pursuant to Chapter 8A of this Code.

COMPLIANCE ORDER — An order issued by the Codes Enforcement Officer pursuant to § 56-13 of this chapter.

ENERGY CODE — The New York State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

MAYOR — The Mayor of the Village of Tully.

OPERATING PERMIT — A permit issued pursuant to § 56-5J of this chapter. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this chapter.

PERMIT HOLDER — The person to whom a building permit has been issued.

PERSON — An individual, corporation, limited-liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

STOP-WORK ORDER — An order issued pursuant to § 56-7 of this chapter.

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 56-8I of this chapter.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

VILLAGE — The Village of Tully.

§ 56-3. Administration; fees.

- A. Designation of Building Inspector and Fire Marshal as public officials. There are hereby designated in the village public officials to be known as the "Building Inspector" and the "Fire Marshal," who shall be appointed by the Mayor with the approval of the Board of Trustees at a compensation to be fixed by said Board. One individual may serve in both positions at the same time. Except as stated in this chapter, the Mayor shall be responsible for determining areas of responsibility between the Building Inspector and the Fire Marshal.
- B. Building Inspector. **[Amended 11-4-2009 by L.L. No. 4-2009]**
 - (1) Except as otherwise specifically provided by law, ordinance, rule or regulation or except as otherwise provided in this chapter, the Building Inspector shall administer and enforce all the provisions of the Uniform Code, this chapter and any other law, ordinance, rule or regulation pertaining to requirements which

apply to new construction and to plans, alterations, change in use, repair, removal, relocation and demolition of buildings and structures.

- (2) The Building Inspector shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced training and other training as the State of New York shall require for code enforcement personnel, and the Building Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- (3) The Building Inspector shall have the following powers and duties:
 - (a) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
 - (b) Upon approval of such applications, to issue building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and to include in building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits such terms and conditions as the Building Inspector may determine to be appropriate;
 - (c) To conduct inspections to be made prior to the issuance of certificates of occupancy/certificates of compliance, temporary certificates and operating permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this chapter;
 - (d) To issue stop-work orders;
 - (e) To review and investigate complaints;
 - (f) To issue orders pursuant to § 56-14, Service of orders, of this chapter;
 - (g) To pursue administrative enforcement actions and proceedings;
 - (h) In consultation with the Village Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this chapter; and
 - (i) To exercise all other powers and fulfill all other duties conferred upon the Building Inspector by this chapter.

C. Fire Marshal.

- (1) The Fire Marshal shall administer and enforce all the provisions of the Uniform Code with respect to requirements which pertain to existing buildings; the storage or use of combustible or flammable liquids or other hazardous materials; the use and maintenance of buildings; the installation and use of solid-fuel-burning

heating appliances and associated chimneys and flues; fire detection and fire alarm systems; and sprinkler systems.

- (2) The Fire Marshal shall also administer and enforce all laws, ordinances, rules and regulations applicable to multiple residencies.
- (3) The Fire Marshal shall notify the Building Inspector of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent. **[Added 11-4-2009 by L.L. No. 4-2009]**

D. Additional duties and authority.

- (1) The Fire Marshal and the Building Inspector shall jointly enforce those provisions of the Uniform Code relating to fire prevention and life safety during new construction.
- (2) Whenever the same may be necessary or appropriate to assure compliance with the provisions of the Uniform Code, this chapter or any other applicable law, ordinance or regulation covering building construction, the Fire Marshal or the Building Inspector may require the performance of tests in the field by experienced, professional persons or by accredited testing laboratories, service bureaus or agencies.

E. Deputy and acting officials.

- (1) The Mayor may appoint one or more deputies, as the need may appear, to act under the supervision and direction of and to exercise any portion of the powers and duties of the Building Inspector or of the Fire Marshal as he may direct. The compensation of such deputies shall be fixed by the Board of Trustees.
- (2) In the absence of the Building Inspector or in the absence of the Fire Marshal or in the case of their inability to act for any reason, the Mayor shall have the power, with the consent of the Board of Trustees, to designate a person to act on behalf of the Building Inspector or on behalf of the Fire Marshal and to exercise all the powers conferred upon said officials by this chapter.
- (3) When relying upon the contracted-for services of an individual, partnership, business corporation or similar firm for the principal part of an administration and enforcement program, hereunder the Board of Trustees shall satisfy itself that any such provider has qualifications comparable to those of an individual who has satisfied the requirements of Part 434 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York. **[Added 11-4-2009 by L.L. No. 4-2009]**

F. Conflicts of interest. The Building Inspector, Fire Marshal or any employee of the Building Department or the Fire Marshal's office directly involved in code enforcement shall not engage in any activity inconsistent with his duties or with the interests of the Building Department or the Fire Marshal's office or engage, directly or indirectly, in any building business or in the furnishing of labor, materials, supplies or appliances for or the supervision of the construction, alteration, demolition or maintenance of a building or the preparation of plans or specifications thereof within the village. This provision shall not prohibit any employee from engaging in any such activities in

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connection with the construction of a building or structure owned by him for his own personal use and occupancy or for the use and occupancy of members of his immediate family and not constructed for sale.

- G. Rules and regulations. The Board of Trustees may adopt, by resolution, rules and regulations for the administration and enforcement of the Uniform Code and this chapter. Such rules and regulations shall not conflict with the Uniform Code, this chapter or any other provision of law.
- H. Records and reports.
- (1) The Building Inspector and the Fire Marshal shall keep permanent official records of all transactions and activities conducted by them, including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports and notices and orders issued. All such reports shall be public information, open to public inspection during normal business hours.
 - (2) The Building Inspector and the Fire Marshal shall report monthly to the Board of Trustees all business conducted by them, including a report as to permits and certificates issued, fees collected, orders and notices issued, inspections and tests made and appeals and litigation pending.
 - (3) The Building Inspector and Fire Marshal shall annually submit to the Secretary of State, on a form prescribed by the Secretary, a report of their activities relative to administration and enforcement of the Uniform Code. **[Added 11-4-2009 by L.L. No. 4-2009]**
 - (4) Upon the request of the Department of State, the Building Inspector and Fire Marshal shall provide, from the records and related materials they are required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of their activities in connection with the administration and enforcement of the Uniform Code. Failure to produce the requested materials shall permit an inference that the minimum standards of the Uniform Code have not been met. **[Added 11-4-2009 by L.L. No. 4-2009]**
- I. Fees.
- (1) Permit fees, inspection fees and fees related to building construction shall be determined by resolution of the Board of Trustees.
 - (2) In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of 50% of the fee paid, provided that no work has commenced. If work has been started and the application is not approved, the fees paid shall not be refunded.
- J. Procedure for complaints. Procedures shall be established for addressing bona fide complaints which assert that conditions or activities fail to comply with the Uniform Code. The process for responding to such complaints shall include, when appropriate, provisions for inspection of the conditions and/or activities alleged to be in violation of the Uniform Code or this chapter or the laws and/or regulations adopted for administration and enforcement of the Uniform Code or this chapter. **[Added 11-4-2009 by L.L. No. 4-2009]**

§ 56-4. Building permits; cleanup required.

- A. Except as hereinafter provided, no person, firm, corporation, association or partnership shall commence the construction, enlargement, alteration, improvement, removal, demolition, relocation or change of use or occupancy of any building or structure or any portion thereof nor install a solid-fuel-burning heating appliance, chimney or flue in any building or structure without first having obtained a permit from the Building Inspector. For purposes of this subsection, the term "commence" shall include the placement or storage of construction machinery, equipment, supplies or materials on the site.
- B. No permit shall be required for: **[Amended 11-4-2009 by L.L. No. 4-2009]**
- (1) Construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.38 square meters);
 - (2) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (3) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
 - (4) Installation of fences which are not part of an enclosure surrounding a swimming pool;
 - (5) Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
 - (6) Construction of temporary motion picture, television and theater stage sets and scenery;
 - (7) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (8) Installation of partitions or movable cases less than five-feet-nine-inches in height;
 - (9) Painting, wallpapering, tiling, carpeting, or other similar finish work;
 - (10) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
 - (11) Replacements of any equipment, provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications;
 - (12) Repairs, provided that such repairs do not involve:
 - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;

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- (b) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
 - (c) The enlargement, alteration, replacement or relocation of any building system;
 - (d) The removal from service of all or part of a fire protection system for any period of time.
- C. The application for a building permit and its accompanying documents shall contain sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code.
- D. The form of the permit and the application therefor shall be prescribed by resolution of the Board of Trustees. The application shall be signed by the owner or his authorized agent. 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 the application. The application shall contain or be accompanied by at least the following: **[Amended 11-4-2009 by L.L. No. 4-2009]**
- (1) The name and address of the owner.
 - (2) The Tax Map number, street address and a description of the land on which the work is to be done.
 - (3) A description of the use and the occupancy classification of the land and the existing or proposed building.
 - (4) A description of the proposed work.
 - (5) The estimated cost of the proposed work.
 - (6) A statement that the work shall be performed in compliance with the Uniform Code and applicable state and local laws, ordinances and regulations.
 - (7) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code.
 - (8) The required fee.
- E. Such application shall be accompanied by such documents, drawings, plans, including plot plan, and specifications as the applicant shall deem adequate and appropriate for compliance with this chapter or as the Building Inspector may require as being necessary or appropriate in his judgment and shall be submitted in triplicate. The applicant may confer with the Building Inspector in advance of submitting his application to discuss the Building Inspector's requirements for the same.
- F. Any plans, including plot plan, or specifications which comprise a portion of the application, whether submitted initially or subsequently upon requirement of the Building Inspector, shall not be accepted as part of an application for a building permit unless such documents: **[Amended 11-4-2009 by L.L. No. 4-2009]**

- (1) Are stamped with the seal of an architect or professional engineer or land surveyor licensed in New York State and shall, in all respects, comply with § 7209 or 7307 of the Education Law of the State of New York, as the same may be amended from time to time;
 - (2) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (3) Substantiate that the proposed work will comply with the Uniform Code and the State Energy Conservation Construction Code; and
 - (4) Where applicable, include a site plan that shows any existing and proposed structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the structures and the lot lines.
- G. The Building Inspector shall mark, in writing or by stamp, the construction documents accepted as part of a permit application. One set of accepted construction documents shall be retained by the Building Inspector, as the officer responsible for the administration and enforcement of the Code, and one set shall be returned to the applicant to be kept at the work site so as to be available for use by the Building Inspector. The applicant shall notify the Building Inspector of any change in the information contained in the application during the period the permit is in effect. A permit will be issued when the application has been determined to conform to the requirements of the Uniform Code. The authority conferred by such permit may be limited by conditions, if any, contained therein. **[Amended 11-4-2009 by L.L. No. 4-2009]**
- H. A building permit issued pursuant to this chapter shall be prominently displayed on the property or premises to which it pertains.
- I. A building permit issued pursuant to this chapter shall contain a statement directing that all work shall be performed in accordance with the construction documents submitted and accepted as part of the application. A building permit may be suspended or revoked if it is determined that the work to which it pertains is not proceeding in conformance with the Uniform Code or with any condition contained in such permit, or if there has been misrepresentation or falsification of a material fact in connection with the application for the permit, or if the building permit was issued in error and should not have been issued in accordance with the Uniform Code and/or this chapter, or if the person to whom a building permit has been issued fails or refuses to comply with a stop-work order issued by the Building Inspector or Fire Marshal. Such permit shall be revoked or suspended until such time as the permit holder demonstrates that all work completed and all work proposed shall be in compliance with applicable provisions of the Code. **[Amended 11-4-2009 by L.L. No. 4-2009]**
- J. A building permit issued pursuant to this chapter shall expire one year from the date of issuance or upon the issuance of a certificate of occupancy (other than a temporary certificate of occupancy), whichever occurs a first. The permit may, upon written request, be renewed for a successive one-year period, provided that:
- (1) The permit has not been revoked or suspended at the time the application for renewal is made;

- (2) The relevant information in the application is up-to-date; and
 - (3) The renewal fee is paid.
- K. Within 14 days after completion of the work or, in the event that the work is not completed, within 14 days after expiration of the building permit under Subsection J of this section, the applicant shall remove or cause to be removed from the site all construction machinery, equipment, supplies and materials or shall place them or cause them to be placed inside an approved structure. No certificate of occupancy shall be issued for any work performed by or on behalf of an applicant who has failed to comply with this requirement.

§ 56-5. Fire-prevention permits.

- A. Except as hereinafter provided, no person, firm, corporation, association or partnership shall engage in any of the activities set forth in this section of this chapter without first obtaining a permit authorizing such activity from the Fire Marshal.
- B. The application for a fire-prevention permit and its accompanying documents shall contain sufficient information to permit a determination that the intended activity accords with the requirements of the Uniform Code and this chapter.
- C. The form of the permit and application therefor shall be prescribed by resolution of the Board of Trustees. The application shall be signed by the owner (or his authorized agent) of the premises on which the activity is to take place and shall contain at least the following:
 - (1) The name and address of the owner of the location where the activity or operation is to be conducted.
 - (2) The address of the location where the activity or operation is to be conducted.
 - (3) The activity or operation for which the permit is requested.
 - (4) A statement that the activity or operation shall be performed in compliance with the Uniform Code and applicable state and local laws, ordinances and regulations.
- D. A fire-prevention permit issued pursuant to this chapter shall be prominently displayed on the property or premises to which it pertains.
- E. A fire-prevention permit issued pursuant to this chapter may be suspended or revoked if it is determined that the activity or operation to which it pertains is not in conformance with the Uniform Code or with any condition contained in such permit or if there has been misrepresentation or falsification of a material fact in connection with the application for the permit.
- F. The applicant shall notify the Fire Marshal of any change in the information contained in the application during the period for which the permit is in effect. A permit will be issued when the application has been determined to conform to the requirements of the Uniform Code and this chapter. The authority conferred by such permit may be limited by conditions, if any, contained therein.

- G. Permits shall not be transferable, and any change in activity, operation, location, ownership or use shall require a new permit.
- H. Permits shall continue for a period of one year, designated at the time of issuance, unless revoked.
- I. When more than one permit is required for the same property or premises, a single permit may be issued listing all materials or activities or operations covered. Revocation or suspension of a portion or portions of such consolidated permit for specific cause shall not invalidate the remainder.
- J. Operating permits shall be obtained for the following: **[Amended 11-4-2009 by L.L. No. 4-2009]**
- (1) Acetylene generators: to operate an acetylene generator having a calcium carbide capacity exceeding five pounds.
 - (2) Automobile tire rebuilding plants: to operate an automobile tire rebuilding plant.
 - (3) Automobile wrecking yards: to operate an automobile wrecking yard.
 - (4) Bowling establishments: for bowling pin refinishing and bowling lane resurfacing operations involving the use and application of flammable or combustible liquids or materials.
 - (5) Cellulose nitrate motion-picture film: to store, keep or have on hand more than 25 pounds of cellulose nitrate motion-picture film.
 - (6) Cellulose nitrate plastics (pyroxylin):
 - (a) To store, keep or have on hand more than 25 pounds of cellulose nitrate plastics (pyroxylin).
 - (b) To manufacture articles of cellulose nitrate plastics (pyroxylin) which shall include the use of cellulose nitrate plastics (pyroxylin) in the manufacture or assembling of other articles.
 - (7) Combustible fibers: to store, handle or use combustible fibers in quantities in excess of 100 cubic feet, except agricultural products on a farm.
 - (8) Combustible materials: to store combustible materials, including but not limited to empty combustible packing cases, boxes, barrels or similar containers, rubber tires, baled cotton, rubber, cork or other similar materials in excess of 2,500 cubic feet in gross volume, on any premises.
 - (9) Compressed gases:
 - (a) To store, handle or use at normal temperatures and pressures more than:
 - [1] Two thousand cubic feet of flammable compressed gas; or
 - [2] Six thousand cubic feet of nonflammable compressed gas.
 - (b) To store, handle or use any quantity of liquefied natural or hydrogen gas.

- (10) Cryogenics: to store, handle or use cryogenic fluids, except cryogenics used as a motor fuel and stored in motor vehicle tanks, as follows:
 - (a) Production, sale or storage of cryogenic fluids.
 - (b) Storage or use of flammable cryogenic fluids, cryogenic oxidizers or liquefied oxygen in excess of 10 gallons.
- (11) Dry-cleaning plants: to use in excess of four gallons of solvents or cleaning agents classified as flammable or combustible.
- (12) Dust-producing plants: to operate any grain elevator, flour, starch or feed mill, woodworking plant or plant pulverizing aluminum, coal, cocoa, plastics, magnesium, spices, sugar, sulfur or other materials producing explosive-potential dust.
- (13) Explosive, ammunition and blasting agents:
 - (a) To manufacture, possess, store, sell or otherwise dispose of explosives and blasting agents.
 - (b) To use explosives or blasting agents.
 - (c) To operate a terminal for handling explosives or blasting agents.
- (14) Flammable and combustible liquids:
 - (a) To store, handle or use flammable liquids in excess of 6 1/2 gallons inside dwellings or in excess of 10 gallons inside any other building or other occupancy or in excess of 60 gallons outside of any building. This provision shall not apply to:
 - [1] Liquids in the fuel tank of a motor vehicle, aircraft, portable or stationary engine, boat or portable heating plant.
 - [2] Paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes.
 - (b) To store, handle or use combustible liquids in excess of 25 gallons inside a building or in excess of 60 gallons outside of a building. This provision shall not apply to fuel oil used in connection with oil-burning equipment.
 - (c) A permit shall be obtained for the initial installation of an oil burner and a fuel oil tank used in connection therewith. A permit shall be required for the replacement of a fuel oil tank connected to an oil burner.
 - (d) For processing, blending or refining of flammable or combustible liquids.
 - (e) To install, alter or replace any underground or aboveground tank, pump, piping and other equipment relating to the storage of flammable and combustible liquids.
- (15) Flammable finishing: for spraying, coating or dipping operations utilizing flammable or combustible liquids.

- (16) Fruit-ripening process: to conduct a fruit-ripening process using ethylene gas.
- (17) Fumigation and thermal insecticidal fogging: to conduct fumigation or thermal insecticidal fogging operations.
- (18) Hazardous chemicals:
 - (a) To store, handle or use more than 55 gallons of corrosive liquids; or more than 50 pounds of oxidizing materials; or more than 10 pounds of organic peroxides; or more than 50 pounds of nitromethane; or 1,000 pounds or more of ammonium nitrate, ammonium nitrate fertilizers and fertilizer mixtures containing 60% or more ammonium or any amount of toxic material or poisonous gas.
 - (b) To store, handle or use any quantity of air-reactive, water-reactive or unstable materials.
- (19) Junkyards: to operate a junkyard.
- (20) Liquefied petroleum gas: for each installation of liquefied petroleum gas employing a container or an aggregate of interconnected containers of over 2,000 gallons' water capacity and for each permanent installation, irrespective of size of containers, made at buildings in which 20 or more persons congregate for civic, political, educational, religious, social or recreational purposes. Installers shall maintain a record of all installations and replacement of portable cylinders and have it available for inspection.
- (21) Lumberyards: to operate a lumberyard.
- (22) Magnesium: for melting, casting, heat treating, machining or grinding of more than 10 pounds of magnesium per working day.
- (23) Matches:
 - (a) To manufacture matches.
 - (b) To store matches in excess of 25 cases.
- (24) Organic coatings: to perform organic coating operations utilizing more than one gallon of organic coating on any working day.
- (25) Ovens and furnaces: to operate industrial processing ovens and furnaces operating at approximately atmospheric pressures and temperatures not exceeding 1,400° F. which are heating with oil or gas fuel or which, during operation, contain flammable vapors from the material in the oven or catalytic combustion system.
- (26) Places of assembly: to maintain, operate or use a place of assembly.
- (27) Service stations and repair garages: to operate a service station or repair garage.
- (28) Welding and cutting: to operate a welding and cutting business. A record of all locations where welding or cutting operations are performed shall be maintained and kept available for inspection by the permit holder.
- (29) Commercial and industrial operations which involve waste handling.

- (30) The use of pyrotechnic devices in assembly occupancies.
 - (31) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the Building Inspector or Fire Marshal.
- K. An inspection of a property or premises to which a fire prevention permit pertains shall be conducted prior to the issuance of such permit. [Added 11-4-2009 by L.L. No. 4-2009]

§ 56-6. Inspections. [Amended 11-4-2009 by L.L. No. 4-2009]

- A. Work for which a building permit has been issued under this chapter shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction. It shall be the responsibility of the owner or authorized agent to inform the Building Inspector that the work is ready for inspection and to schedule such inspection. Provisions shall be made for inspection of the following elements of the construction process, where applicable:
- (1) Work site prior to the issuance of a permit;
 - (2) Footing and foundation;
 - (3) Preparation for concrete slab;
 - (4) Framing;
 - (5) Building systems, including underground and rough-in;
 - (6) Fire-resistant construction and penetrations;
 - (7) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
 - (8) Energy Code compliance; and
 - (9) A final inspection after all work authorized by the building permit has been completed.
- B. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code. Construction work not in compliance with Code provisions shall be required to remain exposed until it has been brought into compliance with the Code, been reinspected, and been found satisfactory as completed.
- C. Frequency of inspections.
- (1) Existing buildings not subject to inspection under Subsection A of this section shall be subject to periodic inspections by the Fire Marshal for compliance with the Uniform Code in accordance with the following schedule:
 - (a) All areas of public assembly defined in the Uniform Code, all buildings or structures containing areas of public assembly and the common areas of multiple dwellings: every six months.
 - (b) All buildings or structures open to the general public: every 12 months.

- (c) All other buildings: every 24 months.
- (2) Notwithstanding any requirement of this subsection to the contrary, no regular, periodic inspections of occupied dwelling units shall be required; provided, however, that this shall not be a limitation on inspections conducted at the invitation of the occupant or where conditions on the premises threaten or present a hazard to public health, safety or welfare.
- D. An inspection of a building, structure or dwelling unit shall be performed at any other time upon:
- (1) The request of the owner, occupant or authorized agent;
 - (2) Receipt of a written statement specifying the ground upon which the subscriber believes a violation of the Uniform Code or this chapter exists; or
 - (3) Other reasonable and reliable information that such violation exists.

§ 56-7. Stop-work orders.

- A. Whenever the Building Inspector or the Fire Marshal has reasonable grounds to believe that work on any building or structure is proceeding without a permit or is being performed in violation of the provisions of the Uniform Code, this chapter or any applicable law, ordinance or regulation or not in conformity with any of the provisions of the application, plans or specifications on the basis of which a permit was issued or is being conducted in an unsafe and dangerous manner, he shall notify the owner of the property or the owner's agent or the person, firm or corporation performing the work to immediately suspend all work. In such instance, any and all persons shall immediately stop such work and suspend all building activities until the stop-work order has been duly rescinded.
- B. Such stop-work order shall be in writing on a form prescribed by resolution of the Board of Trustees and shall state the reason for the stop-work order, together with the date of issuance and the conditions which must be satisfied before work will be permitted to resume. The stop-work order shall bear the signature of the Building Inspector or the Fire Marshal. [Amended 11-4-2009 by L.L. No. 4-2009]

§ 56-8. Certificates of occupancy.

- A. No building shall be used or occupied, in whole or in part, until a certificate of occupancy shall have been issued by the Building Inspector.
- B. No building enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than 30 days after the completion of the alteration or work unless a certificate of occupancy shall have been issued.
- C. No change shall be made in the occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued.

- D. The owner or his or her agent shall make application to the Building Inspector for a certificate of occupancy. Accompanying this application and before the issuance of a certificate of occupancy, there shall be filed with the Building Inspector an affidavit of the registered architect or licensed professional engineer who filed the original plans or of the registered architect or licensed professional engineer who supervised construction of the work or of the superintendent of construction who supervised the work and who, by reason of his or her experience, is qualified to superintend the work for which the certificate of occupancy is sought. The 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 approved plans and, as erected, complies with the Uniform Code and this chapter governing building construction, except insofar as variations therefrom have been legally authorized. Such variations shall be specified in the affidavit. Also, where applicable, flood hazard certifications, prepared in accordance with the provisions of the Uniform Code, must be received prior to the issuance of the certificate. **[Amended 11-4-2009 by L.L. No. 4-2009]**
- E. Before issuing a certificate of occupancy, the Building Inspector 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, relocate or change the use or occupancy.
- F. When, after final inspection, it is found that the proposed work has been completed in accordance with the Uniform Code and applicable laws, ordinances, rules or regulations and also in accordance with the application, the Building Inspector shall issue a certificate of occupancy. If the proposed work has not been properly completed, the Building Inspector shall not 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.
- G. A certificate of occupancy shall be issued, where appropriate, within 30 days after written application therefor is made.
- H. The certificate of occupancy shall contain the following information: **[Amended 11-4-2009 by L.L. No. 4-2009]**
- (1) The building permit number, if any;
 - (2) The date of issuance of the building permit, if any;
 - (3) The name, address and Tax Map number of the property;
 - (4) If the certificate is not applicable to an entire structure, a description of that portion of the structure for which the certificate is issued;
 - (5) The use and occupancy classification of the structure;
 - (6) The type of construction of the structure;
 - (7) The assembly occupant load of the structure, if any;
 - (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

- (9) Any special conditions imposed in connection with the issuance of the building permit;
 - (10) An acknowledgment that the work is completed and that the proposed use and occupancy is in conformity with the provisions of the Uniform Code and applicable laws, ordinances, rules and regulations; and
 - (11) The signature of the Building Inspector issuing the certificate and the date of issuance.
- I. Upon request, the Building Inspector may issue a temporary certificate of occupancy for a building or structure or part thereof before the entire work covered by the building permit has been completed, provided that such portions as have been completed may be occupied safely without endangering life or the public health and welfare, any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and all required means of egress from the structure have been provided. A temporary certificate of occupancy shall remain effective for a period not exceeding three months from its date of issuance. For good cause, the Building Inspector may allow a maximum of two extensions for periods not exceeding three months each. **[Amended 11-4-2009 by L.L. No. 4-2009]**
 - J. A certificate of occupancy issued in error or on the basis of incorrect information shall be suspended or revoked if the relevant deficiencies are not corrected within a specified period of time. **[Added 11-4-2009 by L.L. No. 4-2009]**

§ 56-9. Certificates of compliance.

- A. A certificate of compliance shall be obtained by the owner of existing buildings or structures for any of the following:
 - (1) The installation or extension of electrical systems.
 - (2) The installation of solid-fuel-burning heating appliances and associated chimneys or flues.
 - (3) The installation or extension of fire-detection systems, fire alarm systems, sprinkler systems and standpipe systems.
 - (4) The installation of additional exits.
 - (5) The installation of swimming pools and enclosures.
- B. When, after a final inspection, it is found that the work has been completed in accordance with the Uniform Code and applicable laws, ordinances, rules or regulations, the Fire Marshal shall issue a certificate of compliance. If it is found that the work has not been properly completed, the Fire Marshal shall not issue a certificate of compliance and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.
- C. A certificate of compliance shall be issued, where appropriate, within 30 days after written application therefor is made. A certificate of compliance issued in error or on the basis of incorrect information shall be suspended or revoked if the relevant

deficiencies are not corrected within a specified period of time. [Amended 11-4-2009 by L.L. No. 4-2009]

- D. The certificate of compliance shall be in writing on a form prescribed by resolution of the Board of Trustees and shall acknowledge that the work completed conforms to the provisions of the Uniform Code.

§ 56-10. Fire lanes.

- A. The location, size, layout and construction of fire lanes and access roads shall be subject to the approval of the Fire Marshal. In those areas where new construction is being undertaken, fire lanes and access roads shall be constructed and maintained so as to provide access to the Fire Department and other emergency vehicles prior to the commencement of any aboveground construction.
- B. Fire lanes and access roads shall be a minimum of 25 feet in width where such widths will not conflict with the setback requirements of the Village Zoning Law.¹ In the event of such a conflict, the location and width of said fire lane shall be determined by the Fire Marshal so as to provide reasonable access to the building for emergency vehicles. Fire lanes shall be of such construction as determined by the Fire Marshal and shall be located so as to be accessible to the nearest public road or highway.
- C. Fire lanes shall be clearly designated by suitable pavement markings and signs to be provided by the owner or occupant of the property. Failure to replace or repair missing, damaged, rusted or faded signs or pavement markings within 30 days after written notice shall have been served upon the owner or occupant shall constitute a violation of this chapter.
- D. The signs required to be posted by this chapter shall conform to the size and color requirements for parking signs as set forth in the Manual of Uniform Traffic Control Devices of the New York State Department of Transportation. In addition, said signs shall also:
- (1) Have arrows pointing in the direction of the area designated as a fire lane.
 - (2) Be posted not more than 50 feet apart.
 - (3) Be neither of a portable nor a movable type, except where otherwise authorized by the Fire Marshal.
- E. The pavement markings required by this chapter shall be:
- (1) No more than 50 feet apart.
 - (2) Painted so as to read in the direction of travel; or, if two-way traffic is maintained, every other marking shall be painted in the opposite direction.
 - (3) Painted in yellow, with a twenty-four-inch minimum elongated height for each letter, an eighteen-inch-minimum width for each letter, except the letter "I," and a five-inch stroke for each letter.

1. Editor's Note: See Ch. 112, Zoning.

§ 56-11. Appeals.

Where practical difficulties or unnecessary hardship may result from enforcement of the strict letter of any provision of the Uniform Code, applications for variances consistent with the spirit of the code may be made to the Regional Board of Review in accordance with Part 440 of Title 19 of the New York Codes, Rules and Regulations. The Building Inspector or the Fire Marshal shall obtain a copy of all decisions rendered by the Board of Review pertaining to matters within the village.

§ 56-12. No waiver or assumption of liability.

- A. 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 or any of its employees, officers, deputies or agents or the electrical inspector be deemed to have assumed any such liability by reason of any inspection made pursuant to this chapter.
- B. This chapter shall not be construed to hold the village, its agents or employees responsible for any damage to persons or property by reason of any inspection or reinspection authorized herein or failure to inspect or reinspect or any permit or order issued herein provided.

§ 56-13. Enforcement; penalties for offenses.

- A. Upon determination by the Building Inspector or the Fire Marshal that a violation of the Uniform Code or this chapter exists in, on or about any building, structure or premises, the Building Inspector or the Fire Marshal may order, in writing, the remedying of the condition. Such order shall state the specific provision of the Uniform Code or this chapter which the particular condition violates and shall grant such time, not exceeding 30 days, for achieving compliance.
- B. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building or structure or portion thereof in violation of any provisions of the Uniform Code of this chapter or to fail in any manner to comply with a notice, directive or order of the Building Inspector or the Fire Marshal or to construct, alter or use and occupy any building or structure or part thereof in a manner not permitted by an approved building permit, certificate of occupancy, certificate of compliance or fire-prevention permit.
- C. Any person, firm or corporation who shall violate any provision of the Uniform Code shall be deemed to have committed a misdemeanor and shall be subject to the penalties provided in this chapter, unless otherwise prescribed by law.
- D. Any person who shall fail to comply with a written order of the Building Inspector or the Fire Marshal within the time fixed for compliance therewith and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agent or any other person taking part or assisting in the construction or use of any building who shall violate any of the provisions of this chapter or any lawful order, notice, directive, permit or certificate of the Building Inspector or the Fire Marshal

made thereunder shall be deemed to have committed a misdemeanor, punishable by a fine of not more than \$1,000 or imprisonment by a term not to exceed one year, or both. Each day that a violation continues beyond the date of the issuance of a stop-work order or appearance ticket or beyond the date fixed in the order to remedy shall be deemed a separate offense.

- E. An action or proceeding in the name of the village may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the Uniform Code, this chapter, rules and regulations adopted pursuant to this chapter or an order to cease the use or occupancy of a building. Such remedy shall be in addition to penalties otherwise prescribed by the Uniform Code and this chapter.

§ 56-14. Service of orders.

- A. The service of stop-work orders or orders for the correction of violations of the Uniform Code or this chapter shall be made upon the owner of the building or structure or one of the owner's executors, legal representatives, agents, lessees, other persons having a vested or contingent interest in the same as shown by the records of the Clerk of the village or of the Onondaga County Clerk or other person responsible for the conditions, either by delivering a copy of the same to such person or by sending a copy of the same by certified or registered mail to the owner's last known post office address and delivering the same to and leaving it with any person in charge of the premises or, in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of such premises. In the case of joint or multiple ownership, service of said notice on one owner shall be deemed sufficient.
- B. If buildings or other premises are owned by one person and occupied by another under lease or otherwise, the orders issued in connection with the enforcing of the Uniform Code or this chapter shall apply to the occupant thereof, except where the orders require the making of additions to or changes in the premises themselves such as would immediately become real estate and be the property of the owner of the premises. In such cases, the order shall effect the owner and not the occupant, unless it is otherwise agreed between the owner and the occupant.

§ 56-15. Severability.

If any paragraph, section, sentence or portion of a sentence of this chapter shall be found and determined to be invalid, unlawful and/or unconstitutional, such determination shall not invalidate or void any other paragraph, section, sentence or portion thereof, and such other parts thereof shall remain in full force and effect until legally revoked, modified and/or amended.

§ 56-16. Repealer.

All local laws, ordinances, rules and regulations and amendments thereto heretofore adopted by the village relating to the administration and enforcement of the State Building and Construction Code, including Village Local Law No. 1-1975, and all ordinances, rules and

regulations and amendments thereto heretofore adopted by the village relating to the administration and enforcement of the State Fire Prevention Code, including Village Local Law No. 2-1977, are hereby repealed in their entirety.²

2. Editor's Note: Local Law No. 1-1975, adopted 2-3-1975, dealt with building permits, and L.L. No. 2-1977, adopted 4-4-1977, dealt with fire prevention administration.

Chapter 57

FIREWORKS DISPLAYS

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| § 57-1. Title. | § 57-6. Rules and regulations of public fireworks displays. |
| § 57-2. Purpose and statutory authorization. | § 57-7. Bond or insurance required. |
| § 57-3. Definitions. | § 57-8. Penalties for offenses. |
| § 57-4. Administration and enforcement. | § 57-9. Conflicting standards. |
| § 57-5. Permit required. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 1-4-2012 by L.L. No. 1-2012.¹ Amendments noted where applicable.]

§ 57-1. Title.

This Chapter 57 shall be known as "Fireworks Displays."

§ 57-2. Purpose and statutory authorization.

- A. Recent New York State legislative enactments requiring the regulation of fireworks and pyrotechnics displays at private events such as (but not exclusively) weddings and parties have been enacted and, amongst other things, require the local municipality, as permitting agency, to address safety issues to better protect localities and the public. This chapter is designed to promote the health, safety and general welfare of the people of the municipality by imposing regulations to help ensure the safe conduct of outdoor fireworks displays within the municipality.
- B. This chapter is enacted pursuant to the authority granted by Article 405 of the Penal Law of the State of New York, the Fire Code of the State of New York and NFPA 1123 Code for Fireworks Displays and is subject to all of the conditions and provisions contained in said laws and codes, and as may be amended from time to time.

§ 57-3. Definitions.

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

ASSISTANT — A person who works under the direction of the operator to put on a public fireworks display.

BODY — A municipality, school district, private club, association or organization of individuals.

1. Editor's Note: This local law also superseded former Ch. 57, Fireworks Displays, adopted 11-2-2011 by L.L. No. 5-2011.

FIREWORKS — Any blank cartridge, blank cartridge pistol, or toy cannon in which explosives are used, firecrackers, sparklers or other combustible or explosive of like construction, or any preparation containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, or other device containing any explosive substance.

HIGHWAY — Any public street, road, highway or alley, or any private road or street.

MUNICIPALITY — The Village of Tully.

OPERATOR — The person with overall responsibility for safety and the setting up and discharging of a public fireworks display.

PERMIT — The written authorization of the permit authority granted to any body to conduct a public fireworks display.

PERMIT AUTHORITY — The Code Enforcement Officer or other board or authorized individual(s) for the Village of Tully.

PUBLIC FIREWORKS DISPLAY — An outdoor display of fireworks performed as entertainment.

SPONSOR — The person who exercises general control over the arrangements for the public fireworks display. The sponsor and the operator may sometimes be the same person.

§ 57-4. Administration and enforcement.

The permit authority is hereby authorized and required to grant and issue a permit for the public display of fireworks and to take all such actions as are necessary for the proper execution of its authority. The enforcement of the provisions provided herein shall be by the permit authority, and any other persons as may be from time to time authorized by the Town Board of the municipality.

§ 57-5. Permit required.

- A. No person shall conduct an indoor fireworks display in the municipality.
- B. No public fireworks display shall be conducted in the municipality on a lot containing a one- or two-family home as the principal use.
- C. No public fireworks display shall be conducted in the municipality unless a valid permit for such a display has been issued by the permit authority.
- D. Application for such a permit shall be made to the permit authority on the form provided by it, at least 14 days in advance of the date of the fireworks display. The application shall set forth the following information:

- (1) The name of the person promoting the fireworks display ("sponsor") and the name of the person actually to be in charge of the firing of the display ("sponsor").
 - (2) The date and time of day at which the fireworks display is to be held, including a rain date.
 - (3) The exact location planned for the display.
 - (4) The number and kind of fireworks to be discharged.
 - (5) The manner and place of storage of such fireworks prior to the display, including where fireworks are to be stored if the event is rained out.
 - (6) For outdoor displays not before a proximate audience, a diagram of the area where the display will take place, showing location where the fireworks will be discharged from, the location of, and distance to all the buildings, highways, lines of communication, location of the audience, trees, overhead obstructions or other structures or devices that could be affected by the display or fallout from it.
 - (7) For indoor displays, in addition to the information provided above, a written plan for how the applicant intends to use the pyrotechnics as required by the (New York State) Penal Law § 405.10.
- E. For good cause shown, the permit authority may accept an application for a permit less than 14 days in advance of the date of the fireworks display. In no event, however, may the permit authority accept such application less than five days in advance of the fireworks display.
- F. Operators shall supply a photocopy of their licenses to deal in explosives, issued by the New York State Department of Labor.
- G. The application shall be signed by the sponsor and the operator and shall be accompanied by a fee of \$50. From time to time at the discretion of the Town Board the fee may be waived.
- H. Upon receipt of an application for a permit, the permit authority may make an investigation of the site of the proposed display for the purpose of determining whether the regulations provided for herein have been complied with.
- I. No permit granted hereunder shall be transferable to another sponsor or operator, or for another location, and any such permit shall apply only to the fireworks display for which it is granted.

§ 57-6. Rules and regulations of public fireworks displays.

- A. Firing distances; mortar pieces.
- (1) The actual point at which the fireworks are to be fired shall be at least 50 feet from the nearest aboveground telephone or telegraph line, tree or other overhead obstruction, and such point shall also be no nearer to the audience or any

permanent building, highway or railroad or other means of travel than the distances provided in the following table:

| Shell Size (inches) | Millimeters | Minimum Radius Distance (feet) |
|------------------------|-------------|--------------------------------------|
| 3 or less | 76 or less | 280 |
| 4 | 102 | 557 |
| 5 | 127 | 700 |
| 6 | 152 | 840 |
| 7 | 178 | 980 |
| 8 | 203 | 1120 |
| 10 | 254 | 1400 |
| 12 | 305 | 1680 |

- (2) No mortar piece exceeding 12 inches in diameter shall be used or discharged. Distances from bulk storage areas of materials that have a flammability, explosive or toxic hazard shall be twice that required by the above table.
 - (3) The minimum radius distance identified in § 57-6A(1) shall be wholly contained within the lot containing the actual point at which the fireworks are to be fired. The minimum radius distance identified in § 57-4A(1) may be partially located on adjacent property if written permission is provided by the adjacent property owner to the satisfaction of the permit authority.
- B. The audience at any fireworks display shall be restrained behind lines at such distances from the point at which the fireworks are discharged as is provided in the table contained in Subsection A above. The sponsor shall be responsible for controlling the audience.
 - C. Only persons actively involved in the fireworks display shall be allowed inside the minimum radius distance line contained in Subsection A above.
 - D. All fireworks that fire a projectile shall be so set up that the projectile will go into the air as nearly as possible in a vertical direction.
 - E. Any fireworks that remain unfired after the display is concluded must be immediately disposed of in a way safe for the particular type of fireworks remaining and consistent with all applicable federal and state laws, rules and regulations.
 - F. All debris resulting from the fireworks display shall be properly disposed of by the operator before leaving the discharge site. The operator shall remain at the discharge site for at least one hour after the completion of the display to ensure that the site is secure and clean.

- G. No fireworks shall be left unattended at any time prior to, during or after the fireworks display. No fireworks shall be stored at the site of the display more than eight hours before actual discharge, but a longer period may be granted at the discretion of the permit authority. As soon as the fireworks have been delivered to the display site, they shall not be left unattended nor shall they be allowed to become wet.
- H. No fireworks display shall be held during any wind storm in which the wind reaches a velocity of more than 30 miles per hour.
- I. All operators and assistants shall be over the age of 21 years, competent and physically fit for the task. A copy of a valid driver's license or other valid picture identification acceptable to the permit authority must be provided for all operators and assistants.
- J. There shall be at least one operator or assistant constantly on duty during the discharge, and at least two soda-acid or other approved type fire extinguishers of at least two-and-one-half gallons' capacity each shall be kept at as widely separated points as possible within the actual area of display.
- K. The permit authority (CEO) shall forward a copy of the application to the Chief of the local Fire Department and the Village Board. All parties shall be notified of the display location, date and time if a permit is issued.
- L. The Fire Department (or personnel designee) shall be required to attend the fireworks display. Anyone issued a permit shall be responsible for all reasonable and lawfully required personnel costs associated with on-site staffing.
- M. Anyone issued a permit hereunder shall at a minimum comply with these regulations, New York State Penal Law Article 405 and should comply with the standards and guidelines contained in National Fire Protection Association (NFPA) Standard 1123 regarding outdoor display of fireworks.
- N. The operator shall have any permit issued available for examination by the permit authority at the time of the display.
- O. Smoking shall not be permitted within 50 feet of any area where fireworks or other associated materials are kept or stored.

§ 57-7. Bond or insurance required.

- A. No permit shall be issued until an adequate bond in a sum to be fixed by the permit authority, but in no case less than \$1,000,000, is provided by the applicant. The bond shall be conditioned for the payment of all damages which may be caused to a person or persons or to property by reason of the fireworks display so permitted, and arising from any acts of the sponsor, operator, his agents, employees, assistant, contractors or subcontractors. Such bond shall run to the municipality and shall be for the use and benefit of any such person or persons, or any such owner or owners of any property so injured or damaged. Any such person or persons, or such owner or owners, are hereby authorized to maintain an action on such bond, which right of action shall also accrue to the heirs, executors, administrators, successors or assigns of such persons or owners.

- B. The permit authority may accept, in lieu of such bond, an indemnity insurance policy with liability coverage and indemnity protection equivalent to or exceeding the terms and conditions upon which the bond is predicated and for the same purposes provided.

§ 57-8. Penalties for offenses.

- A. Any person or persons, associations or corporations committing an offense against any section or provision thereof shall be subject to the penalties imposed by §§ 270.00 and 405.05 of the Penal Law, including the provisions relating to the seizure of fireworks contained in § 405.05.
- B. Notwithstanding a conviction for an offense against any provisions, a person or entity committing an offense under this chapter shall be subject to revocation of any permit herein granted without reimbursement of fees paid thereof.
- C. In addition to any fine or imprisonment imposed for a conviction of an offense to this chapter, each such offense may be subject to a civil penalty not to exceed \$250, to be recovered in an action or proceeding in a court of competent jurisdiction.

§ 57-9. Conflicting standards.

Where the requirements of this chapter impose a different restriction or requirement than imposed by other sections of the Village Code of the Village of Tully, the Village Law of the State of New York or other applicable rules or regulations, the requirements of this chapter shall prevail to the extent allowed by the Laws of the State of New York. Otherwise, the strictest requirements shall prevail.

Chapter 59

FLOOD DAMAGE PREVENTION

ARTICLE I

Statutory Authorization and Purpose

§ 59-1. Title.

§ 59-2. Findings.

ARTICLE II

Definitions

§ 59-3. Definitions.

ARTICLE III

General Provisions

§ 59-4. General provisions.

ARTICLE IV

Administration

§ 59-5. Administration.

ARTICLE V

Construction Standards

§ 59-6. Construction standards.

ARTICLE VI

Variances

§ 59-7. Variance procedure.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 6-3-2020 by L.L. No. 1-2020.¹ Amendments noted where applicable.]

ARTICLE I

Statutory Authorization and Purpose

§ 59-1. Title.

This chapter shall be known and may be cited as the "Village of Tully Flood Damage Prevention Law."

§ 59-2. Findings.

- A. The Village Board of Trustees of the Village of Tully finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Tully 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.
- B. 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:

1. Editor's Note: This local law also repealed former Ch. 59, Flood Damage Prevention, adopted 10-5-2016 by L.L. No. 1-2016.

- (1) 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;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- (6) Qualify for and maintain participation in the National Flood Insurance Program.

C. Objectives. The objectives of this chapter are to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood-control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) 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;
- (7) Provide that developers are notified that property is in an area of special flood hazard; and
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II

Definitions

§ 59-3. Definitions.

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.

ACCESSORY STRUCTURE — A structure used solely for parking (two-car detached garages or smaller) or limited storage, represent a minimal investment of not more than 10% of the value of the primary structure, and may not be used for human habitation.

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

AREA OF SHALLOW FLOODING — A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

BASE FLOOD — The flood having a 1% 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.

BUILDING — See "structure."

CELLAR — Has the same meaning as "basement."

CRAWL SPACE — An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

CRITICAL FACILITIES —

- A. Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- B. Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
- C. Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
- D. Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

CUMULATIVE SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50% of the market value

of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

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

ELEVATED BUILDING — A nonbasement building built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-V30, VE, or V, elevated building also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

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

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

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

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

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

FLOOD INSURANCE STUDY — See "flood elevation study."

FLOOD or FLOODING —

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters;
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- B. "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an

unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A(1) above.

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

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

FLOODWAY — Has the same meaning as "regulatory floodway."

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

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

HISTORIC STRUCTURE — Any structure that is:

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

LOCAL ADMINISTRATOR — The person appointed by the Village Board to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person shall be the Code Enforcement Officer or, in his absence, inability or other failure to so serve, the Village Clerk. The Village Supervisor only (but not the Code Enforcement Officer) may direct where necessary, and subject to § 59-5C hereof, that assistance be provided to the local administrator from the Village's Consulting Engineer, or employee of an engineering department.

LOWEST FLOOR — Lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a

building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

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

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

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME — Has the same meaning as "manufactured home."

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

ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD — Has the same meaning as "base flood."

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

RECREATIONAL VEHICLE — A vehicle which is:

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

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 59-5D(2) of this chapter.

START OF CONSTRUCTION —

- A. The date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.
- B. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a

basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT —

- A. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. Substantial improvement also means cumulative substantial improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed.
- B. The term does not, however, include either:
 - (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

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

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

ARTICLE III General Provisions

§ 59-4. General provisions.

- A. Lands to which this chapter applies. This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Tully, Onondaga County.
- B. Basis for establishing the areas of special flood hazard.

- (1) The areas of special flood hazard for the Village of Tully, Community Number 36552, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
 - (a) Flood Insurance Rate Map Panel Number: 36067C0486F, whose effective date is November 4, 2016, and any subsequent revisions to this map panel that do not affect areas under our community's jurisdiction.
 - (b) A scientific and engineering report entitled "Flood Insurance Study, Onondaga County, New York, All Jurisdictions" dated November 4, 2016.
 - (2) 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 Office of the Village Clerk, Village of Tully, 5833 Meetinghouse Road, Tully, New York 13159.
- C. Interpretation and conflict with other laws. This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention. 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.
- D. Severability. If any clause, sentence, paragraph, subdivision, section or part of this chapter or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstances is adjudged invalid, illegal or unconstitutional by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this chapter or in its application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances. Further, in adjudging such invalid, illegal or unconstitutional provision, the court shall attempt to modify same to a provision which is not invalid, illegal or unconstitutional and which best achieves the intent of the invalid provision.
- E. Penalties for noncompliance. No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Tully from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI of this Chapter

59 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

- F. 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 Tully, 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

§ 59-5. Administration.

- A. Designation of the local administrator. The Code Enforcement Officer is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.
- B. The floodplain development permit.
- (1) Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 59-4B, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
 - (2) Fees. All applications for a floodplain development permit shall be accompanied by an application fee of \$50, however, subject to modification of the Village Fee Schedule by duly adopted resolution of the Village Board. In addition, the applicant shall be responsible for reimbursing the Village of Tully for any additional costs necessary for internal administrative and/or professional engineering review, inspection and approval of this project. The local administrator may require a deposit of no more than \$1,620 to cover these additional costs except under extraordinary or similar complex circumstances, and not more than \$1,000 if the applicant is also utilizing the Village's Consulting Engineer under § 59-5C hereof.
- C. Application for a permit. The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
 - (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
 - (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 59-6B(3), Utilities.
 - (4) A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 59-6D, Nonresidential structures.
 - (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 59-4B, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide written and acknowledged assurances signed by the applicant or his engineer or architect that the conveyance capacity of the altered or relocated stream segment will be maintained.
 - (6) A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
 - (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.
 - (8) Subject to waiver of any claim of conflict of interest, or dual representation by the applicant, the Village's Consulting Engineer and Village, the applicant may request the Village's Consulting Engineer to provide the certifications and analysis required of the applicant hereunder, also subject to § 59-5B(2) hereof.
- D. Duties and responsibilities of the local administrator. Duties of the local administrator shall include, but not be limited to the following:
- (1) Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (a) Review all applications for completeness, particularly with the requirements of § 59-5C, Application for a permit, and for compliance with the provisions and standards of this chapter.
 - (b) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of § 59-6, Construction standards and, in particular, § 59-6A(1), Subdivision proposals.
 - (c) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of § 59-6, Construction standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
 - (d) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.
- (2) Use of other flood data.
- (a) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 59-5C(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
 - (b) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.
 - (c) When an area of special flood hazard, base flood elevation, and/or floodway data are available from a federal, state or other authoritative source, but differ from the data in the documents enumerated in § 59-4B, the local administrator may reasonably utilize the other flood information to enforce more restrictive development standards.
- (3) Alteration of watercourses.
- (a) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or

relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.

- (b) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (4) Construction stage.
- (a) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
 - (b) 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.
- (5) 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 developer's engineer or architect to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.
- (6) Stop-work orders.
- (a) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in Section 59-4E of this chapter.
 - (b) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 59-4E of this chapter.
- (7) Certificate of compliance.
- (a) In areas of special flood hazard, as determined by documents enumerated in § 59-4B, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created,

erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.

- (b) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
 - (c) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 59-5D(5), Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.
- (8) Information to be retained. The local administrator shall retain, and make available for inspection, copies of the following:
- (a) Floodplain development permits and certificates of compliance;
 - (b) Certifications of as-built lowest floor elevations of structures, required pursuant to § 59-5D(4)(a) and (b), and whether or not the structures contain a basement;
 - (c) Floodproofing certificates required pursuant to § 59-5D(4)(a) and whether or not the structures contain a basement;
 - (d) Variances issued pursuant to § 59-7, Variance procedures; and
 - (e) Notices required under § 59-5D(3), Alteration of watercourses.

ARTICLE V

Construction Standards

§ 59-6. Construction standards.

- A. General standards. The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 59-4B.
- (1) Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):
 - (a) Proposals shall be consistent with the need to minimize flood damage;
 - (b) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and
 - (c) Adequate drainage shall be provided to reduce exposure to flood damage.

(2) Encroachments.

- (a) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
- [1] The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
 - [2] The Village of Tully agrees, at the sole discretion of the Village Board, to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Tully for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Tully for all costs related to the final map revision.
- (b) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 59-4B, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
- [1] A technical evaluation by a licensed professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or
 - [2] The Village of Tully agrees, at the sole discretion of the Village Board, to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Tully for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Tully for all costs related to the final map revisions.
- (c) Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation.
- (d) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, if any development is found to increase or decrease base flood elevations, the Village of Tully shall, as soon as practicable, but not

later than six months after the date such information becomes available, notify FEMA and the New York State Department of Environmental Conservation of the changes by submitting technical or scientific data in accordance with standard engineering practice.

B. Standards for all structures. The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 59-4B.

(1) Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(2) Construction materials and methods.

(a) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

(b) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(c) Enclosed areas below lowest floor.

[1] For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE, AO or A, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. 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 openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

[b] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

[2] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

(3) Utilities.

(a) New and replacement electrical equipment, heating, ventilating, air-conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation, or at least three feet above the highest adjacent grade in a Zone A without an available base

flood elevation, or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall also be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

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

C. Residential structures.

- (1) Elevation. The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 59-6A(1), Subdivision proposals, § 59-6A(2), Encroachments, and § 59-6B, Standards for all structures.
 - (a) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
 - (b) Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
 - (c) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 59-4B (at least two feet if no depth number is specified).
 - (d) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

D. Nonresidential structures. The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 59-6A(1), Subdivision proposals, § 59-6A(2), Encroachments, and § 59-6B, Standards for all structures.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure shall either:
 - (a) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (b) Be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, 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.
 - (2) Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
 - (a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - (b) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in § 59-6D(1)(b).
 - (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of § 59-6D(1)(b), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
 - (4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
 - (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.
- E. Manufactured homes and recreational vehicles. The following standards, in addition to the standards in § 59-6A, General standards, and § 59-6B, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard:
- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (a) Be on site fewer than 180 consecutive days;
 - (b) Be fully licensed and ready for highway use; or

- (c) Meet the requirements for manufactured homes in § 59-6E(2), (3) and (4). A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.
- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 59-4B (at least two feet if no depth number is specified).
- F. Critical facilities. In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical facility shall be located within any area of special flood hazard, or within any 500-year flood zone shown as a B zone or a shaded X zone on the Community's Flood Insurance Rate Maps.
- G. Accessory structures, including detached garages. The following standards apply to new and substantially improved accessory structures, including detached garages, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 59-4B.
- (1) Within Zones A1-A30, AE, AO, AH, A, accessory structures must meet the standards of § 59-6B(1), Anchoring,
- (2) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, areas below two feet above the base flood elevation shall be constructed using methods and practices that minimize flood damage.
- (3) Within Zones AO, or Zone A if base flood elevation data are not available, areas below three feet above the highest adjacent grade shall be constructed using methods and practices that minimize flood damage.
- (4) Structures must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters in accordance with § 59-6B(2)(c).
- (5) Utilities must meet the requirements of § 59-6B(3), UTILITIES.

ARTICLE VI

Variances**§ 59-7. Variance procedure.****A. Appeals Board.**

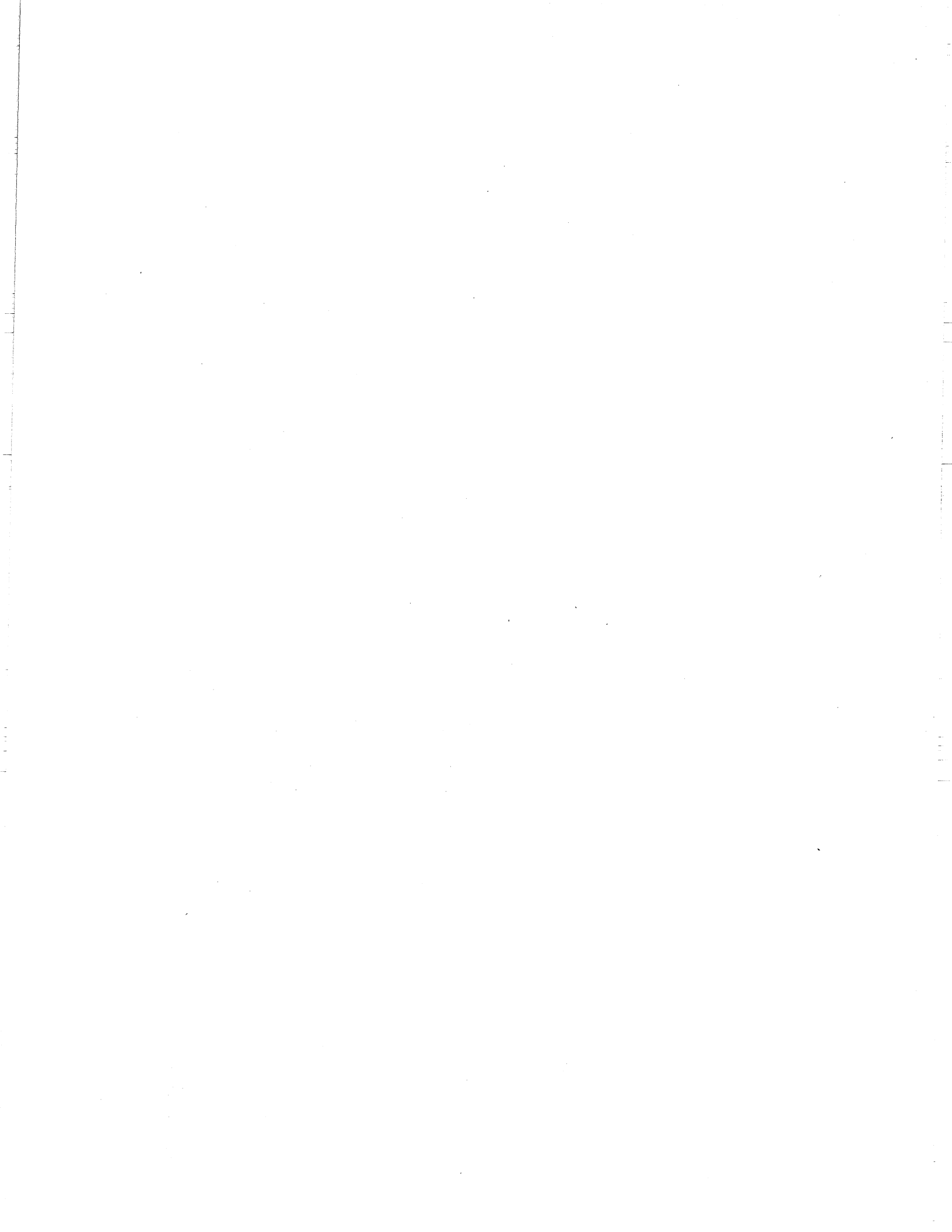
- (1) The Village Board ("Village Board") or if directed by the Village Board, Zoning Board of Appeals as established by the Village of Tully shall hear and decide appeals and requests for variances from the requirements of this chapter. The Village Board may so direct this on a case-by-case basis or by blanket resolution delegating such authority for a designated period of time. The Village Board or Zoning Board of Appeals acting in such capacity is herein referred to as the "Board of Appeals."
- (2) The Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.
- (3) Those aggrieved by the decision of the Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

- (k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of § 59-7A(4) and the purposes of this chapter, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
 - (6) The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

B. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in § 59-7A(4)(a) through (l) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (a) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure; and
 - (b) The variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
 - (a) The criteria of this § 59-7B(1), (4), (5) and (6) are met; and
 - (b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (a) A showing of good and sufficient cause;

- (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) 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.
- (7) Notification.
- (a) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
 - [1] The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - [2] Such construction below the base flood level increases risks to life and property.
 - (b) Such notification shall be maintained with the record of all variance actions as required in § 59-5D(8) of this chapter.



Chapter 62

GAMES OF CHANCE

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| <p>§ 62-1. Purpose.</p> <p>§ 62-2. License required.</p> <p>§ 62-3. Rental of premises.</p> <p>§ 62-4. Suppliers.</p> <p>§ 62-5. Net proceeds.</p> <p>§ 62-6. Single prize.</p> <p>§ 62-7. Merchandise wheel.</p> <p>§ 62-8. Limit on number of games.</p> <p>§ 62-9. Series of prizes.</p> | <p>§ 62-10. No limitation on winners.</p> <p>§ 62-11. Management and operation.</p> <p>§ 62-12. Remuneration for participation.</p> <p>§ 62-13. Credit.</p> <p>§ 62-14. Use of authorized premises.</p> <p>§ 62-15. Designation of authority.</p> <p>§ 62-16. Control and supervision of games.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Tully 1-8-1979 as L.L. No. 1-1979;¹ amended in its entirety 5-17-1979 by L.L. No. 3-1979. Subsequent amendments noted where applicable.]

§ 62-1. Purpose.

The purpose of this chapter is to exercise the option granted to the Village of Tully by § 187 of the General Municipal Law of the State of New York, as amended, to authorize the conduct of games of chance by certain organizations within the municipality pursuant to the requirements of Article 9-A, § 183 et seq., of the General Municipal Law.

§ 62-2. License required.

No person, firm, partnership, corporation or organization other than a licensee under the provisions of § 191 of Article 9-A of the General Municipal Law shall conduct such games of chance or shall lease, rent or otherwise make available for conducting such games of chance a hall, building or other premises for any consideration whatsoever, direct or indirect, except as provided in § 190 of the General Municipal Law.

§ 62-3. Rental of premises.

No game of chance shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.

1. Editor's Note: This legislation passed at referendum held 3-20-1979.

§ 62-4. Suppliers.

No authorized organization licensed under the provisions of Article 9-A of the General Municipal Law shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of games of chance from other than a supplier licensed by the New York State Racing and Wagering Board or from another authorized organization.

§ 62-5. Net proceeds.

The entire net proceeds of any game of chance and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.

§ 62-6. Single prize.

No prize shall exceed the sum or value of \$100, except that for merchandise wheels, no single prize shall exceed the sum or value of \$250. No single wager shall exceed \$2.

§ 62-7. Merchandise wheel.

No authorized organization shall award a series of prizes consisting of merchandise with an aggregate value in excess of \$1,000 during the successive operations of any one merchandise wheel.

§ 62-8. Limit on number of games.

In addition to merchandise wheels, no more than five other single types of games of chance shall be conducted during any one license period.

§ 62-9. Series of prizes.

Except for merchandise wheels, no series of prizes on any one occasion shall aggregate more than \$200 when the licensed authorized organization conducts five single types of games of chance during any one license period. Except for merchandise wheels, no series of prizes on any one occasion shall aggregate more than \$250 when the licensed authorized organization conducts less than five single types of games of chance, exclusive of merchandise wheels, during any one license period.

§ 62-10. No limitation on winners.

Except for the limitations on the sum or value for single prizes and series of prizes, no limit shall be imposed on the sum or value of prizes awarded to any one participant during any occasion or any license period.

§ 62-11. Management and operation.

No person except a bona fide member of any such organization, its auxiliary or affiliated organization shall participate in the management or operation of such game as set forth in § 195-c of the General Municipal Law.

§ 62-12. Remuneration for participation.

No person shall receive any remuneration for participation in the management or operation of any such game.

§ 62-13. Credit.

No authorized organization shall extend credit to a person to participate in playing a game of chance.

§ 62-14. Use of authorized premises.

No game of chance shall be conducted on other than the premises of an authorized organization or an authorized games of chance lessor.

§ 62-15. Designation of authority.

The Board of Trustees of the Village of Tully hereby delegates to the Village Clerk of the Village of Tully all of the authority granted to the Board of Trustees of the Village of Tully by Article 9-A of the General Municipal Law in relation to the issuance, amendment and cancellation of licenses, the conduct of investigations and hearings, the collection and transmission of fees and such other authorities as are set forth in Article 9-A of the General Municipal Law.

§ 62-16. Control and supervision of games.

The Board of Trustees of the Village of Tully hereby designates the County Sheriff of Onondaga County, as the chief law enforcement officer of Onondaga County, to be the officer to have control and supervision of all games of chance authorized by this chapter and to exercise all the powers and duties set forth in § 194 of Article 9-A of the General Municipal Law. In this connection, all fees collected pursuant to § 195-f of Article 9-A of the General Municipal Law shall be paid to the chief fiscal officer of Onondaga County.



Chapter 65
(RESERVED)

[Former Ch. 65, Garbage, Rubbish and Refuse, adopted 5-13-1963, as amended, was repealed 9-4-1990 by L.L. No. 8-1990.]



Chapter 71

LITTERING

§ 71-1. Purpose.

§ 71-4. Penalties for offenses.

§ 71-2. Word usage; definitions.

§ 71-5. Severability.

§ 71-3. Prohibited acts.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 9-4-1990 as L.L. No. 8-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Solid waste — See Ch. 93.

§ 71-1. Purpose.

The purpose of this chapter shall be to protect and promote the health, safety and welfare of the people of the Village of Tully by controlling littering within the Village of Tully.

§ 71-2. 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, words used in the singular number include the plural, and words used in the masculine include the feminine. The word "shall" is always mandatory and not merely directory.
- B. For the purposes of this chapter, the following words, phrases and terms 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.

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

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

PRIVATE PREMISES — Any house, building or other structure not owned or operated by the village, whether inhabited or temporarily or continuously uninhabited or vacant, including any yard, ground, parking lot, walk, driveway, porch steps, vestibule or mailbox belonging or appurtenant to such house, building or other structure.

PUBLIC PLACE — Any and all streets, highway rights-of-way, sidewalks or other public or quasi-public parks, spaces, grounds and buildings, including school grounds.

REFUSE — All putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, incinerator residue, street cleanings, offal, dead animals, abandoned automobiles and any parts thereof, agricultural wastes, commercial wastes, industrial wastes and construction and demolition debris.

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

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

VILLAGE — The Village of Tully.

§ 71-3. Prohibited acts.

A. Littering in public places.

- (1) No person shall throw or deposit or cause to be thrown or deposited any garbage, trash or rubbish in or upon any public street or highway within the Village of Tully, New York.
- (2) No person shall sweep into, throw or deposit in any gutter, street, highway right-of-way 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.
- (3) No person shall sweep into, throw, deposit or cause to be deposited in any gutter, street, highway right-of-way or other public place within the village any accumulation of dirt, mud, stone or combination thereof. The owner of any adjoining private premises, the lessee of the same and, as the case may be, the operator of any business thereon, including the business of building construction, shall take all steps necessary to prevent dirt, mud and stone from being deposited in any gutter, street, highway right-of-way or other public place by any person, vehicle or by natural means, such as but not limited to erosion and runoff from said private premises. Nothing contained in this subsection shall be construed as prohibiting the use in a reasonable manner of sand or stone for the purpose of reducing the hazard of, or providing traction on, snow, ice or sleet.

B. Litter from vehicles.

- (1) No person shall throw or deposit litter from any vehicle upon any street or other public place within the village or upon private property.
- (2) No person shall drive or move any truck or other vehicle within the village unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street or other public place or private property.

C. Litter in ponds, rivers, streams or other bodies of water.

- (1) No person shall throw or deposit litter in any pond, river, stream or any other body of water in a park or elsewhere within the village.

D. Litter on private premises.

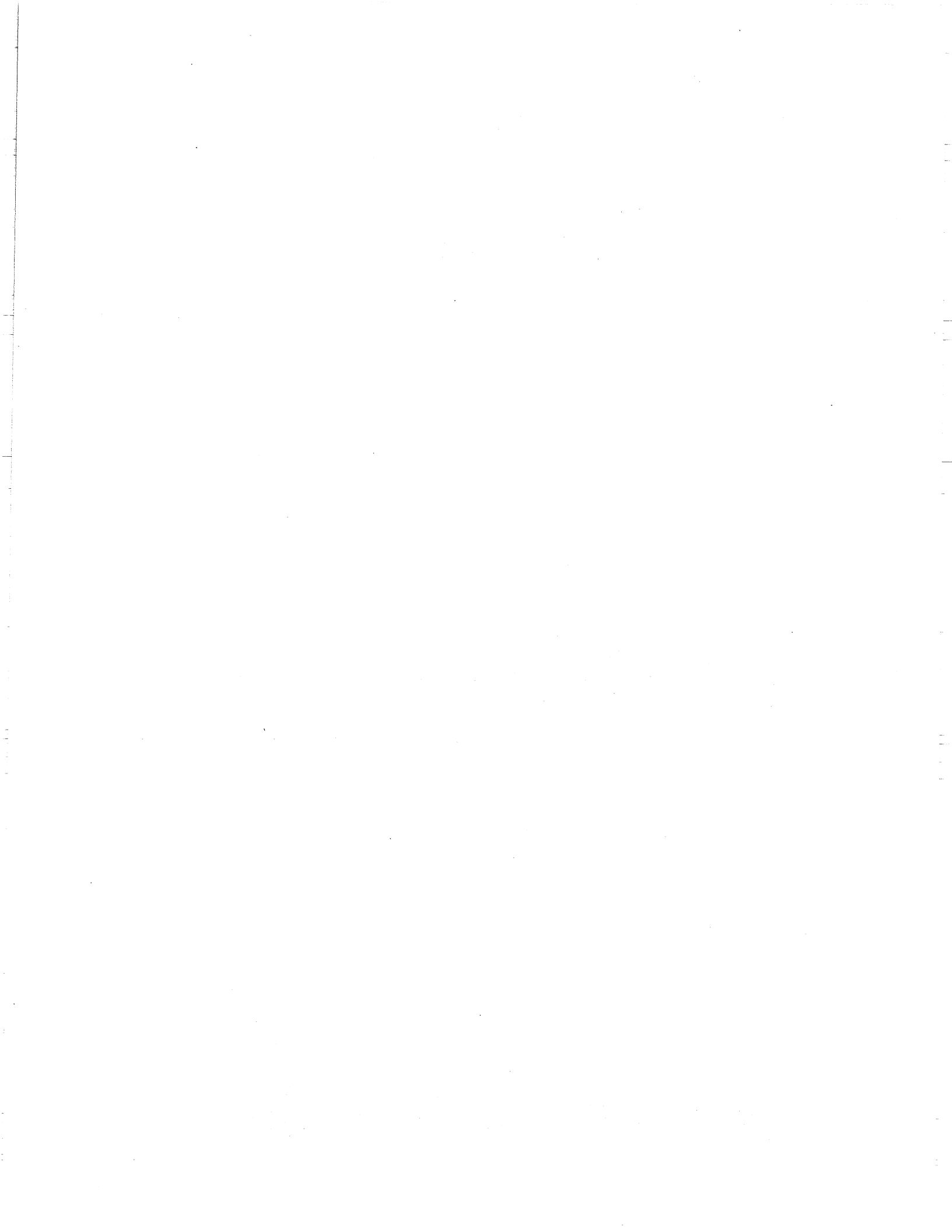
- (1) No person shall throw or deposit litter on any private premises within the village, whether owned by such person or not and whether occupied or vacant, except that the owner or person in control of private property may maintain private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, highway right-of-way, sidewalk or other public place or upon private premises.
- (2) The owner or person in control of private premises or any portion thereof shall at all times maintain the premises, or that portion controlled by him, free of litter, except when stored properly in private receptacles for collection, when such person shall have actual notice thereof or when said litter shall have been present a sufficient length of time to constitute constructive notice.

§ 71-4. Penalties for offenses.

Any person violating any of the provisions of this chapter shall be punished, upon conviction, by a fine not exceeding \$500. Each day of continued violation of this chapter, after written notice thereof, shall constitute a separate additional violation. In addition, the village may also institute any action or proceeding, including but not limited to an injunction, to compel compliance with or prevent violation of this chapter.

§ 71-5. Severability.

Should any section, paragraph, sentence, clause or phrase in this chapter be declared unconstitutional or invalid for any reason, the remainder of this chapter shall not be affected thereby and shall remain in full force and effect, and, to this end, the provisions of this chapter are declared to be severable.



Chapter 72

NOTIFICATION OF DEFECTS

§ 72-1. Definitions and word usage.

§ 72-3. Severability.

§ 72-2. Notification requirements.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 3-3-1990 as L.L. No. 1-1990. Amendments noted where applicable.]

§ 72-1. Definitions and word usage.

- 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, words used in the singular number include the plural and words used in the masculine include the feminine.
- B. For the purposes of this chapter, the following words, phrases and terms and their derivations shall have the meanings given herein:

UNSAFE CONDITION — Any defective, hazardous, dangerous or obstructed condition, including such conditions as may have been created by the failure or omission of an employee or officer of the village, and including such conditions as may result from inadequate or improper design, maintenance or repair or from the existence of snow or ice.

VILLAGE — The Village of Tully.

VILLAGE HIGHWAY — A highway, including a road or street, maintained by the village or the Village Superintendent of Highways, whether or not such highway has been formally dedicated to the village. This definition shall include bridges, shoulders, curbs, gutters, culverts, crosswalks and all other things appurtenant to a highway.

VILLAGE PROPERTY — All Village highways, sidewalks, parking areas, playgrounds, parks, water reservoirs, sewer treatment plants and all other real property owned, leased, used, occupied or maintained by the village or over or through which the village has an easement or right-of-way and all buildings, structures and appurtenances thereto owned, leased, used, occupied or maintained by the village.

§ 72-2. Notification requirements.

- A. No civil action shall be brought or maintained against the village, the Superintendent of Highways of the village or any other village officer or employee for damages or injuries to person or property sustained by reason of any village property being in an unsafe condition unless written notice of such condition was actually given to the Village Clerk or Superintendent of Highways and there was a failure or neglect within a reasonable period of time after the receipt of such notice to repair, remedy or remove the unsafe condition complained of.

- B. The notice required in the preceding Subsection A shall be in writing, shall contain the name, address and signature of the person making the complaint and shall specify the particular place where the unsafe condition is located and the nature of said condition.
- C. The Village Superintendent of Highways shall transmit to the Village Clerk, within 14 days after the receipt thereof, all notices received by him pursuant to this chapter.
- D. The Village Clerk shall keep and maintain all written notices received pursuant to this chapter for a period of at least five years after the date they are received.
- E. This chapter shall not be construed as creating or allowing any cause of action or substantive liability against the village or any of its officers or employees which would not otherwise exist in the absence of this chapter.

§ 72-3. Severability.

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

Chapter 75

PARKS

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| § 75-1. Requirements concerning use of grounds and facilities. | § 75-6. Additional regulations. |
| § 75-2. Prohibited acts. | § 75-7. Use in winter. |
| § 75-3. Hours of operation. | § 75-8. Fees. |
| § 75-4. Group activities. | § 75-9. Enforcement. |
| § 75-5. Picnic areas. | § 75-10. Penalties for offenses. |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 5-7-1979 as L.L. No. 2-1979. Sections 75-3A, 75-9 and 75-10A amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 75-1. Requirements concerning use of grounds and facilities.

Each person, firm, organization or corporation using the public parks and grounds shall clean up all debris, extinguish all fires when such fires are permitted and leave the premises in good order and the facilities in a neat and sanitary condition.

§ 75-2. Prohibited acts.

It shall be unlawful for any person, firm, organization or corporation using such parks to either perform or permit to be performed any of the following acts:

- A. To willfully mark, deface, disfigure, injure, tamper with, displace or remove any building, bridges, tables, benches, fireplaces, railings, paving or paving material, waterlines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
- B. To throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park, or any tributary, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.
- C. To bring in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided: where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.
- D. To disturb the peace or use any profane, obscene or blasphemous language.

- E. To endanger the safety of any person by any conduct or act.
- F. To commit any assault, battery or engage in fighting.
- G. To prevent any person from using any park or any of its facilities or interfere with such use in compliance with this chapter and the rules applicable to such use.

§ 75-3. Hours of operation.¹

- A. The park shall be opened daily to the public between the hours of 8:00 a.m. and 10:00 p.m., local time, from Memorial Day to October 1 of any one year. It shall be unlawful for any person or persons, other than village personnel conducting village business therein, to occupy or be present in said park during any hours in which the park is not open to the public, unless approved by resolution of the Village Board or by permit granted by the Village Clerk.
- B. Any section or part of the park may be declared closed to the public by the Building Inspector or Public Works Superintendent at any time and for any interval of time, either temporarily or at regular or stated intervals.

§ 75-4. Group activities.

- A. Whenever any group, association or organization desires the exclusive use of the pavilion for a particular purpose, such as picnics, parties, theatrical or entertainment performances, a representative of said group, association or organization shall first obtain a pavilion permit from the Village Clerk for such purposes. The Board of Trustees shall adopt an application form to be used by the Village Clerk for such situations.
- B. The Village Clerk shall grant the application for a pavilion permit if it appears that the group, association or organization will not interfere with the general use of the park by the individual members of the public and if said group, association or organization meets all other conditions contained in the application. The application may contain a requirement for an indemnity bond to protect the village from any liability of any kind or character and to protect the village property from damage.

§ 75-5. Picnic areas.

- A. No person in a park shall picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.
- B. No person in a park, except a pavilion permit holder, shall use any portion of the picnic area or of any of the buildings or structures therein for the purpose of holding picnics

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

to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded.

§ 75-6. Additional regulations.

- A. Special activities. It shall be unlawful to engage in special activities, including flying model airplanes, golf practice, ice skating, games and picnics, except at locations specifically designated for such activities by the Board of Trustees.
- B. Automobiles. It shall be unlawful to drive or park any automobiles except on a street, driveway or parking lot in any park or to park or leave any such vehicle in any place other than one established for public parking.
- C. Animals. It shall be unlawful for any person to bring or harbor any animal in the parks. This provision is intended to exclude all dogs irrespective of whether or not the dog is on a leash or is accompanied by its owner.
- D. Sales. It shall be unlawful for any person other than employees and officials of the village acting on behalf of the village to vend, sell, peddle or offer for sale any commodity or article within any park.
- E. Signs. It shall be unlawful for anyone to paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park, provided that these provisions shall not apply to any properly authorized government official in pursuit of any official duty.

§ 75-7. Use in winter.

The village may conduct or permit a winter ice-skating program in the park area, and in such event the park will be open during reasonable hours for such purposes.

§ 75-8. Fees.

The following rates shall apply for the use of the park facilities and for the pavilion:

- A. Exclusive use of pavilion: \$10 per day or fraction thereof regardless of residency of users. The fee may be refunded if all park regulations are adhered to in the opinion of the Building Inspector or Public Works Superintendent.²

§ 75-9. Enforcement.³

The Building Inspector, Fire Marshal, Superintendent of Public Works, Deputy Superintendent of Public Works or the Zoning Enforcement Officer of the Village of Tully

2. Editor's Note: Former Subdivision 1, dealing with charges for residents, which immediately preceded this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions Art. I.

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

shall enforce the provisions of this chapter and any other ordinances relating to the use of said park.⁴

§ 75-10. Penalties for offenses.

- A. Upon conviction, a violation of this chapter shall be deemed an offense and shall be punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or both.⁵
- B. In addition to the fines set forth above, upon a second or subsequent conviction for a violation of this chapter, the person or persons so convicted may be permanently barred and excluded from the use of any facilities covered by this chapter by an order of a Town Justice.

4. Editor's Note: Former Sec. 10, Complaint, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions Art. I.

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

Chapter 78

PEDDLERS, HAWKERS, VENDORS AND SOLICITORS

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| § 78-1. Title. | § 78-8. License fees. |
| § 78-2. Legislative intent and purpose. | § 78-9. Name and address on vehicles. |
| § 78-3. Definitions. | § 78-10. Revocation of license. |
| § 78-4. Exceptions. | § 78-11. Restrictions. |
| § 78-5. License required. | § 78-12. Orders. |
| § 78-6. Application for license; bond. | § 78-13. Records. |
| § 78-7. Issuance of license. | § 78-14. Penalties for offenses. |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 5-4-2011 by L.L. No. 4-2011.¹ Amendments noted where applicable.]

§ 78-1. Title.

This chapter shall be known as "Peddlers, Hawkers, Vendors and Solicitors."

§ 78-2. Legislative intent and purpose.

It is found and declared that:

- A. The business of peddling, hawking, vending, or soliciting merchandise and refreshments in the public streets, sidewalks, places and from door to door in the Village of Tully should be regulated to protect the public health, safety and welfare of the inhabitants of the Village of Tully.
- B. Reasonable regulation of peddling, hawking, vending and/or soliciting is necessary for the prevention of congestion of traffic and travel.
- C. Persons engaged in the business of peddling, hawking vending and/or soliciting should be required to be licensed and to furnish such information as necessary to effectively carry out the purposes of this chapter.

§ 78-3. Definitions.

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

ESTABLISHED PLACE OF BUSINESS — Includes a building or store in which or where a person continuously transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits for during usual business hours.

1. Editor's Note: This local law also repealed former Ch. 78, Peddling and Soliciting, adopted 7-12-1976 by L.L. No. 2-1976, as amended.

HAWKER AND PEDDLER — Includes any person either principal, representative, salesperson or agent, who, in any public place or street or by going from house to house or place of business, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise for present sale or barter.

SOLICITOR — Includes any person who goes from place to place or house to house or who stands in any public place or street taking or offering to take orders for goods, wares or merchandise or for services to be performed in the future or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

§ 78-4. Exceptions.

- A. Nothing in this chapter shall be held to apply to any sales conducted pursuant to statute or by order of any court, to any person selling personal property at wholesale to dealers in such articles, to merchants having an established place of business within the Village of their employees for soliciting orders of business from customers and delivering same, or to farmers and truck gardeners who themselves or through their employees vend, sell or dispose of products of their own farms or gardens.
- B. This chapter shall not apply so as to unlawfully interfere with interstate commerce.

§ 78-5. License required.

It shall be unlawful for any person, within the corporate limits of the Village of Tully, to act as a hawker, peddler or solicitor without first having obtained and having in force and effect a license therefor.

§ 78-6. Application for license; bond.

- A. Any person desiring to procure a license as provided in this chapter shall file with the Village Clerk a written application upon a blank form furnished by the Village. The Village Clerk shall be the licensing official responsible for receiving the application, reviewing same for compliance with the provisions hereof, collection of the appropriate fees and bond/security, and issuance of the appropriate license. The applicant shall be an individual even if affiliated with a corporate or similar business enterprise, and shall be the individual actually conducting business with the license. Such application shall give the number(s) and kind(s) of vehicle(s) to be used by the applicant in carrying on the business for which the license is desired, the kind of goods, wares and merchandise he desires to sell or the kind of services he desires to perform, the method of distribution, the name, address and age of the applicant, the name and address of the person, firm or corporation he represents, the length of time the applicant desires the license, and such other information as may be reasonably required by the Village Board. The applicant shall certify, affirm or otherwise state under penalty of perjury that it has not been convicted of a crime arising out of fraud, misrepresentation, theft, larceny, robbery or similar acts within the past 10 years in any state.
- B. An application for a license shall also be accompanied by a cash deposit or bond to the Village approved as to form and surety by the Village Attorney in the penal sum of

\$200 with a sufficient surety or sureties or sufficient collateral security, conditioned for the due observance during the time of the license of any and all statutes, local laws, rules and regulations which are now in force or may be hereafter adopted by the Village Board respecting hawking, peddling and soliciting. In the case of solicitors who demand, accept or receive payments or deposits of money in advance of final delivery, such bond shall be further conditioned for making final delivery of goods, wares or merchandise ordered or service to be performed in accordance with the terms of such orders, or failing therein, that the advance payment on such be refunded. Any person aggrieved by the action of any such licensed solicitor shall have a right by action on the deposit or bond for the recovery of money or damages, or both. Such bond shall remain in full force and effect, and, in case of a cash deposit, such deposit shall be retained by the Village, for a period of 90 days after the expiration of such license, unless sooner released by the Village Board.

§ 78-7. Issuance of license.

- A. Upon the filing of a proper application, bond/security and certificate as provided in § 78-6 and payment of the appropriate fees, the Village Clerk shall issue to the applicant a license as provided in § 78-5, signed by the Mayor.
- B. Except as hereinafter provided, no license shall be refused except for a specific reason and for the protection of the public safety, health, morals or general welfare.
- C. A license shall not be assignable and any attempted assignment thereof shall render such license void. Any person who assigns or attempts to assign any such license shall each be guilty of a violation of this section.
- D. Whenever a license shall be lost or destroyed on the part of the holder or his agent or employee, a duplicate in lieu thereof under the original application and bond may be issued by the Village Clerk upon the filing with him by the licensee of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery.
- E. All licenses shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order in which they are issued and shall state clearly the kind of vehicle to be used, the kind of goods, wares or merchandise to be sold or service to be rendered, the number of his badge and license plate, the dates of issuance and expiration of the license, the fee paid and the name and address of the licensee.
- F. Such licenses shall automatically expire on January 1 following the date of issuance of such licenses, but such license may specifically state and provide for an earlier expiration date.
- G. Such license shall include the right to use only one vehicle in carrying on the business for which the person is licensed.
- H. No license shall be granted to a person less than 21 years of age.
- I. No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall

have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection no longer exists.

- J. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand.

§ 78-8. License fees.

- A. The license fees imposed shall be as may be established by duly adopted resolution(s) of the Village Board from time to time (and described in the Village of Tully Fee Schedule or otherwise). Such resolution(s) may provide for certain not-for-profit and/or public purpose or benefit licenses to be issued free of charge to otherwise qualifying applicants, and/or for licensees utilizing more than one sales representative, to in addition to the basic license fee due hereunder, be responsible for an additional per peddler/sales representative fee.
- B. Any holder of a license issued by the Clerk of the Village of Tully under the General Business Law of the State of New York, §§ 1 and 2, and who is a resident of the Village of Tully and who has been such a resident for at least six months at the time of the application for a license under this chapter shall, upon presentation of proof of such facts to the Village Clerk, and who is otherwise qualified for a license under this chapter, be entitled to a license under this chapter without payment of fees.

§ 78-9. Name and address on vehicles.

Every vehicle used by a licensed hawker, peddler or solicitor in or about his business shall have the name of the licensee and his address plainly and distinctly and legibly painted in letters and figures at least two inches in length in a conspicuous place on the outside of such vehicle, and such name and address shall be kept so painted plainly and distinctly at all times while such vehicle is in use during the continuance of the license.

§ 78-10. Revocation of license.

The Village Clerk may, at any time, for a violation of this chapter or any other ordinance or any law, revoke any license. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reasons therefor in writing shall be served by the Village Clerk upon the person named in the application or by mailing the same to the address given in the application.

§ 78-11. Restrictions.

A licensed hawker, peddler or solicitor shall:

- A. Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome, tainted or diseased provisions or merchandise.

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- B. Keep the vehicles and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.
- C. Not blow a horn, ring a bell or use any other noisy device to attract public attention to his wares or shout or cry out his wares.
- D. Not stand or permit the vehicle used by him to stand in one place in any public place or street for more than 10 minutes; or in front of any premises for any time if the owner or lessee of the ground floor thereof objects; or in any place if traffic is thereby obstructed; nor shall such vehicle back up on any street for the purpose of making or soliciting sales.
- E. Not sell any confectionary, ice cream or other edible within 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- F. Not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.
- G. Not deposit or throw or cause or permit to be deposited or thrown any refuse or other substance upon any public or private property within the Village.

§ 78-12. Orders.

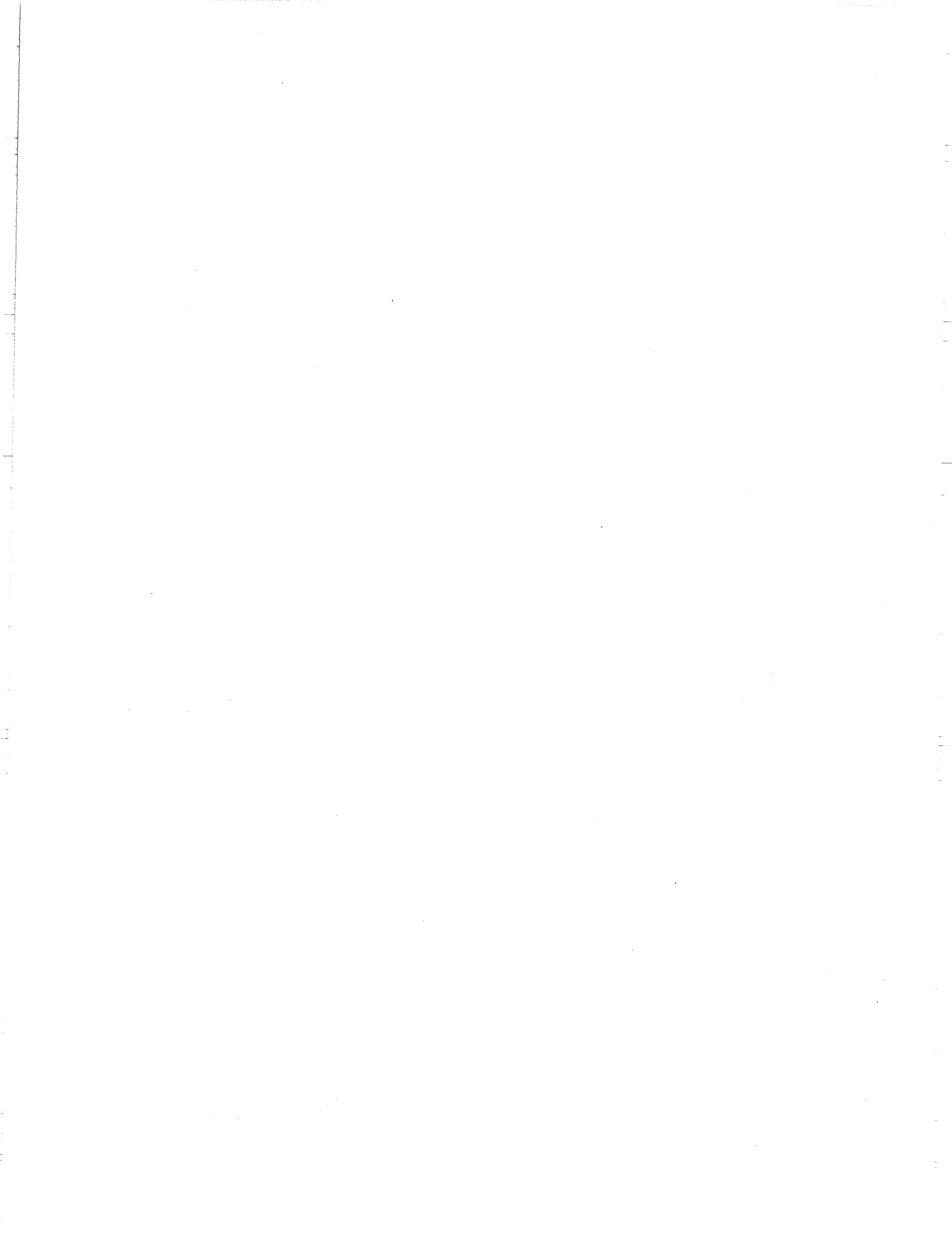
All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery shall comply in all respects with applicable state laws, be in a signed writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time of deposit of money paid to the solicitor.

§ 78-13. Records.

It shall be the duty of the Village Clerk to keep a record of all applications and of all licenses granted under the provisions of this chapter, giving the number and date of each license, the name and residence of the person licensed, the amount of the license fee paid and also the date of revocation of all licenses revoked.

§ 78-14. Penalties for offenses.

Any person who himself or by his Clerk, agent, representative or employee shall act as a hawker, peddler or solicitor as herein defined without a license or shall violate any of the provisions of this chapter or who, having had his license revoked, shall continue to act as a hawker, peddler or solicitor shall, upon conviction, be guilty of a Class B Misdemeanor punishable by a fine of up to \$500 and/or imprisonment of up to three months in jail. Each day of violation following notice or citation of same shall constitute a separate offense.



Chapter 81

PROFESSIONAL SERVICES REIMBURSEMENT

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|---|---|
| § 81-1. Title. | § 81-7. Assessment of charges. |
| § 81-2. Legislative intent and purpose. | § 81-8. Agreement required. |
| § 81-3. Statutory authority. | § 81-9. Provisions nonexclusive; incorporation by reference. |
| § 81-4. Definitions. | § 81-10. Severability. |
| § 81-5. Retention of professional services; reimbursement by applicant. | |
| § 81-6. Exception. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 4-6-2011 by L.L. No. 2-2011. Amendments noted where applicable.]

§ 81-1. Title.

This chapter shall be known as the "Professional Services Reimbursement Local Law."

§ 81-2. Legislative intent and purpose.

The Village of Tully Village Board hereby finds and determines that in order to protect and safeguard the Village, its residents and their property, with respect to land and improvements within the Village, the development and construction thereon and the uses, operations, businesses, trades, professions and industries conducted thereon all should be designed and constructed in a competent and workmanlike manner and developed, constructed and utilized in conformity with all applicable governmental laws, codes, rules and regulations, and where applicable to development, dedicated and conveyed to the Village in a legally sufficient manner. In order to ensure the foregoing, it is essential that the Village have available to it all necessary professional expertise to assist with inspections of the foregoing, any required legal opinion(s) or actions, including relative to violations and enforcement of such applicable law, codes, rules and regulations, the review of legal documents and instruments, plans, designs, applications, and to make recommendations to the Code Enforcement Officer, Village Board, Planning Board, Zoning Board of Appeals, Village Attorney and Building Inspector. The Village takes great pride in the skill and professionalism of its land use and zoning boards and code enforcement and administrative staff; however, from time to time, such boards and staff are called upon to review and evaluate matters and to consider and take actions outside the range of their training and/or expertise and/or requiring legal assistance and expertise. These situations may require the Village to seek out skills not possessed by such Village boards and Village officials but which are not required frequently enough to justify the full- or part-time hiring of such specialized staff. At the same time, the cost of retaining such expertise should not be borne by the taxpayers of the Village, but rather by those who seek to benefit or profit from the decisions of the Village, its boards, administrative staff and/or those who are legally responsible relative to efforts, actions and proceedings addressing violations

and enforcement of such governmental laws, codes, rules and regulations. Therefore, it is the intent of this chapter to establish a mechanism whereby the Village may utilize necessary expertise for such matters without imposing the cost on its taxpayers.

§ 81-3. Statutory authority.

This chapter is enacted under the authority of Subdivisions (a)(12) and (d)(3) of the Municipal Home Rule Law § 10(1)(iii) and Municipal Home Rule Law § 22. To the extent that the Village Law of the State of New York does not authorize the Village Board, Village Planning Board or Zoning Board of Appeals to require the reimbursement to the Village of expenses incurred by the Village in connection with professional assistance, it is the expressed intent of the Village Board to change and supersede such statutes. Such statutes likewise do not authorize the deferral or withholding of approvals in the event such expenses are not paid to the Village. It is the express intent of the Village Board to change and supersede the New York State Village Law, including, without limitations, §§ 7-700, 7-708, 7-712, 7-712-a, 7-712-b, 7-725-a, 7-725-b, 7-728, 7-732, and 7-736, and to the extent legally permissible, relating specifically to the subject matter hereof and subject to Executive Law § 383, to supplement New York Code Rules and Regulations Title 19, Parts 1220 through 1226 and to supplement New York State Vehicle and Traffic Law § 1224; Executive Law § 382, the New York State Public Health Law Article 13, relative to public nuisance abatement, Village Law §§ 4-400, 4-412, 8-802, and 20-2006, to empower the Village to require such payment as part of the any procedures thereunder and in relation to any efforts, actions or proceedings deemed necessary by the Town Board to address enforcement and violation issues.

§ 81-4. Definitions.

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

APPLICANT — Any person, firm, partnership, association, corporation, company or organization of any kind who or which requests the Code Enforcement Officer, Zoning Officer, or other issuer of building permits, certificates of completion, occupancy and compliance, or the Village Board, the Planning Board or the Zoning Board of Appeals to approve a municipal application.

ENFORCEMENT/VIOLATION EFFORTS — Any efforts, actions or proceedings pursuant to and intending to address the enforcement or violations of any federal or New York State law or Onondaga County or Village of Tully Code commenced or initiated by, at the request of or under policies established by the Village of Tully Board of Trustees.

MUNICIPAL APPLICATION — An application or request, formal, informal, or otherwise relative to proposed development, construction, renovation, related and/or similar within the Village, including, without limitation, application or requests for subdivision approval, site plan approval, area variance, use variance, special permit, zone change(s), street and/or utility availability, design, capacity and connection, storm drainage or erosion and sedimentation control, building permit, certificate of compliance, occupancy or completion (or similar permit) and any additional review for those as needed to comply with the New York State Environmental Quality Review Act, Environmental Conservation Law, Article 8, and regulations adopted pursuant thereto, and the Village Code, as amended. The foregoing

notwithstanding, professional fees incurred or to be incurred for routine applications for utility connections or building permits issued as a ministerial act by the Building/Codes Inspector or Officer specifically covered under the Village Code shall not be considered municipal applications unless the same involve special, unusual or extraordinary conditions or circumstances as solely determined initially by the Mayor, Village Administrator or Code Enforcement Officer, and affirmed by the Board of Trustees.

§ 81-5. Retention of professional services; reimbursement by applicant.

- A. The Village may hire any consultant and/or expert necessary to assist the Village in reviewing or otherwise a municipal application or conducting enforcement/violation efforts, including, but not limited to, scientific, technical, architectural and engineering consultants or legal counsel.
- B. Except as may otherwise be expressly provided in the Village Code, if, prior to the completion of a review of a municipal application, the Village discovers the need to retain consultant and/or expert services, the applicant shall deposit with the Village funds sufficient to reimburse the Village for the reasonable costs of consultation and/or evaluation in connection with review of the application, the amount of such deposit to be estimated by the Code Enforcement Officer or professional(s) retained or to be retained for such service(s). The Village will maintain one or more separate escrow account(s) for all such funds.
- C. Upon receipt of such funds, the Village Clerk shall cause the money to be placed in an account in the name of the Village and shall keep a separate record of all money so deposited and the name of the applicant and the project for which the sums were deposited. The account so established may include all such moneys on deposit provided the separate record required hereunder is maintained. Interest accruing on such deposits shall accrue to the benefit of the applicant; however, this provision shall not be deemed to require same to be deposited in an interest-bearing account.
- D. The Village's consultants and experts shall invoice the Village for services rendered in reviewing the application. The Village shall furnish a copy of each invoice received to the applicant upon receipt of the invoice by the Village.
- E. The Village shall review and audit all invoices received and shall approve payment only of such fees as are reasonable in amount and necessarily incurred by the Village in connection with a review of a municipal application or conduct of enforcement/violation efforts. For purposes of this chapter, a fee is reasonable in amount if, in the Village Board's judgment, it bears a reasonable relationship to the average charge by such an expert to the Village or others for services performed in connection with the review of a project similar to that involved in the municipal application or the conduct of enforcement proceedings or actions similar to those intended in the enforcement/violation efforts. In this regard, the Village may take into consideration size and type of property use(s) or project involved and any special conditions or considerations as the Village may deem relevant in connection with the particular municipal application or enforcement/violation effort.

- F. Contracts for the retention of experts shall be let pursuant to any applicable policy of the Village unless the contract is one that must be competitively bid or the service is performed by a retained attorney or engineer of the Village or other retained professional under a general fee for service or hourly charge retainer agreement with the Village. The Village may, and shall, if and to the extent required by applicable law, establish by duly adopted resolution standardized fees for professional services related to zoning, planning, subdivision and related matters.
- G. After payment of all outstanding invoices, any funds held by the Village upon completion of a review of a municipal application shall be returned to the applicant.
- H. The Village shall be entitled to recover reasonable expenses, attorney's fees, costs and disbursements incurred or in the enforcement of any rights hereunder, including without limitation, the collection of professional fees owing to the Village.

§ 81-6. Exception.

Notwithstanding anything to the contrary contained in this chapter in relation to a municipal application, an applicant or developer shall not be required to reimburse the Village for any part of a fee incurred by the Village for services performed in connection with matters, including but not limited to those resulting from complaints by third parties, as to which the Village Board determined the applicant had no responsibility or were beyond the reasonable control of the applicant, such determination to be solely within the Village Board's discretion.

§ 81-7. Assessment of charges.

Upon resolution duly adopted by the Village Board following a notice of not less than 30 days (addressed to the applicant, individual(s) or entities subject of a municipal application or agent whom enforcement/violation efforts have been conducted and the owner of the property subject of a municipal application or enforcement/violation proceeding) advising such persons or entities of amounts owing to the Village for professional fees incurred hereunder, the Village may assess the property subject thereof with such costs in the same manner as with respect to property taxes, such that same may be collected and the lien of same enforced, in the same manner as liens for such taxes and charges.

§ 81-8. Agreement required.

In connection with any municipal application, the applicant shall be required to execute and deliver to the Village an agreement substantially in the form attached as Exhibit A.¹ The provisions and requirements thereof are incorporated herein and made requirements hereof by reference as if fully set forth in this chapter.

§ 81-9. Provisions nonexclusive; incorporation by reference.

The provisions hereof shall be in addition to and not in lieu of any other provisions of the Village of Tully Code or New York State law providing for the payment, reimbursement or

1. Editor's Note: Said Exhibit A is on file in the office of the Village Clerk.

recovery of legal or other professional fees costs and/or disbursements. Any such other provisions shall in addition be deemed to have incorporated therein by reference, subject to § 81-10 hereof, the provisions of § 81-7 hereof providing for the assessment of such charges on the property subject of the municipal application or enforcement/violation efforts.

§ 81-10. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this chapter or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstances is adjudged invalid or unconstitutional by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances. Further, in adjudging such invalid provision, the court shall attempt to modify same to a provision which is not invalid or unconstitutional and which best achieves the intent of the invalid provision.



Chapter 82

PROPERTY MAINTENANCE

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| § 82-1. Title. | § 82-6. Failure to comply; penalties for offenses. |
| § 82-2. Declaration of policy. | § 82-6.1. Special consideration/relief from enforcement. |
| § 82-3. Definitions. | § 82-7. Reimbursement of costs; assessment upon real property. |
| § 82-4. Compliance standards required. | § 82-7.1. Filing of notice of intent to levy. |
| § 82-4.1. Higher standards to prevail; existing remedies. | |
| § 82-5. Service and effect of notice. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 8-3-2017 by L.L. No. 1-2017.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 56.
Littering — See Ch. 71.

Unsafe buildings — See Ch. 101.
Zoning — See Ch. 112.

§ 82-1. Title.

This Chapter 82 shall be known as the "General Property Maintenance Law."

§ 82-2. Declaration of policy.

- A. It is hereby declared to be the policy of the Village Board of Trustees to provide for the proper use of land, including as improved, to deter, prevent and cause the timely removal of unsafe, unhealthy, hazardous or dangerous conditions arising from a variety of conditions including, without limitation, the growth and accumulation of brush, grass, rubbish and weeds, the growth of poisonous shrubs or weeds, the accumulation of stagnant and standing waters, deteriorated, damaged or poorly maintained lands and improvements, conditions likely to cause or contribute to the presence or infestation of insects, vermin, and disease, dangerous fumes and odors, and other similar conditions, thus also exposing properties and neighborhoods to the potential for similar deterioration, illegal occupancies and conduct, and otherwise to address the failure of general property repair and maintenance, incidences of public nuisance(s) and protect the public health, safety and general welfare of residents of this Village.
- B. By this chapter, the Village Board of Trustees seeks to remove such dangers to health, life and property by requiring owners (as such term "owner" is defined herein) of land and of improvements thereon to cut, trim or remove brush, grass, rubbish and weeds and/or to spray with herbicides, cut, trim, remove and destroy poisonous shrubs and/or

1. Editor's Note: This ordinance also repealed former Ch. 82, Property Maintenance, consisting of Article I, General Landscape, adopted 7-1-2015 by L.L. No. 1-2015.

weeds, to mitigate or remove the accumulation of stagnant and standing waters, and to address such other adverse conditions affecting their real property and improvements as described in § 82-2A hereof, and to generally correct the failure of real property maintenance and repair including both minor and major, and such structural, systemic and adverse aesthetic/cosmetic conditions and concerns, and, upon their failure, refusal or inability to do so, to cause the same to be done and to assess the costs upon the real property on which such conditions are found. Where such conditions present an emergency or similar circumstance, posing an imminent threat or danger to persons or property due to the increased risk to bodily injury, or significant property damage, or where same results from recurring violations or a repeat violative owner, this chapter also provides a means of timely and effectively addressing such circumstance.

§ 82-3. Definitions.

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

OWNER — Includes the following:

- A. The owner of the real property upon or within which any conditions required to be addressed pursuant to this chapter is located.
- B. The owner of real property immediately fronting on a portion of any highway, street or road of the Village of Tully, upon which portion any rubbish ordered removed pursuant to this chapter is located.
- C. Any other person or entity who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof, or shall have possession, charge, care or control of any dwelling unit as owner or as executor, executrix, administrator, administratrix, trustee, receiver or guardian of the estate or as a mortgagee or lienor in possession, regardless of how such possession was obtained. Any person who is a lessee subletting or reassigning any part or all of any dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.
- D. The respective obligations and responsibilities of the owner on one hand and any occupant, possessor or tenant on the other shall not be altered or affected by any agreement or contract by and between any of the aforesaid or between them and other parties. As between a holder of legal title, persons in possession, lessee or sublessee, or mortgagee of a property abandoned or known to be in foreclosure, or otherwise a mortgagee in possession, each such party shall be presumed as responsible for any conditions or violations cited hereunder and as a party upon whom notice shall be deemed good and sufficient as against all such responsible parties, subject to the right of such party to rebut the same pursuant to the hearing provisions hereunder.
- E. The foregoing persons are intended to describe and define all such persons responsible or potentially responsible for a violation of the property maintenance requirements herein, including those who commit or allow the commission of same by their respective acts or omissions, as well as those who by applicable law or contract are charged with or have assumed such responsibility or liability. The failure of a person

duly noticed hereunder to object to the determination of the Village that they are a person legally responsible for the real property and/or potentially liable for a violation under this chapter shall be presumptive on the issue of responsibility and liability for any such violation determined to exist. Such objection may be introduced by such person or other credible witness having personal knowledge at the hearing provided for hereunder, or by submission of an affidavit and other documentary evidence to and received by the Village not less than 2 days prior to the date of a hearing that is not based upon an emergency providing for less such notice. The Village Board shall consider all such evidence in making any determination that a person duly noticed is a responsible and liable person hereunder. The Village Board may consider, where more than one responsible and liable person exists, and for good cause, whether or not to proceed or not proceed against such person or persons.

PERSON — Includes any individual, society, club, firm, partnership, corporation, trust or other entity or association of persons, including parents, subsidiaries and affiliates where appropriate. Reference herein to the singular shall mean, where appropriate, the plural.

REAL PROPERTY — The real property, as improved, including any surface or subsurface conditions, items or substances, personalty or fixtures situate thereon, dwellings, buildings or other structures and improvements upon or within which any conditions required to be addressed pursuant to this chapter are located. The real property is also sometimes hereafter referred to as "property" or "premises."

RUBBISH —

A. Includes the following:

- (1) Lumber, junk, trash, debris, building materials, mounds or dirt or any other deleterious materials.
- (2) Any abandoned, discarded or unused objects or equipment, such as automobile parts, furniture, stoves, refrigerators, freezers, cans, containers or vehicle tires.
- (3) Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or gas or attract rodents, vermin or other disease-carrying pests, animals or insects.
- (4) Any unsanitary matter or materials.
- (5) Refuse, rubbish and garbage, as said terms are defined in any solid waste provision of this Code.
- (6) Tree or grass trimmings, brush or shrubbery trimmings, trees, brush or shrubbery or portions thereof severed from their roots or uprooted trees, brush or shrubbery.
- (7) Any other substances whether liquid, solid, organic, inorganic, and regardless of how or whether packaged bottled or stored, and commonly considered as waste product, hazardous or expired and past its useful life, or ineffective for such, or any other reasonable and commonplace use as a result of its condition.

B. However, for purposes of this chapter, the term "rubbish" shall not include any of the foregoing if stored in containers or plastic container bags, or as applicable, tied in bundles, conforming to the packaging/storage, disposal and related requirements of any

solid waste regulations of the Village or (if none, or not applicable) any other governmental authority having jurisdiction over the Village.

STRUCTURE — An assembly of materials forming a construction framed of component structural parts, which exists for any occupancy or use.

§ 82-4. Compliance standards required.

- A. The owner of real property in the Village shall be required to cut, trim and remove brush, grass, rubbish or weeds or to spray with herbicides, cut, trim, remove or destroy poisonous shrubs or weeds upon the premises and to mitigate or remove any accumulation of standing waters and correct all failures of general property maintenance including when direct to such a condition or ordered to do so by a Village officer or authorized agent.
- B. An owner of real property in the Village shall not permit or maintain any growth of grass or weeds or other noxious or objectionable growth to a height more than 10 inches on any part of the real property, whether occupied or unoccupied or on the area between the property line of an adjacent public street or sidewalk and the pavement edge of the road. Excepted from this requirement shall be such landscape improvements consisting of flowers, shrubs and the like and which to a reasonable person would be considered a landscape improvement and not, by way of example, an overgrowth of wildflowers, plants or shrubs not located in an easily distinguishable bed or in an area where access is not possible.
- C. The owner of real property in the Village shall not permit, maintain, deposit or scatter over the real property or other private property any rubbish.
- D. The owner of real property in the Village shall maintain the exterior of every structure or accessory structure, including fences, in good repair, and all surfaces thereof shall be kept painted and finished where necessary for purposes of preservation and appearance. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling of paint, graffiti or other conditions reflecting weathering or deterioration or inadequate maintenance. The standard to which same shall be maintained is that it shall reflect a reasonable level of maintenance in keeping with the standards of those adequately maintained properties typical of, and within, the local community and shall not constitute a blighting factor for adjoining or nearby property owners, or a contributory element leading to the progressive deterioration of the neighborhood or local community.
- E. The owner of real property in the Village shall ensure that all ground surface hazards and unsanitary conditions, holes, excavations, breaks, projections, objections and excretion of pets and other animals on paths, walks, steps, driveways, parking lots and parking areas and other parts of the real property normally accessible to and used by persons, shall be filled and repaired, or where reasonably necessary replaced, and other such conditions removed as necessary to eliminate hazards or unsanitary conditions.
- F. The owner of real property in the Village shall ensure that surface and subsurface waters of every kind, type and size (including, but not limited to, swimming pools, sump pump drains, or drainage and detention basins and ponds, man-made or

otherwise) shall be maintained and controlled, and when drained, shall be drained in such a manner as to prevent damage to on-site and adjacent buildings and structures and to prevent the occurrence or continuance of stagnant waters causing offensive odors, growths, and/or appearances. Gutters, culverts, catch basins, drain inlets, stormwater and sanitary sewers or other satisfactory drainage systems shall be provided and utilized where necessary and appropriate. In no case, except where consistent with a previously established and unaltered natural drainage course, shall waters from any rain, storm or surface water drainage systems, or as a result of grading activities, be allowed to pool or settle on or flow over adjoining properties. In no case, except where expressly permitted by the Village or as part of an established natural drainage flow, shall waters from any rain, storm or surface water drainage systems, or as a result of grading activities, be allowed to pool or settle on or flow over adjoining properties including any public sidewalks, streets, rights-of-way or other public property. The foregoing shall be in addition to and separate from any requirements under Chapter 135 of the Village Code relating to stormwater management and erosion and sediment control.

- G. The owner of real property in the Village shall ensure that all structures and premises subject hereby shall be kept free of the following conditions: dead and dying trees, limbs or other natural growths which, by reason of rotting or deteriorating conditions or storm damage and weathering, constitute a hazard to persons on the real property or in the vicinity thereof, including adjacent and nearby properties (trees shall be kept pruned and trimmed to prevent such conditions); loose and overhanging objects and accumulations of ice and snow which, by reasons of location above ground level, constitute a danger of falling on persons in the vicinity thereof.
- H. The owner of real property in the Village shall ensure that such real property shall not violate any other provision of Village Code, New York State or federal statutes or regulations promulgated thereunder and which include requirements or standards relative to the maintenance, repair, use, condition or related circumstance of real property, and including specifically, but without limitation, the New York Property Maintenance Code and other NYS Uniform Code provisions referenced/incorporated therein.
- I. The owner of real property in the Village shall ensure that in addition to the foregoing specific standards, no other condition shall exist on such property which constitutes or is defined as a nuisance under any other provisions of the Village Code, including without limitations such other provisions of the Village Code which may authorize the removal of a specifically described item, object or conditions on or affecting real property or the owners and occupants of adjacent or nearby real property, such as, but without limitation, abandoned vehicles, abnormal or objectionable conduct and the like. The term "nuisance" shall also be held to embrace public nuisance, as known at common law or in equity jurisprudence, i.e., condition(s) dangerous to human life or detrimental to health; accordingly, and by way of example and not limitation, any building or erection, or part or cellar thereof, if overcrowded with occupants, or not provided with adequate ingress and egress to and from the same or the apartments thereof, or if not sufficiently supported, ventilated, sewerred, drained, cleaned or lighted in reference to its intended or actual use; and/or if rendering the air or human food or drink, thereon or on adjacent or nearby premises unsafe or unwholesome due to such condition(s).

- J. No owner or occupant of any real property in the Village of Tully shall permit or allow to be permitted the accumulation of ice and snow on the sidewalks in front of his or her respective property during the wintertime. All such persons shall remove all such snow and/or ice from the sidewalks in front of his or her respective property during the wintertime and, when ice cannot be removed, to cover the same with salt, sand or similar material in such a manner as to enable one to walk thereon with safety.
- K. All owners and occupants of real property in the Village of Tully shall ensure that no motor vehicle or trailer shall be stopped, parked or standing in a fire lane established pursuant to § 68-3 of the Village Code, and that no more than one motor vehicle or trailer, owned, possessed by or registered to him or her, which is operable, unregistered or uninspected, or the registration or inspection of which has expired, or which is without valid and current license plates affixed to it, shall be parked or placed on the premises or the public sidewalks, streets or ways contiguous to or fronting such real property, or otherwise (except as permitted by the Zoning Code of the Village of Tully or as an established nonconforming use as determined by the Zoning Board of Appeals) be parked or placed in a front, rear or side yard of such real property, as such terms are defined in the Village of Tully Zoning Code.

§ 82-4.1. Higher standards to prevail; existing remedies.

- A. In any case where a provision of this chapter is found to be in conflict with a provision of any applicable zoning, building, fire, safety or health ordinance or code, that provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.
- B. Nothing in this chapter shall be deemed to abolish, restrict or impair any other existing rights and remedies of the Village, its officers or agencies or of other governmental authorities or private persons relating to the subject matter hereof.
- C. No license, permit, certificate of occupancy, registration, inspection or compliance or similar issuance shall constitute a conclusive defense against a violation hereunder, or of any other local ordinance applicable to the real property, any structure or premises or use of such structure or premises, nor shall any provision herein relieve any owner from complying with any such, or other provision, nor shall same preclude its enforcement by any official of the Village of Tully.

§ 82-5. Service and effect of notice.

- A. Service of notice.
- (1) Whenever the Village Clerk or other authorized employee or officer serves or causes the service of notice in the manner required hereinafter, citing a violation under this chapter and requiring an owner(s) address any condition specified in § 82-4 in the manner required hereunder, such notice shall specify the place, manner and time (not less than 10 days from the giving of said notice) within which the Village Board shall conduct a hearing to review the same and to issue findings relative to this chapter and mandating where so authorized, that such person or persons are responsible or liable, that such condition is or was in

violation, the violation otherwise is or was legitimate, that the work shall or was to be completed within the time allotted in such previously issued notice or findings, and such other consideration, review and findings as provided for at § 82-4 hereof.

- (2) The Village shall have two options with respect to such notice and commencement of a proceeding hereunder. Where it has determined that a clear violation exists, notice may be given under the general authority established under this Chapter 82. Notice in this manner shall set forth the required date of completion of the remedy, and a date thereafter for a hearing. Such procedure potentially reduces the time within which a clearly evident violation may be addressed by commencing the time within which it must be addressed by the owner from the date of service notice. However, any action taken upon such notice by Village prior to the time when the owner has been afforded a hearing shall be at Village's expense should it later be determined the owner is not the responsible or liable party, the condition addressed was not at such hearing in violation and/or the like. Otherwise, such notice shall set forth the alleged violation, the responsible/liable owner and the date for a hearing at which time same shall be established, and if established an appropriate period within which the owner shall remedy the violation, and failing or refusing which the Village may proceed.
 - (3) Notice shall be served upon such owner or owners by registered or certified mail, addressed to his or their last known address, and/or posting of said notice on the premises and mailing a copy of said notice to the owner at the address or addresses as on file in the Village offices, on the same date as posted. In the event any other credible information of potential addresses may be known, or if the owner has a legal representative known to the Village, a copy of such notice shall also be mailed via regular or certified mail to such addresses or persons. The Village Board expressly finds that in many instances those responsible for abandoned and neglected properties intentionally avert service of legal process; therefore notice on a respective owner shall be deemed sufficient where no proof of actual delivery or receipt exists and/or where no other evidence of a reasonable likelihood of receipt by the owner exists, provided the Village has documented reasonable good faith efforts to ascertain the actual residence or business address or other official or legal address of the owner or representative, and such evidence has been made part of the record of proceedings. The failure to, where required, register a rental property or timely obtain any inspections or certificates pertaining to the real property, including those for tenant assistance, and which would or might otherwise disclose contact information for the owner may also be taken into account by Village in determining the sufficiency of notice. In the event an owner duly noticed has failed to remedy the violation and appear for the hearing scheduled, a copy of the Village Board's findings following the hearing shall be served upon the owner in the same manner as required in this § 82-5A.
- B. Emergency situations. Where violations existing on the real property are of such a nature as to constitute an imminent or immediate and serious threat to human health, or safety or of significant property damage, unless abated immediately or on shorter notice than otherwise permitted herein, the Village may either summarily and immediately cause the violation to be abated and/or order the owner to immediately correct the

violation and upon failure to do so within any time frame established, in the Village Board's own discretion, the condition may be abated otherwise pursuant and subject to the provisions of this chapter. In such case notice shall be attempted diligently and on good faith, and including by telephone, facsimile, email or attempts at personal delivery.

- C. Repeat violations. Where the real property has been subject to a previous proceeding under § 82-5A involving one or more of the same owners and relative to the same or similar, related or resultant type(s) of violation(s) or condition(s), within one year prior to the occurrence or recurrence of the violation subject of the instant proceeding, the Village may cause the violation to be immediately and summarily abated, or may order the owner to correct the violation or condition within such period of time of less duration than provided hereunder, however, not less than 24 hours, and upon the failure to do so, the condition may then be addressed pursuant to § 82-6A subject to previous or then given Village Board authorization, and as if such notice and failure or refusal has already occurred, then such work may be immediately commenced.
- D. Special notice provisions. In the event of contemplated action under § 82-5B or C, the requirement of notice pursuant to § 82-5A and of hearing, review and findings pursuant to § 82-7A are modified to require only such notice as is reasonable given the Village's knowledge of the actual location of the Owner and exigency of circumstances (if under § 82-5B). In the case of repeat violations under § 82-5C such notice shall describe in brief the violative condition and nature of the intended Village action, the specific chapter and section of the Village Code under which the Village proceeds (Chapter 82, Repeat Violation § 82-5C and such notice shall be prominently posted at any main, front, or driveway side entrance of the real property as soon as reasonably possible following authorization and not less than 24 hours prior to commencement of the Village work.

§ 82-6. Failure to comply; penalties for offenses.

- A. Whenever such notice(s) referred to in § 82-5 hereof has or have been served in the manner required under § 82-5, requiring an owner to address the violation as required under this Chapter 82, and if such owner shall neglect or fail to timely comply with the requirements of such notice or notices within the time provided therein, the Village, following Village Board Authorization previously or then given, may authorize the work to be done and/or perform same with its own or outside forces.
- B. In addition to the foregoing, and the provisions of § 82-7 hereof, a first violation of § 82-4 of this chapter shall be deemed an offense and upon such conviction, such offender may be punished by a fine not to exceed \$250 or imprisonment of not more than 15 days, or both. For a repeat offender as defined under § 82-5C the maximum penalty shall be two times that set forth in this section. In either case, each day that such violation shall continue shall constitute a separate violation.

§ 82-6.1. Special consideration/relief from enforcement.

- A. Special consideration. Special consideration may be given to individuals that are elderly or disabled. If it is determined that an individual cannot maintain a reasonable level of

upkeep of the owner-occupied residence because the individual is elderly or disabled, may not have adequate financial resources and/or no capable person resides in the residence, enforcement may be suspended to give the person adequate time to correct the problem. Where the individual is a low-income individual and owns and occupies a residence, special consideration may be given to the person by providing adequate time to correct any significant and costly (to cure) violation. However, in the case of a low-income owner, if any of the violations relate to keeping grounds free from overgrowths of grass, bushes, weeds, trees branches and the like, or from rubbish and debris, additional time to correct the problem shall not be provided.

- B. Relief from enforcement. In addition to the foregoing special consideration, the Village Board of Trustees may also, for good cause shown, adopt a resolution dispensing with or relaxing enforcement of the foregoing provisions of this section and/or the assessment or collection of costs and penalties due to such enforcement. For purposes hereby "good cause" may include, without limitation, the lack of actual notice to an owner, consideration of inadequate or defective service of notice, existence of landlord/tenant or similar relationship, or other circumstances where arguably the criteria set forth under § 82-4 may not have been clearly violated or perceived as violated, but shall in any event consist only of grounds or circumstances under which the Village Board of Trustees has determined that enforcement may not be fair or equitable.

§ 82-7. Reimbursement of costs; assessment upon real property.

- A. Upon the review by and findings of the Village Board of Trustees that the provisions of this Chapter 82, including in particular §§ 82-5, 82-6, have been complied with or satisfied, and in the case of § 82-5B and C that respectively, bonafide exigent or repeat violations conditions existed, the Village Board of Trustees may, in addition to authorizing the work, adopt a resolution authorizing that the costs incurred by the Village in performance of the work, including any quantifiable internal administrative costs, be paid for out of the general Village funds appropriated by the Village Board of Trustees for such purpose. The Village shall be reimbursed for the cost of the work performed or services rendered by direction of the Village Board of Trustees, as herein provided and for any penalties assessed under § 82-6B hereof by assessment and levy upon the lots or parcels of land wherein such work was performed or such services rendered, and the expenses so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Village charges.
- B. Appointment of ex-officio receiver of income. The Village Clerk may, with the approval of the Village Board of Trustees of the Village of Tully certified to by resolution, bring an action to be appointed receiver ex-officio of the rents and income of such property for the purpose of collecting the rents and income from such property and expending the same for the purpose of abating the conditions against which this chapter is directed. The procedure and other legal steps shall be governed by the provisions of applicable state statutes.

§ 82-7.1. Filing of notice of intent to levy.

- A. Whenever the Village has ordered the reimbursement for the costs of the work performed or services rendered as hereinabove provided in § 82-7 by assessment and levy upon the lot or parcels of lands whereon such work was performed or such services rendered, the Village Clerk shall cause a notice of intent to levy such costs and expenses against said lots or parcels of land in a form approved by the resolution of the Village Board of Trustees from time to time hereinafter, to be recorded in the records of the County Clerk's Office in order that such notice shall be indexed against the said premises or parcels of land as notice to subsequent transferees or other acquiring any interest in said lots or parcels of land of the intention by the Village to assess and levy the amount of such expenses upon said lots or parcels of land. Any recorded fees of the County Clerk shall be included in the costs and expenses assessed and levied upon such lots or parcels.

- B. The failure of the Village Clerk to record such notice of intent to levy shall not, however, affect or impair the validity of any lien or assessment of such costs and expenses against such lots or parcels of land, the owner(s) thereof or any subsequent transferees or others acquiring any interest in such lots or parcels of land.

Chapter 83
RECORDS, PUBLIC ACCESS TO

§ 83-1. Applicability of statute.

§ 83-3. Fees.

§ 83-2. Records access officer designated.

§ 83-4. Hours for inspection.

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

§ 83-1. Applicability of statute.

The provisions of the Freedom of Information Law (Article 6 of the Public Officers Law), as amended, shall be applicable to the Village of Tully, as shall also the rules and regulations thereunder by the State Committee on Public Access to Records, subject to the rules and regulations now or hereafter adopted by the Village Board which are not more restrictive than those adopted by the State Committee.

§ 83-2. Records access officer designated.

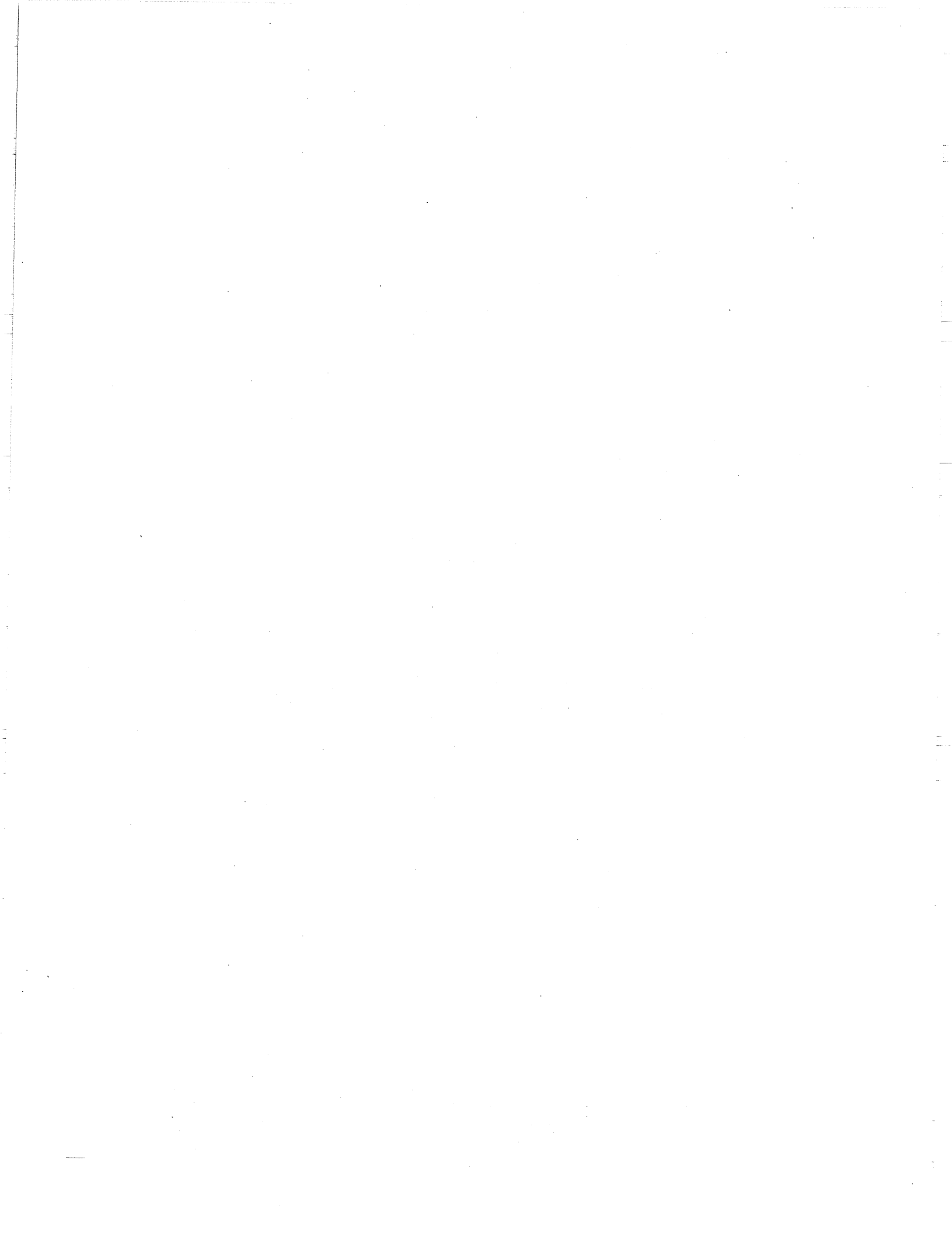
The Village Clerk is designated records access officer.

§ 83-3. Fees.

The fees for copies of records shall be \$0.25 for photocopies not in excess of nine inches by 14 inches or the actual cost of reproducing any other record, unless another fee is specifically authorized by statute.

§ 83-4. Hours for inspection.

Records may be inspected at the Village Office by appointment upon written request to the Village Clerk.



Chapter 87

SEWERS

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| § 87-1. Definitions and word usage. | § 87-6. Powers and authority of inspectors. |
| § 87-2. Use of public sewers required. | § 87-7. Protection from damage. |
| § 87-3. Private sewage disposal systems. | § 87-8. Penalties for offenses. |
| § 87-4. Building sewers and connections. | § 87-9. Sewer rents and assessments. |
| § 87-5. Restrictions on discharges to sewers. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 12-1-1969; amended in its entirety 1-13-1983 by L.L. No. 1-1983. Section 87-5D added and §§ 87-7 and 87-8B amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 87-1. Definitions and word usage.

- A. Unless the context specifically indicates otherwise, the meaning of the words, terms and phrases used in this chapter shall be as follows:

ASTM — The American Society for Testing and Materials.

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

BUILDING DRAIN — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning three feet [0.92 meter] outside the inner face of the building wall.

BUILDING SEWER — The extension from the building drain to the public sewer or other place of disposal, and it shall be the responsibility of the building owner to install and provide all maintenance.

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

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

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

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

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

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

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

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

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

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

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

RESIDENTIAL USER — All premises used only for human residency and which is connected to the sewage works.

SANITARY SEWER — A sewer which carries sewage and to which storm-, surface and ground waters are not intentionally admitted.

SEWAGE — A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, 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.

SIGNIFICANT INDUSTRIAL USER — Any user who has a discharge flow of 25,000 gallons or more per average workday, or has a flow greater than 5% of the flow in the municipality's wastewater system, or has in his waste toxic pollutants as defined pursuant to Section 307 of PL 95-217, as amended, or has been identified as one of the 21 industrial categories pursuant to Section 307 of PL 95-217, as amended, or is found by the village to have significant impact, either singly or in combination with other contributing industries, on the treatment or collection system.

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

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

SUPERINTENDENT — The person designated by the Village Board of the Village of Tully to be in general charge of the sewage works therein or his authorized deputy, agent or representative.

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

UNITED STATE ENVIRONMENTAL PROTECTION AGENCY or USEPA — The United States Environmental Protection Agency or, where appropriate, a designation for the administrator or other duly authorized official of said Agency.

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

WPCF — The Water Pollution Control Federation.

- B. Word usage. "Shall" is mandatory; "may" is permissive.

§ 87-2. Use of public sewers required.

- A. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Village of Tully or in any area under the jurisdiction of said village any human or animal excrement, garbage or other objectionable waste, except that animal excrement may be used for farming or gardening purposes for the fertilization and enrichment of the soil, solely for agricultural purposes.
- B. It shall be unlawful to discharge to any natural outlet within the Village of Tully or in any area under the jurisdiction of said village any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- D. The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the Village of Tully and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sewer of the village, are hereby required, at their expense, to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 24 months from the date of original operation of the sewage works, provided that said public

sewer is within 100 feet of the property line. Any new construction commenced after the date of original operation of said sewage works shall be required to convert to such facilities within 60 days after date of official notice so to do, providing that said public sewer is within 100 feet of the property line.

§ 87-3. Private sewage disposal systems.

- A. Where a public sanitary or combined sewer is not available under the provisions of § 87-2D, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section, the Onondaga County Department of Health and the New York State Department of Health.
- B. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit from the Village Board. The application for such permit shall be made on a form furnished by the village, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Village Board. A permit and inspection fee of \$25 shall be paid to the Village Clerk at the time the application is filed.
- C. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall give the Superintendent 24 hours' notice when the work will be ready for final inspection. The inspection shall be made before any underground portions are covered.
- D. The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of New York and the Onondaga County Department of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge into any natural outlet.
- E. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 87-2D, a direct connection shall be made to the public sewer in compliance with this chapter within 60 days, and any septic tanks, cesspools and similar private sewage facilities shall be cleaned of sludge and filled with suitable sand, bank-run gravel or other suitable material.
- F. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the village.
- G. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Onondaga County Department of Health or the New York State Department of Health.

§ 87-4. Building sewers and connections.

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.
- B. Classes of permits; applications.
- (1) There shall be two classes of building sewer permits:
- (a) Class 1: for service to residential, commercial or other establishments discharging sanitary wastewater only.
- (b) Class 2: for service to industrial, institutional and educational establishments which classify as significant industrial users, as defined herein.
- (2) In either case, the owner or his agent shall make application on a special form furnished by the village. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$25 for Class 1 buildings and \$35 for Class 2 buildings shall be paid to the village at the time the application is filed. The Class 1 permit shall have an indefinite term unless terminated in accordance with other provisions of this chapter. The Class 2 permit shall have a term of five years.
- C. A sewer permit's terms and conditions shall be subject to modification and change by the village. All permit holders shall comply with the new terms and conditions within 120 days following notification by the village of said changes.
- D. A Class 2 sewer permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation. An industrial-type discharger shall apply for a permit modification if production or process is changed so that the wastewater characteristics or flow is altered. No additional fee shall be charged for the modification.
- E. Class 2 permits shall require information concerning volume, constituents and characteristics of wastewater; flow rates; each product produced, by type, amount and rate of production; and a description of activities, facilities and plant processes on the premises, including all materials processed and types of materials which are or could be discharged.
- F. Sewer permits may contain specifications for monitoring programs, to include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedules.
- G. Sewer permits shall be uniformly enforced by the village in accordance with this chapter and applicable state and federal regulations. Permits shall be subject to all provisions of this chapter, user charges and fee schedules and other applicable regulations.
- H. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the village from any loss

or damage that may directly or indirectly be occasioned by the installation of the building sewer.

- I. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- J. Old building sewers may be used in connection with new buildings only when they are found, on examination and test supervised by the Superintendent, to meet all requirements of this chapter.
- K. The size, slope, alignment, materials or construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the Building and Plumbing Code¹ or other applicable rules and regulations of the village, county and state and be subject to the approval of the Superintendent. In no event shall the diameter of such pipe be less than four inches, nor shall the slope of such four-inch pipe be less than 1/4 inch per foot unless approved by the Superintendent.
- L. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by approved means at the owner's expense and discharged to the building sewer.
- M. No person shall make connection of roof downspouts, 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.
- N. The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the village or the procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9. All such connections shall be made gaslight and watertight. Any deviation from prescribed procedures and materials must be approved by the Inspector before installation.
- O. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative or as the County of Onondaga Department of Health regulations may require. At least 24 hours' notice shall be given to the Superintendent.
- P. 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 public property disturbed in the course of the work shall be restored in a manner satisfactory to the village. The village assumes no responsibility or liability for the construction of same.

1. Editor's Note: The State Uniform Fire Prevention and Building Code is the controlling building and plumbing standard in the Village of Tully.

- Q. The connection from a gas station or car wash shall provide for a settlement pit so that sand and grit that may develop from the washing of motor vehicles or thawing of ice and snow will not be allowed to enter into the sewage disposal system. Discharge of said waters into the sanitary sewer will be made only upon approval of the Superintendent.
- R. The building sewer shall be tar-coated, extra-heavy or service-weight cast-iron soil pipe conforming to ASTM Specification A-74-75 and American Standards Association (ASA) Specification A-40.1; asbestos-cement house connection pipe conforming to ASTM Specification C-428, Type II minimum Class 2400; or PVC (polyvinyl chloride) rubber-gasketed joints, ASTM D-3034-73, SDR-35. Joints shall be tight and waterproof. Any part of the building sewer that is located within 10 feet of a water service pipe shall be constructed of extra-heavy cast-iron soil pipe with leaded joints. Cast-iron pipe with leaded joints may be required by the Superintendent where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, 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 Superintendent.

§ 87-5. Restrictions on discharges to sewers.

- A. No person shall discharge or cause to be discharged any unpolluted waters, such as stormwater, groundwater, roof runoff, subsurface drainage or cooling water, to any sanitary sewer.
- B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Superintendent and other regulatory agencies. The discharge of unpolluted industrial cooling water or process waters requires a state pollutant discharge elimination system permit from the New York State Department of Environmental Conservation regulations.
- C. No person(s) shall discharge or cause to be discharged any of the following-described waters or wastes to any public sewers:
- (1) Any gasoline, benzene, naphtha, fuel, oil or other flammable or explosive liquid, solid or gas.
 - (2) Any waters 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 waste treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant.
 - (3) Any waters or wastes having a pH lower than 5.0 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
 - (4) Solid or viscous substances in such quantities or of such size as to be capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities, such as but not limited to ashes, bones, 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.

- D. Wastewater from a swimming pool shall not be discharged into any public sanitary sewer of the village. Such wastewater shall be disposed of in a manner which shall prevent it from flowing over or into the land of any adjoining property owner or over or into any abutting street.²
- E. The following-described substances, materials, waters or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream or will not otherwise endanger lives, limb, public property or constitute a nuisance. The Superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the Superintendent will given consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer, which shall not be violated without approval of the Superintendent, are as follows:
- (1) Wastewater having a temperature higher than 150° F. [65° C.] or in such quantities that the temperature at the POTW influent exceeds 104° F. [40° C.].
 - (2) Wastewater containing more than 100 milligrams per liter of petroleum oil, nonbiodegradable cutting oils or product of mineral oil origin.
 - (3) Wastewater from industrial plants containing floatable oils, fat or grease.
 - (4) Any garbage that has not been properly shredded (see § 87-1A, definition of "properly shredded garbage"). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
 - (5) Any waters or wastes containing toxic or poisonous substances which exceed the following limits at the point of entry into the public sewers unless a categorical standard has been promulgated for a specific industry.
 - (6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Superintendent.
 - (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by applicable local, state or federal regulations.

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

- (8) Quantities of flow or concentrations, or both, which constitute a slug as defined herein.
- (9) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.
- (10) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.
- (11) Any substance which may cause the effluent of the sewage works or any other product of the sewage works, such as residues, sludge or scums, to be unsuitable for reclamation and reuse. In no case shall a substance discharged to the sewage works cause the sewage works to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act, any criteria, guidelines or regulations affecting sludge use or disposal development pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act or state criteria applicable to the sludge management method being used.

| Toxic Substances | | |
|-------------------------|---|------------------------|
| Parameter | Effluent Concentration Limits (mg/l) | |
| | 30-Day Average | 24-Hour Average |
| Cadmium | 0.4 | 0.8 |
| Hexavalent chromium | 0.2 | 0.4 |
| Total chromium | 4.0 | 8.0 |
| Copper | 0.8 | 1.6 |
| Lead | 0.2 | 0.4 |
| Mercury | 0.2 | 0.4 |
| Nickel | 4.0 | 8.0 |
| Zinc | 1.2 | 2.4 |
| Arsenic | 0.2 | 0.4 |
| Available chlorine | 50.0 | 50.0 |
| Cyanide, free | 0.4 | 0.8 |
| Cyanide, complex | 1.6 | 3.2 |

| Toxic Substances | | |
|-------------------------|---|------------------------|
| Parameter | Effluent Concentration Limits (mg/l) | |
| | 30-Day Average | 24-Hour Average |
| Selenium | 0.2 | 0.4 |
| Sulfide | 6.0 | 12.0 |
| Barium | 4.0 | 8.0 |
| Manganese | 4.0 | 8.0 |
| Gold | 0.2 | 0.4 |
| Silver | 0.2 | 0.4 |
| Fluorides | | |
| To fresh water | 4.0* | 8.0* |
| To saline water | 36.0 | 72.0 |
| Phenol | 4.0 | 8.0 |

* NOTE: May be multiplied by a factor of one and five-tenths (1.5) if the municipal water supply is not fluoridated.

F. Discharge of certain wastes.

- (1) 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 Subsection E of this section and which, in the judgment of the Superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
 - (a) Reject the wastes;
 - (b) Require that when pretreatment standards are adopted by the USEPA or NYSDEC for any given class of industries, then such industries must immediately conform to the USEPA or NYSDEC timetable for adherence to these standards. The Superintendent shall further assure that compliance by industries to whom pretreatment standards are applicable is compliance with Section 307 of PL92-500, as amended;
 - (c) Require control over the quantities and rates of discharge; and/or
 - (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.
- (2) When considering the above alternatives, the Superintendent shall give consideration to the economic impact of each alternative on the discharger. If the

Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent.

- G. Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Subsection E(3), or any flammable wastes, sand or other harmful ingredients except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal, which are subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.
- H. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- I. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, together with such necessary meters and other appurtenances in the building sewer, to facilitate observation, sampling and measurement of the wastes. Such structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Superintendent. The structure 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.
- J. The Superintendent may require a user of sewer services to provide information needed to determine compliance with this chapter. These requirements may include:
- (1) Wastewaters discharge peak rate and volume over a specified time period.
 - (2) Chemical analyses of wastewaters.
 - (3) Information on raw materials, processes and products affecting wastewater volume and quality.
 - (4) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
 - (5) A plot plan of sewers on the user's property showing sewer and pretreatment facility location.
 - (6) Details of wastewater pretreatment facilities.
 - (7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
- K. 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 latest edition of Standard Methods for the Examination of Water and Wastewater,

published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis, subject to approval by the Superintendent.

- L. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the village and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the village for treatment. Acceptance of such waste shall not cause the publicly owned sewage works to violate its SPDES permit or the receiving water quality standards or any pretreatment regulations promulgated by USEPA or NYSDEC in accordance with Section 307 of PL 95-217, as amended.
- M. No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards or in any other pollutant specific limitation developed by the village or state, unless authorized by state or federal regulations.
- N. A user shall notify the village immediately upon accidentally discharging wastes in violation of this chapter. This notification shall be followed, within 15 days of the date of occurrence, by a detailed statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence. Such notification will not relieve users from liability for any expense, loss or damage to the sewer system, treatment plant or treatment process or for any fines imposed on the village under applicable state and federal regulations.

§ 87-6. Powers and authority of inspectors.

- A. The Superintendent or other duly authorized employees of the village and representatives of the USEPA and NYSDEC bearing proper credentials and identification shall be permitted to enter all properties at reasonable times for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the community system in accordance with the provisions of this chapter. The village shall have the right to set upon the user's property such devices as are necessary to conduct sampling or metering operations. The village may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required by the village's Wastewater Discharge Local Law and sample any effluents which the owner or operator of such source is required to sample. Where a use has security measures in force, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the village will be permitted to enter without delay.
- B. The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the village that the release of such information would divulge information, processes or methods of production entitled to

protection as trade secrets of the user. The village shall implement measures to ensure the confidentiality of information provided by an industrial user pursuant to this chapter. In no event shall any claimed confidential information be disclosed to any person without prior notice in writing to the industrial user and without providing the industrial user with the opportunity to protect such confidential information, including the right to seek judicial relief.

- C. While performing the necessary work on private properties referred to in Subsection A above, the Superintendent or duly authorized employees of the village shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the village employees, and the village shall indemnify the company against loss or damage to its property by village employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 87-5I.
- D. The Superintendent and other duly authorized employees of the village, NYSDEC and USEPA officials bearing proper credentials and identification shall be permitted to enter all private properties through which the village holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities 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.

§ 87-7. Protection from damage.³

No person(s) shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to the penalties set forth in the Penal Law.

§ 87-8. Penalties for offenses.

- A. Any person found to be violating any provisions of this chapter, except § 87-7, shall be served by the village with written notice stating the nature of the violation and providing a reasonable time limit as may be determined by the village for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. Any person who shall continue any violation beyond the time limit provided for in Subsection A above shall be guilty of an offense and, upon conviction thereof, shall be fined in an amount not exceeding \$250 or imprisoned for a term not to exceed 15 days, or both, unless otherwise provided in this chapter. Each day in which any such violation shall continue shall be deemed a separate offense.⁴

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

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

- C. Any person violating any of the provisions of this chapter shall become liable to the village for any expense, loss or damage occasioned the village by reason of such violation.

§ 87-9. Sewer rents and assessments.

- A. For the purposes of this section, the following words, terms and phrases shall have the meanings herein ascribed to them:

PENALTY — An additional charge for nonpayment of the sewer rent or sewer assessment within a specified period of time as determined by the Board of Trustees of the village.

SEWER ASSESSMENT — A special benefit assessment as determined by the Board of Trustees of the village and imposed for payment of indebtedness on the sewerage system.

SEWER RENT — The rate of charge as determined by the Board of Trustees of the village for the use of the sewerage system as pertains to paying the cost of operation and maintenance of said system.

- B. The purpose of the sewer rents is to generate sufficient revenues for operating and maintenance of the village-owned sewerage system. The purpose of the sewer assessment is to generate sufficient revenues for retiring debt service and capital expenditures on the village-owned sewerage system.

- C. Classification of units; rents; assessments. **[Amended 3-18-1986 by L.L. No. 2-1986]**

- (1) The classifications of units shall be according to the benefits and quantities of use of the sewerage system by the various users of real property in the village. The basis of the charge for sewer rents and sewer assessments to be paid by the users shall be according to the following schedule of units of use:

| Classification | Factor (units) |
|--|---|
| Single-family house, including mobile home | 1 |
| Two-family dwelling | 1.75 |
| Multiple dwelling | 1 for first apartment, 0.75 for each additional apartment |
| Apartment complex, each building | 1 for first apartment, 0.75 for each additional apartment |
| Motels/hotels | 2 for each building, 0.25 for each motel or hotel room |
| Schools | 1 for each 15 pupils and staff members or part thereof |

| Classification | Factor (units) |
|---|---|
| Restaurants, car washes, laundry/dry cleaners, industrial | 1 for the first 4,500 cubic feet of water or fraction thereof consumed on the premises, and 1 prorated for each additional 4,500 cubic feet of water consumed |
| Commercial, business or uses other than stated above | 1, plus 0.75 for each additional business, store, apartment or use within the same building |
| Vacant lots | 1 for sewer assessment only |

- (2) There is hereby established and imposed a semiannual sewer rent on all users, to be determined by multiplying the unit charge times the number of units assigned to each user based upon the schedule of units in this section.
- (3) There is hereby further established and imposed a semiannual sewer assessment on all users, to be determined by multiplying the unit charge times the number of units assigned to each user based upon the schedule of units in this section. All vacant lots shall be considered as one unit for the purposes and levying of sewer assessments only. No sewer rent shall be charged for vacant lots.

D. Scales. [Amended 3-18-1986 by L.L. No. 2-1986]

- (1) The village does hereby establish and impose a scale of sewer rent for the service rendered by the sewerage system to the real property served or required to be served by the sewerage system upon the basis of one unit of sewer rent for each six months of use of the sewerage system or any part thereof. The sewer rent will be levied and collected on April 1 and October 1 of each year. The sewer rent is for the purpose of paying the costs of operation and maintenance of the sewerage system. The amount of the sewer rent shall be established, and may be amended from time to time, by resolution of the Village Board in accordance with the requirements of the New York State Village Law. **[Amended 6-5-1990 by L.L. No. 5-1990; 1-6-2004 by L.L. No. 1-2004]**
- (2) The Village does hereby further establish and impose a scale of sewer assessments for the payment of annual principal and interest due on indebtedness derived from the construction of and improvements to the Village's sewerage system, to be levied on all real property benefitted and required to be serviced, including all vacant lots and any lot with a public sewer within 100 feet of said lot's property line, said scale being upon the basis of one unit of sewer assessment for each year or any part thereof. The sewer assessment shall be levied and collected with and on the Village tax bill each year. The amount of sewer assessment shall be the sum of \$178.91 per unit for the year 2000-2001 and, for the years thereafter, shall be assessed and levied in such amounts as are determined necessary from time to time by the Village Board of Trustees, to pay the debt service for capital improvements to the system, all in accordance with the New York State Village Law. **[Amended 10-3-2000 by L.L. No. 2-2000]**

- (3) The Village Board shall have the authority to establish, change or amend the classification of units by amendment of this chapter.
- E. Sewer rents and sewer assessments will be billed semiannually. Statements shall list separately sewer rents and sewer assessments.
- F. Payment of sewer rents. **[Amended 3-18-1986 by L.L. No. 2-1986; 5-5-2004 by L.L. No. 3-2004]**
- (1) All sewer rents imposed hereunder shall be due and payable on the first day of April and the first day of October of each year for the six-month period preceding each such date.
 - (2) If the sewer rent is not paid within 30 days of billing there shall be added to the sewer rent due a penalty of 10% of the total bill. An additional penalty shall be charged on all bills remaining unpaid beyond the end of such thirty-day period at a rate of 1% of the total bill per month. These penalties shall be compounded.
 - (3) If the sewer rent is not paid within 30 days of billing the Village Clerk or other designated representative of the Village of Tully shall send a notice of nonpayment to the address of the property owner as listed on the most recent tax roll. This notice shall state that if payment of the sewer rent is not received by the Village within 60 days of its initial due date, there shall be added to the sewer rent an administrative fee, in the amount of \$150. Such fee shall be in addition to those penalties set forth in Subsection F(2) above, and all fee and penalty amounts shall be compounded.
 - (4) In addition to the remedies set forth herein and otherwise available by law, if the sewer rent remains unpaid on the 31st day of December, the Village Clerk shall certify the amount due and payable to the Board of Trustees, which shall levy the same as taxes and add such sewer rents and penalties on the next succeeding tax roll. Such taxes shall be collected and enforced in the same manner and at the same time as provided for the collection and enforcement of Village taxes, and it shall be the duty of the Village Clerk to charge and collect interest thereon at the same rates specified for Village taxes. Such sewer rents shall constitute a lien on the real property served by such sewer system, and the lien shall be prior and superior to every other lien or claim except the lien of an existing tax assessment or other lawful charge.
- G. All sewer assessments imposed hereunder shall be due and payable on the first day of April and the first day of October of each year for the six months' period preceding each such date. If not paid by the 30th day of the month, there shall be added to the sewer assessment due a penalty equal to 1/2% per month or portion thereof until the assessment is paid. If any sewer assessment remains unpaid on the 15th day of April, the Village Clerk shall certify the amount due and payable to the Board of Trustees, who shall levy the same as taxes and add such sewer assessment and penalties on the succeeding tax roll. Such taxes shall be collected and enforced in the same manner and at the same time as provided for the collection and enforcement of Village taxes, and it shall be the duty of the Village Clerk to charge and collect interest thereon at the same rates specified for the collection of Village taxes. **[Amended 3-18-1986 by L.L. No. 2-1986]**

- H. The Village Board shall, from time to time as it shall determine, conduct a review of the wastewater contribution of users and user classes, the total costs of operation and maintenance of the sewerage system and the amount of sewer rents. As a result of such review, revisions to the sewer rents will be made by amendment of this chapter. Such revisions shall be made in order to accomplish the following: **[Amended 3-18-1986 by L.L. No. 2-1986]**
- (1) Maintain the proportionate distribution of operation and maintenance costs among users and user classes. The sewer rents shall also proportionately distribute the costs of operation and maintenance not directly attributable to users (i.e., infiltration/inflow).
 - (2) Generate sufficient revenues to pay the total operation and maintenance costs necessary to the proper operation and maintenance of the system.
 - (3) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class and adjust the rate accordingly.
- I. The classification of units provided for in this chapter is not applicable to the extraterritorial sale of sewer service by the Village of Tully to users or properties located outside of the Village and is not intended to affect or modify any contract or agreement for such extraterritorial sale of sewer service entered into prior to the effective date of this chapter. **[Added 3-18-1986 by L.L. No. 2-1986]**
- J. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent of the system shall pay for such increased costs as may be determined by the Village Board.



Chapter 88

SIDEWALK AND OUTDOOR CAFES

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| § 88-1. Purpose and intent. | § 88-8. Liability and insurance. |
| § 88-2. Definitions. | § 88-9. Revocation or suspension of permit. |
| § 88-3. Permit required. | § 88-10. Appeal of permit denial, suspension or revocation. |
| § 88-4. Application for permit to operate sidewalk or outdoor cafe. | § 88-11. Condition of premises. |
| § 88-5. Standards for issuance of permit. | § 88-12. Passage requirements. |
| § 88-6. Permit term. | § 88-13. Penalties for offenses. |
| § 88-7. Fees. | § 88-14. Severability. |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 6-5-2001 by L.L. No. 4-2001. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 56. Zoning — See Ch. 112.
Littering — See Ch. 71.

§ 88-1. Purpose and intent.

The sidewalk and outdoor cafe regulations set forth in this chapter are designed to permit those cafes in areas where they are appropriate and to promote and protect the public health, safety and welfare of the village residents. This legislation shall ensure adequate space for pedestrians on the sidewalk, preserve and foster the character of the neighborhoods throughout the village and set forth administrative and enforcement procedures for these establishments.

§ 88-2. Definitions.

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

APPLICANT — The person or persons owning or having interest in an establishment that serves food and/or drink, desiring to have a sidewalk or outdoor cafe adjacent to such establishment and seeking a permit from the Village Codes Enforcement Officer.

OUTDOOR CAFE — Exterior facilities adjacent to and part of establishments selling food and/or drink located entirely on private property and open to the elements except for the presence of awnings, low walls or fences, and other such structures that are temporary or permanent in nature, including rooftop cafes and those at street level not using property owned by the village.

PERMIT — Written authorization issued by the Village Codes Enforcement Officer pursuant to this chapter permitting the operation of a sidewalk or outdoor cafe.

SIDEWALK CAFE — Exterior facilities adjacent to and part of establishments selling food and/or drink that require the use of some village-owned property for such operation and are open to the elements except for the presence of awnings, low walls or fences, and other such structures temporary or permanent in nature.

§ 88-3. Permit required.

No sidewalk or outdoor cafe shall be allowed to operate in any outdoor area without the issuance of a permit for such operation from the Village Codes Enforcement Officer. A permit holder shall be bound by all applicable rules, regulations, ordinances, local laws and statutes. The issuance of a permit may be conditioned on modifications or restrictions intended to ensure that the sidewalk or outdoor cafe will not unreasonably interfere with pedestrian traffic, use of village-owned property, or the general health, safety and welfare of village residents.

§ 88-4. Application for permit to operate sidewalk or outdoor cafe.

- A. Any establishment that desires to operate a sidewalk or outdoor cafe shall complete an application form for such purpose. Should the sidewalk or outdoor cafe require construction on or alteration of the premises, the applicant for the permit must also submit a building permit application as required under the Village Code.¹
- B. The permit application shall be prepared and provided by the Village Codes Enforcement Office, and shall include, but not be limited to, the following information:
 - (1) The days and hours for which the permit is requested.
 - (2) Whether alcoholic beverages are to be served at the sidewalk or outdoor cafe and, if so, a copy of the applicant's state liquor license shall be attached to the permit application.
 - (3) The numbers of tables and chairs desired for the sidewalk or outdoor cafe, and a rendering of the setup of the same relative to the entrances and exits of the establishment.
 - (4) A description of the facilities and equipment to be used.
 - (5) A site plan to scale, showing proper clearance around the means of ingress and egress to the building, fire safeguards and proper sidewalk width for pedestrian passage as required herein, as well as an indication of all fixtures such as fencing, decking, planters and other objects to be used.
 - (6) Proof of insurance, in the amount as required by the Village Board.

1. Editor's Note: See Ch. 56, Fire Prevention and Building Construction, § 56-4.

- (7) Any other information deemed reasonably necessary by the Village Codes Enforcement Office for the fair determination as to whether the issuance of a permit is appropriate.

§ 88-5. Standards for issuance of permit.

The Village Codes Enforcement Officer shall issue a permit for the operation of a sidewalk or outdoor cafe upon a finding that:

- A. The proposed sidewalk or outdoor cafe will not unreasonably interfere with the pedestrian traffic or use of any village-owned property.
- B. The applicant will not permit nor will it use any radio apparatus, loudspeaker or amplifier to project sound onto the proposed sidewalk or outdoor cafe.
- C. The applicant has met all other provisions of this Chapter and other applicable sections of the Village Code, including those listed in the Village Zoning Law.²

§ 88-6. Permit term.

Permits shall be issued hereunder to be effective on or after April 15 of each year, and shall continue to be valid until November 1 of that same year.

§ 88-7. Fees.

The fee for processing the application for a sidewalk or outdoor cafe permit shall be uniformly set from time to time by the Village Board and shall be made known to the applicant at the time an application form is requested. An applicant applying for a sidewalk cafe permit which will encompass village-owned property shall pay an additional fee based upon the total number of square footage used, which fee shall be uniformly set from time to time by the Village Board and shall be made known to the applicant at the time an application form is requested.

§ 88-8. Liability and insurance.

The applicant shall be liable for and shall indemnify the village against any loss, damage or injury sustained by reason of the negligence of the applicant and/or the establishment to which a permit hereunder has been issued. The applicant shall present a certificate of insurance to the Village Codes Enforcement Officer at the time the permit application is filed, naming the Village of Tully as an additional insured on the policy, which shall be maintained in an amount at uniformly set from time to time by the Village Board.

§ 88-9. Revocation or suspension of permit.

The Village Codes Enforcement Officer shall be responsible for monitoring compliance with the terms of this chapter as well as all other applicable rules, regulations, ordinances, local

2. Editor's Note: See Ch. 112, Zoning.

laws or statutes. The Village Codes Enforcement Officer shall have the authority to suspend or revoke a permit upon the finding of a violation or violations of any applicable rule, regulation, ordinance, local law or statute, or upon other good cause shown.

§ 88-10. Appeal of permit denial, suspension or revocation.

An applicant or permit holder considering himself aggrieved by the denial, suspension or revocation of a permit may take an appeal of the same to the Village Board within 30 days from the date that said denial, suspension or revocation was issued by filing a written notice with the Village Board.

§ 88-11. Condition of premises.

The sidewalk or outdoor cafe premises shall be kept clean and refuse-free. At the end of the term of the permit, all village-owned property shall be in good condition, excluding damage by the elements.

§ 88-12. Passage requirements.

For any sidewalk cafe, there shall be a minimum of five feet or 50% of the total sidewalk width left clear for adequate and unobstructed pedestrian passage. Such measurement shall be made from the outermost point of the sidewalk cafe to the unobstructed inner edge of the curb.

§ 88-13. Penalties for offenses.

Any offense against the provisions of this chapter shall be made known to the permit holder by means of a written warning issued by the Village Codes Enforcement Officer and sent to the designated address as listed on the permit application. Should the permit holder fail to remedy the offense within 30 days of the receipt of the warning or commit an additional violation or violations subsequent thereto, the permit shall be revoked and the permit holder shall be subject to a fine not exceeding \$250. Each day that such violation or violations continue unremedied shall constitute a separate violation under this chapter.

§ 88-14. Severability.

If any section, paragraph, subdivision or clause of this chapter shall be adjudged invalid, such adjudication shall apply only to the subject section, and the remainder of this chapter shall continue as valid.

Chapter 90

SKATEBOARDS, ROLLER SKATES AND ROLLER BLADES

§ 90-1. Purpose.

§ 90-4. Penalties for offenses.

§ 90-2. Definitions.

§ 90-5. Severability.

§ 90-3. Unsafe use on public property prohibited.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 10-1-2002 by L.L. No. 2-2002. Amendments noted where applicable.]

§ 90-1. Purpose.

The purpose of this chapter is to provide for the safety, health and general welfare of the residents of the Village of Tully and the users of the streets and sidewalks in the high-traffic areas of the Village. By this chapter, the Village seeks to prevent any residents or users of certain streets and sidewalks from sustaining personal injury or property damage as a result of the use and operation of skateboards, roller skates and roller blades within the Village of Tully.

§ 90-2. Definitions.

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

ROLLER SKATES/ROLLER BLADES — Any recreational device consisting of a set of two wheeled platforms, whether or not permanently affixed to a pair of shoes or boots, and regardless of the configuration of the wheels thereon, designed to be worn on the user's feet and used to propel the user.

SKATEBOARD — A platform which is mounted on wheels, having no mechanism or other device with which to steer or control the direction of movement thereof while being used, operated or ridden.

§ 90-3. Unsafe use on public property prohibited.

No person shall use or ride upon any skateboard or roller skates or roller blades on any public property, including any public parking lot, street or sidewalk within the Village of Tully, in a reckless manner or in a manner that may present a danger to any persons or property.

§ 90-4. Penalties for offenses.

Any person violating the provisions of this chapter shall, upon conviction, be punished by a fine not to exceed \$250.

§ 90-5. Severability.

If any section, subdivision, paragraph or provision of this chapter shall be adjudged to be invalid, such adjudication shall apply to such portion thereof so expressly adjudged invalid, and the remainder of this chapter shall remain in all respects valid and effective.

Chapter 91

SNOWMOBILES

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| <p>§ 91-1. Title.</p> <p>§ 91-2. Purpose.</p> <p>§ 91-3. Applicability of statutory provisions.</p> <p>§ 91-4. Age restrictions.</p> | <p>§ 91-5. Insurance.</p> <p>§ 91-6. Speed limit.</p> <p>§ 91-7. Hours of operation restricted.</p> <p>§ 91-8. Penalties for offenses.</p> <p>§ 91-9. Public highways designated.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Tully 1-14-1982 as L.L. No. 1-1982. Sections 91-3A, 91-4A and B, 91-5, 91-8 and 91-9 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 91-1. Title.

This chapter shall be known as the "Village of Tully Snowmobile Law."

§ 91-2. Purpose.

The purpose of this chapter is to provide for the safe and efficient operation of snowmobiles within the village limits and to establish regulations so as to maximize the enjoyment of this recreational pastime while at the same time ensuring that the operation of snowmobiles within the village does not pose a danger or substantive distraction to the peace and tranquility of the residents of the village.

§ 91-3. Applicability of statutory provisions.

- A. The full text of Title D, Snowmobiles, contained in the New York State Parks, Recreation and Historic Preservation Law, as amended from time to time, is hereby incorporated in full into this chapter, and this chapter is meant to supplement the terms and provisions of the state law.¹
- B. To the extent that this chapter is inconsistent with the state law, the state law shall supersede this chapter except where the state law provides that its terms may be superseded or supported by this chapter, and in those matters, this chapter shall be superior.

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

§ 91-4. Age restrictions.

- A. No person under the age of 10 years may operate a snowmobile within the Village of Tully municipal limits unless accompanied by his or her parent or guardian.²
- B. A person who has attained his or her 10th birthday but has not yet attained his or her 16th birthday may operate a snowmobile within the Village of Tully municipal limits, provided that he or she holds a valid snowmobile safety certificate as specified in Title D of the New York State Parks, Recreation and Historic Preservation Law.³
- C. A person over the age of 16 years may operate a snowmobile within the Village of Tully municipal limits whether or not he or she holds a snowmobile safety certificate as above specified.

§ 91-5. Insurance.⁴

It shall be unlawful to operate a snowmobile on any village-owned property or on any street within the Village of Tully municipal limits under any circumstances unless such snowmobile is covered by a policy of liability insurance as specified in § 25.13 of the Parks, Recreation and Historic Preservation Law of New York, as amended from time to time.

§ 91-6. Speed limit.

It shall be unlawful to operate a snowmobile anywhere within the Village of Tully municipal limits at a speed in excess of 15 miles per hour.

§ 91-7. Hours of operation restricted.

It shall be unlawful to operate a snowmobile in the Village of Tully municipal limits during any of the following hours: between 11:00 p.m. Sunday and 6:00 a.m. Monday, 11:00 p.m. Monday and 6:00 a.m. Tuesday, 11:00 p.m. Tuesday and 6:00 a.m. Wednesday, 11:00 p.m. Wednesday and 6:00 a.m. Thursday, 11:00 p.m. Thursday and 6:00 a.m. Friday, 1:00 a.m. Saturday and 6:00 a.m. Saturday, 1:00 a.m. Sunday and 6:00 a.m. Sunday.

§ 91-8. Penalties for offenses.⁵

Unless otherwise provided in § 27.11 of the Parks, Recreation and Historic Preservation Law, any person who violates any provision of this chapter shall, upon conviction thereof, be subject to a fine not to exceed \$250 or to imprisonment for a term not to exceed 15 days, or both.

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

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

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

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

§ 91-9. Public highways designated.⁶

Pursuant to Title D, § 25.09, of the Parks, Recreation and Historic Preservation Law of the State of New York, snowmobiles may be operated on the following village streets: Melinda Lane, Skadden Terrace, Lincoln Street, Douglas Street, Onondaga Street from Douglas Street to the Agway premises, which are hereby determined to be uncongested by virtue of their rural character and subject to posting, in accordance with regulations of the Department of Environmental Conservation, pursuant to Title D of the Parks, Recreation and Historic Preservation Law of the State of New York, as safe for snowmobile travel. Such operation shall be confined to the shoulder or inside slope where passable, and where impassable, operation shall be confined as close as possible to the right-hand slope. There shall be no operation of a snowmobile on any sidewalk within the village limits. Said snowmobiles shall use the above-designated streets solely for the purpose of passing through the Village of Tully, reentering the Village of Tully to a designated point or for the purpose of leaving the Village of Tully, and said public streets shall be used for no other purpose.

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



Chapter 93

SOLID WASTE

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| <p>§ 93-1. Findings and purpose.</p> <p>§ 93-2. Definitions.</p> <p>§ 93-3. Requirement of haulers to obtain municipal hauler license.</p> <p>§ 93-4. Distinctive municipal sticker.</p> <p>§ 93-5. Duration of municipal hauler license.</p> <p>§ 93-6. Revocation of municipal hauler license.</p> <p>§ 93-7. Recycling plan.</p> <p>§ 93-8. Imposition of fees.</p> <p>§ 93-9. No Sunday collection.</p> <p>§ 93-10. Insurance — indemnity/hold harmless.</p> <p>§ 93-11. Hours of operation.</p> | <p>§ 93-12. Removal of uncollected waste.</p> <p>§ 93-13. Restrictions on use of vehicles and handling of waste.</p> <p>§ 93-14. Yard and garden waste prohibited.</p> <p>§ 93-15. Dumping/draining leachate prohibited.</p> <p>§ 93-16. Accumulation/storage of solid waste on private property.</p> <p>§ 93-17. Outdoor burning.</p> <p>§ 93-18. Special events.</p> <p>§ 93-19. Penalties and remedies for violation.</p> <p>§ 93-20. Penalties for offenses.</p> <p>§ 93-21. Severability.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Tully 2-19-2001 by L.L. No. 1-2001.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Littering — See Ch. 71.

§ 93-1. Findings and purpose.

The reduction of the amount of solid waste and conservation of recyclable materials is an important public concern because of the increasing cost of solid waste collection and disposal and its impact on the environment. The separation and collection of recyclable materials serves the general public's interest in our village by reducing the amount of solid waste and will otherwise comply with the Onondaga County Source Separation Law (Local Law No. 12 of 1989) and other applicable provisions of law. In 1988, in the interest of public health, safety and welfare and in order to conserve energy and natural resources, the State of New York enacted a New York State Solid Waste Management Act which established the following solid waste hierarchy: waste reduction, reuse, recycling and waste to energy (See New York Environmental Conservation Law § 27-0106), with land burial as a last resort only when reuse, recycling or waste-to-energy were unavailable. Section B-35 of the State Solid Waste Management Plan — 1997-1998 Update recommended that Onondaga County take immediate steps to develop environmentally acceptable facilities to manage the solid waste

1. Editor's Note: This local law also repealed former Ch. 93, Solid Waste, adopted 5-4-1993 by L.L. No. 1-1993.

generated in the county. In December 1991 Onondaga County adopted a comprehensive solid waste Management plan that was subsequently approved by the State Department of Environmental Conservation. The county plan, applicable to municipalities within the county, preferred waste-to-energy as a safe and sanitary alternative to the threat to the groundwater supply and other liabilities posed by the burying of such waste. Those reasons are further delineated in Section 5 of the aforementioned county plan. Public Authorities Law § 2045-e(7) and (8) allows the Onondaga County Resource Recovery Agency to contract with municipalities for the delivery of such waste and, in furtherance thereof, to process such solid waste. In compliance with both the state and county solid waste management plans, the village has determined that all solid waste, both residential and commercial, generated in our village and destined for disposal in the State of New York, may not be disposed of at any place other than the approved disposal site designated by the Village Board in § 93-2 hereof. This chapter will also establish and refine regulations requiring the licensing of municipal haulers and governing hauler services for the collection and disposal of solid waste materials. This chapter shall not regulate or otherwise restrict any disposal of solid waste generated within the village that is to be disposed of out-of-state or any handling of recyclable materials separated from the rest of the solid waste in accordance with Onondaga County's Source Separation Law; or regulate the price, route or service of any motor carrier with respect to the transportation of property prohibited by the Federal Aviation Administration Authorization Act of 1994, as amended (49 U.S.C.A. § 14501 et seq.).

§ 93-2. Definitions.

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

AGENCY — The Onondaga County Resource Recovery Agency.

AGENCY FACILITY — Any facility operated by or designated by the Agency. Agency facilities include the Agency transfer stations at Ley Creek and Rock Cut Road, Rock Cut Road waste-to-energy facility, Agency landfill (when built), Agency yard waste composting facilities at Jamesville and Amboy, construction and demolition processing facility at Ley Creek and Agency designated materials recovery facilities.

APPROVED DISPOSAL SITE — The Onondaga County waste-to-energy facility on Rock Cut Road in the Town of Onondaga.

BEVERAGE CARTONS — Includes gable-topped paper cartons that contained milk and juice products.

CONSTRUCTION AND DEMOLITION DEBRIS — Discarded building material, concrete, stones, earth from excavations or grading and all other refuse material resulting from the erection, repair or demolition of buildings, structures or other improvements of property.

CORRUGATED PAPER — Cardboard containers, boxes and packaging, including pizza boxes, which are cleaned of contamination by food wastes, or polystyrene commonly called "styrofoam," and which have been flattened for transport.

COUNTY-DESIGNATED RECYCLABLE MATERIALS — Those recyclables designated by the County of Onondaga and the Onondaga County Resource Recovery Agency pursuant to Local Law No. 12 of 1989, including the following:

COUNTY — The County of Onondaga.

CURB — That street curb immediately in front of the property from which solid waste material and recyclables to be collected are generated or in the absence of an actual curb, that portion of the property which is immediately adjacent to the street.

CURBSIDE COLLECTION — The use of collection receptacles for residential, commercial and institutional solid waste generators and the regular periodic pick up and transfer of the contents of such receptacles by a hauler at the location of a waste generator.

ELIGIBLE HOUSEHOLD — A household residing in a dwelling of four units or less and which is required to utilize recycling containers.

GLASS — Empty, washed glass jars, bottles and containers of clear, green and amber (brown) that contained food and drink, caps removed. This term excludes ceramic, window glass, auto glass, mirror and kitchenware.

HAULER — Any person, company or firm who or which engages in the collection, transportation, disposal or delivery of solid waste within our village.

HAZARDOUS WASTE —

- A. Any waste (excluding household hazardous waste) which is defined or regulated as a hazardous waste, toxic substance, hazardous chemical substance or mixture or asbestos (regulated waste) under federal, state or local law, or under rules, regulations, policies or guidelines issued in relation thereof, as they may be amended from time to time, including, but not limited to:
- (1) The Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sections 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984) and the regulations contained in 40 CFR Parts 260-281.
 - (2) The Toxic Substances Control Act (15 U.S.C. Sections 2601 et seq.) and the regulations contained in 40 CFR Parts 761-766.
 - (3) The State Environmental Conservation Law (Title 9 of Article 27) and the regulations contained in 6 NYCRR Parts 370, 371, 372, 373 (Subpart 373-3).
- B. Radioactive materials which are source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. Sections 2011 et seq.) and the regulations contained in 10 CFR Part 40; or
- C. Any other material that by federal, state or local law, or under rules, regulations, policies, guidelines or orders having the force of law in relation thereto, are regulated as harmful, toxic or hazardous to health and ineligible for processing at the Agency facility.

KRAFT PAPER — As found in brown paper bags and package wrapping.

LARGE HOUSEHOLD FURNISHINGS — All other large and/or bulky articles actually used in the home and which equip it for living, such as chairs, sofas, tables, beds or carpets.

MAJOR APPLIANCES — A large and/or bulky household mechanism, such as a refrigerator, washer, dryer, stove, furnace or hot water tank.

MATERIALS RECOVERY FACILITY or MRF — A private or public facility for receiving and processing recyclables into marketable commodities.

MEDICAL WASTE — Any solid waste which is generated in the diagnosis, treatment or immunization of human beings or animals, in research pertaining thereto or in the production or testing of biologicals.

METAL — All ferrous and nonferrous metals, including: steel, aluminum and composite cans and containers (cleaned of food wastes) and empty aerosol cans that did not contain hazardous material. Scrap metal, wire, pipes, tubing, motors, sheet metal, etc. are recyclable but must be recycled through scrap dealers.

MIXED PAPER — Includes discarded and bulk mail, computer paper, colored paper, greeting cards, wrapping paper and carbonless multi-part forms. Excludes any paper coated with foil or plastic.

MUNICIPAL HAULER LICENSE — The license issued by the village to a hauler as a prerequisite to performing solid waste collection services within the village's municipal limits.

NEWSPAPERS, MAGAZINES AND CATALOGUES — Includes common machine-finished paper made chiefly from wood pulp used for printing newspapers, as well as glossy inserts, magazines and catalogues. All must be free of contaminants.

OFFICE PAPER — All bond paper and also computer printout, stationery, photocopy and ledger paper of any color from all waste generators. Paper should, if possible, be free of tape, adhesives, labels, rubber bands, paper clips, binders and other contaminants. This term excludes carbon paper, chemical transfer paper and tyvek or plastic-coated envelopes.

PAPERBOARD — Paper packaging as found in cereal, cracker and tissue boxes, etc. and toilet tissue and paper towel tubes.

PERSON — A natural person, association, partnership, firm, corporation, limited-liability company, trust, estate or governmental unit and any other entity whatsoever.

PLASTICS — All HDPE- and PET-type plastic bottles (#1 and #2), including empty, washed food, beverage, detergent, bleach and hair care containers with lids removed. This term excludes all photographic film, vinyl, rigid and foam plastic materials, as well as plastics numbered 3 through 7 and HDPE oil bottles, as well as #1 and #2 containers that are not bottles or contained hazardous material.

RECYCLABLES — Those recyclable materials, including county-designated recyclable materials, which can be practically separated from nonrecyclable waste for which reuse markets can be accessed for less than the cost of disposal.

RECYCLING CONTAINER — The blue bin or other container supplied by the Agency, county, the village or their designees for the use by eligible households within the village. Such containers shall be used exclusively for the storage of county-designated recyclable materials. Such containers shall at all times remain the property of the Agency.

RECYCLING LAW — The Onondaga County Source Separation Law, Local Law No. 12, adopted March 6, 1989, as subsequently amended.

REGULATED MEDICAL WASTE — Those medical wastes that have been listed in 6 NYCRR 364.9, Paragraph (c)(1) and that must be managed in accordance with the requirements of that part.

SOLID WASTE — All materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including, but not limited to, garbage, refuse, residential, governmental, commercial and/or light industrial refuse, but shall include recyclables, yard and garden waste, human wastes, rendering wastes, demolition wastes, residue from incinerators or other destructive systems for processing waste (other than now-existing individual building incinerators, the residue from which is presently collected as part of normal refuse collection practices), junked automobiles, pathological, medical, toxic, explosive, radioactive material or other waste material which, under existing or future federal, state or local laws, require special handling in its collection or disposal.

SYSTEM — Onondaga County's Solid Waste Management System as operated by the Onondaga County Resource Recovery Agency and every aspect thereof, including, but not limited to, the Rock Cut Road waste-to-energy facility, Agency landfill (when built), yard waste composting facilities at Jamesville and Amboy, construction and demolition processing facility at Ley Creek and the Rock Cut Road and Ley Creek transfer stations.

VILLAGE — The Village of Tully.

VILLAGE BOARD — The Board of Trustees of the Village of Tully.

VILLAGE CLERK — The Clerk of the Village of Tully.

WASTE GENERATOR — Any person which produces solid waste requiring off-site disposal.

YARD AND GARDEN WASTE — Garden waste, leaves, grass clippings, weeds and brush.

§ 93-3. Requirement of haulers to obtain municipal hauler license.

- A. It shall be a precondition of doing business as a hauler in the village that the person/firm intending to conduct such business obtain a municipal hauler license and a village sticker.
- B. An application on a form approved and provided by the village must be submitted to the Village Clerk in which the person satisfactorily shall be bound by the following provisions:
 - (1) The hauler will deliver all of the nonrecyclable solid waste (residential and commercial) it collects within the village and destined for disposal in the State of New York to the approved disposal site specified in § 93-2 above. It shall be unlawful to unload or deposit any solid waste hauled from any premises within the limits of the village and destined for disposal in the State of New York at any place other than the approved disposal site specified by the village in § 93-2

above. Any hauler failing to dispose of said solid waste at the approved disposal site so designated shall be subject to having its license revoked.

- (2) The hauler will supply a plan of operation for collection and transportation and which provides for a recycling plan as required by Onondaga County Local Law No. 12 of 1989 as it applies to haulers, which it shall adhere to and comply with. The hauler shall agree to provide for the collection of county-designated recyclables in every waste hauler disposal agreement, written or oral, as part of its standard service and to include the cost of such collection in its standard waste collection rates.

§ 93-4. Distinctive municipal sticker.

- A. The hauler shall attach a municipal sticker, which must be visibly and securely affixed to the driver's side vent window or upper part of the driver's side of the windshield of each of the hauler vehicles in operation.
- B. No hauler shall:
 - (1) Duplicate or imitate a municipal sticker; or
 - (2) Sell or transfer in any manner a municipal sticker.

§ 93-5. Duration of municipal hauler license.

Municipal hauler licenses issued pursuant to this chapter shall be effective for an annual term from January 1 through December 31 (one calendar year).

§ 93-6. Revocation of municipal hauler license.

- A. The village shall have the right to cancel any existing municipal hauler license upon 30 days' written notice to the hauler if the village shall enact legislation establishing a new system for collection of solid waste in the village that is inconsistent with the continuation of said license.
- B. The village shall revoke a municipal hauler license upon the happening of any or a combination of the following: failure of the hauler to comply with any provision of § 93-3 or § 93-4 of this chapter. Prior to any such revocation, the hauler shall be notified by the village of an opportunity for a hearing in the matter, which hearing shall be held not less than five days after the hauler is notified in writing by the village of the pending license revocation and the charges against it. All hearings shall be on a date and time and at a place determined by the village. The hearing shall be informal and held before the village Mayor or his/her designee. Compliance with technical rules of evidence shall not be required, and the decision of the village Mayor or his/her designee shall be final.

§ 93-7. Recycling plan.

The village hereby adopts as its source separation legislation, required pursuant to the General Municipal Law, § 120-aa, the Onondaga County Source Separation Law (i.e. Local Law No. 12 of 1989) as adopted by the Onondaga County Legislature and subsequently amended under its terms.

- A. No hauler shall dispose of county-designated recyclable materials picked up in our village as solid waste nor shall any hauler accept county-designated recyclable materials for disposal as solid waste.
- B. Recycling containers shall at all times remain the property of the Agency or village, as the case may be, and are provided for the use and convenience of eligible households in complying with this chapter. No hauler shall:
 - (1) Remove a recycling container from the village;
 - (2) Willfully destroy a recycling container;
 - (3) Dispose of a recycling container other than by returning such container to the village at a designated location; or
 - (4) Use a recycling container for other than the temporary storage of county-designated recyclable materials.

§ 93-8. Imposition of fees.

The Village Board may, by resolution, designate and impose such other fees as it deems reasonable and appropriate in relation to the collection and disposal of any solid waste. After any such fees are imposed, the manner of implementation and collection shall be by regulation of the Village Board or its designee not inconsistent with the terms of the resolution imposing such fees. The Village Board by resolution also from time to time may establish fees to defray expenses in connection with the fee for the municipal hauler license and administration of this chapter. Fees shall be paid by the applicant at the time of application.

§ 93-9. No Sunday collection.

Haulers shall not collect solid waste in the village on Sundays, Thanksgiving or Christmas.

§ 93-10. Insurance — indemnity/hold harmless.

- A. In consideration of the village issuing a municipal hauler license to an applicant, the applicant shall agree, upon the issuance of such license to the applicant, that the applicant shall indemnify, hold harmless and defend the village and its officers and employees from and against any and all claims, demands, losses, damages, costs, payments, actions, recoveries, judgments and expenses of every kind, nature and description, including without limitation all engineers' and attorneys' fees, fines, penalties and clean-up costs resulting from any such claim, etc., arising out of or connected in any way with the applicant's acting as a hauler or the applicant's

- involvement or participation in the collection, distribution or transportation of solid waste.
- B. The hauler, as a condition of obtaining a municipal hauler license, shall provide and maintain the following insurance coverages at limits to be set from time to time by resolution of the Village Board:
- (1) Public liability (CGL), including contractual coverage.
 - (2) Automobile liability coverage for all owned, hired and non-owned vehicles.
 - (3) Worker's compensation coverage.
- C. The public liability policy aforementioned shall name the Village of Tully as an additional insured.
- D. Each policy of insurance shall be endorsed to contain the following language:
- "The village will be given 30 days prior written notification of any cancellation, nonrenewal or modification of this policy which reduces coverage or limits at the following address: Village Clerk, Village of Tully, P.O. Box 1028, Tully, New York 13159."
- E. Prior to the issuance of any municipal hauler license, the hauler must provide to the Village Clerk proof of insurance coverage in a form to be determined from time to time by resolution of the Village Board.

§ 93-11. Hours of operation.

Haulers shall not operate earlier than 6:00 a.m., nor later than 7:00 p.m.

§ 93-12. Removal of uncollected waste.

Where certain solid waste, recyclables and/or other waste materials were not collected because those materials were not placed or prepared by the waste generator in accordance with the provisions of this chapter, the person who placed such materials for collection and the owner of the property adjoining the curb where such waste materials were placed shall remove those wastes from the location as soon as possible after the hauler has refused collection and, in any event, by 6:00 p.m. on the designated collection day.

§ 93-13. Restrictions on use of vehicles and handling of waste.

The collection, removal and carrying of solid waste, recyclables and/or material, and the transportation of solid waste, paper and recyclables on any highway, street, alley or lane of the village must be done in covered vehicles. No hauler shall throw or scatter or cause to be scattered or deposited or to escape from the vehicle any solid waste or recyclables on the streets or public places.

§ 93-14. Yard and garden waste prohibited.

Yard and garden waste may not be accepted for disposal at any Agency facility but may be accepted for recycling at a yard waste composting facility of the hauler's choice within the county or taken elsewhere.

§ 93-15. Dumping/draining leachate prohibited.

Except as specifically permitted in this chapter, no hauler shall deposit or cause to be deposited or stored for more than one day upon any property any solid waste and/or recyclables, and dumping thereof is hereby prohibited. No leachate or other obnoxious or contaminating substance shall be allowed to drain from any hauler vehicle on the public streets.

§ 93-16. Accumulation/storage of solid waste on private property.

No hauler shall suffer or permit solid waste to accumulate or remain upon private premises, including extended storage in hauler vehicles owned or operated by that hauler so that the same shall emit odors or become offensive or dangerous to the public health or to any person or property.

§ 93-17. Outdoor burning.

No hauler shall bury or burn any solid waste and/or recyclables or cause to be buried or burned any solid waste and/or recyclables, papers, trash, hazardous waste and/or materials within the limits of the village, unless authorized to do so in writing by the Village Board.

§ 93-18. Special events.

This chapter shall also apply to all special events held in the village. The sponsor of said events shall be responsible for sorting all solid waste materials into appropriate containers or bags and making all arrangements for pickup and disposal of all solid waste materials. The hauler may charge a fee to be determined by the Village Board for such pickups and disposal.

§ 93-19. Penalties and remedies for violation.

- A. In addition to any revocation of the municipal hauler's license pursuant to § 93-3 of this chapter, each day's violation or failure to comply with the provisions of this chapter shall be considered a new and separate offense, and subject to the penalties set forth in § 93-20.
- B. In addition to the above-provided penalties and revocations, or in lieu thereof, the Village Board may also institute and maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or to restrain by temporary restraining order, preliminary and/or permanent injunction any violation of this chapter.

C. This chapter shall be enforced by the village Codes Enforcement Officer, Department of Public Works Superintendent, Onondaga County Sheriffs Department, New York State Police, Department of Environmental Conservation Officers and all local law enforcement agencies.

§ 93-20. Penalties for offenses.

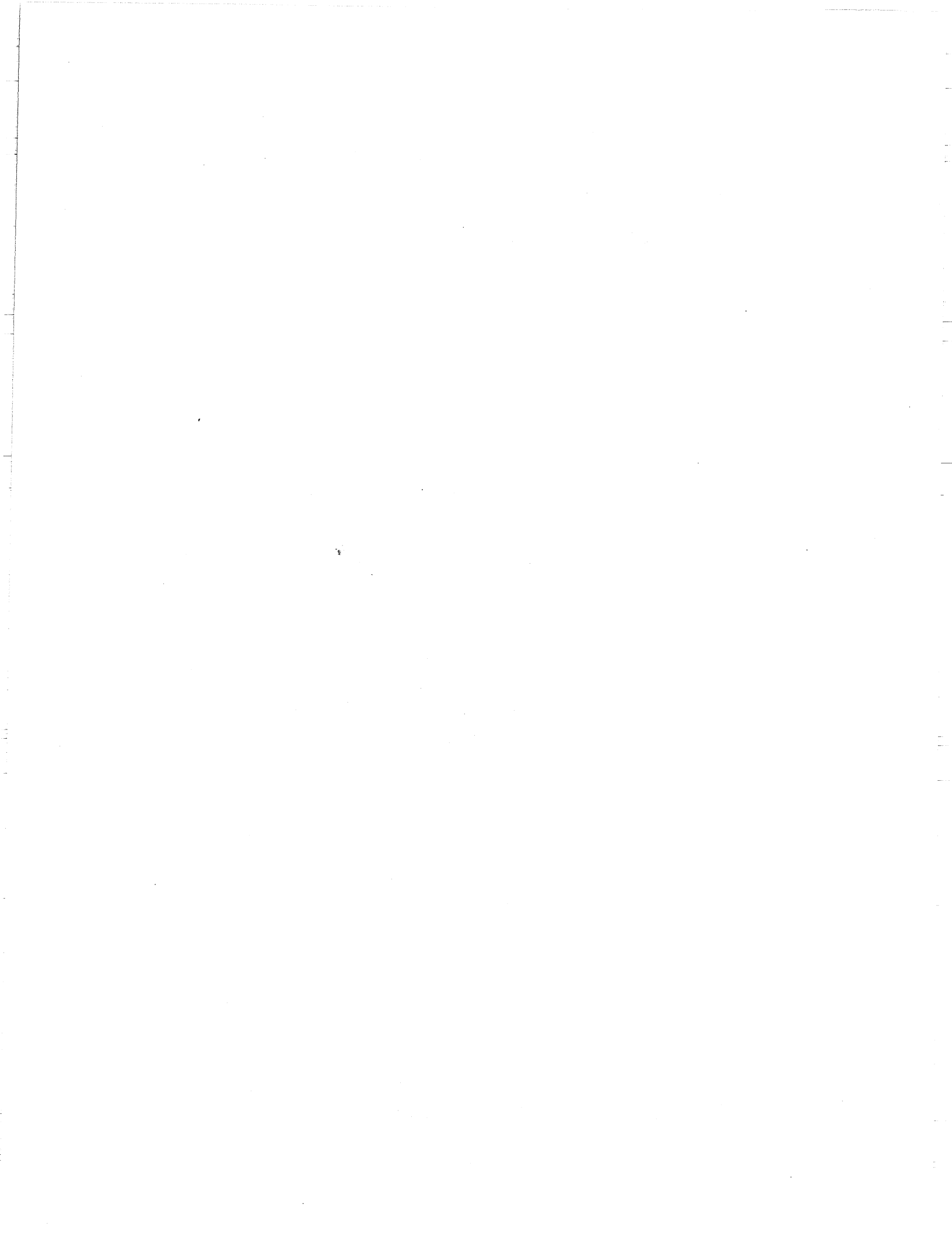
The failure of a hauler to comply with the provisions of this chapter shall be considered a violation subject to the following specified fines for each offense pursuant to § 80.05(4) of the Penal Law as well as for corporate officers, directors and officials, except for corporations in their corporate capacity which shall be fined pursuant to § 80.10 of the Penal Law. Each day's violation shall be considered a new and separate offense subject to a separate penalty as fixed below. Any fines collected under this chapter shall inure to the village and shall be deposited in the village general fund to use as it deems appropriate.

| Section | Violation | Fine |
|---------|---|--------------------------|
| 93-3 | Failure to obtain a municipal hauler license | \$250.00 |
| 93-3 | Failure to deliver all solid waste collected within the village and destined for disposal within New York State to the village approved disposal site | \$250.00 plus revocation |
| 93-4A | Failure to attach a municipal sticker to the hauler vehicle | \$250.00 |
| 93-4B | Duplication or imitating the municipal sticker or engaging in the selling of the municipal sticker | Revocation |
| 93-7A | Accepting and/or disposing of county-designated recyclable materials as solid waste | \$200.00 |
| 93-7B | Removing, destroying or disposing of a recycling container or using same for other than storage of a county-designated recyclable | \$150.00 |
| 93-9 | Engaging in the collection of solid waste and/or recyclables on Sundays, Thanksgiving or Christmas | \$50.00 |
| 93-10D | Failure to notify the village, 30 days' prior written notice of any cancellation, nonrenewal or modification of required insurance policy | \$50.00 |
| 93-11 | Failure to comply with the designated hours of operation | \$200.00 |
| 93-12 | Failure to remove uncollected solid waste improperly set out for disposal | \$100.00 |
| 93-13 | Throwing, scattering or allowing deposit of any solid waste and/or county-designated recyclables or other waste upon the streets | \$100.00 |

| Section | Violation | Fine |
|---------|--|----------|
| 93-13 | Engaging in the collection of solid waste and/or county-designated recyclables in a noncovered vehicle | \$100.00 |
| 93-15 | Dumping or depositing any solid waste and/or recyclable material upon any property; draining leachate from hauler vehicle | \$100.00 |
| 93-16 | Allowing solid waste or other waste material and recyclables to accumulate upon any property so that it becomes obnoxious, unsightly or offensive | \$250.00 |
| 93-17 | Any hauler engaging in the burial or private burning of solid waste and/or recyclables, papers, trash, hazardous waste and/or materials within the limits of the village | \$250.00 |

§ 93-21. Severability.

If any paragraph, section, sentence or portion of a sentence of this chapter shall be found and determined to be invalid, unlawful and/or unconstitutional, such determination shall not invalidate or void any other paragraph, section, sentence or portion thereof, and such other parts thereof shall remain in full force and effect unless and until legally revoked, modified and/or amended.



Chapter 94
SNOW AND ICE

- | | |
|---|--|
| § 94-1. Definitions. | § 94-7. Snow, ice and water falling from buildings. |
| § 94-2. Duty of property owner and occupant. | § 94-8. Depositing on streets or sidewalks. |
| § 94-3. Time limit. | § 94-9. Placing of snow and ice on another's property. |
| § 94-4. Severe icing. | § 94-10. Penalties for offenses. |
| § 94-5. Removal by village. | § 94-11. Liability. |
| § 94-6. Collection of costs for removal by village. | |

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

GENERAL REFERENCES

Notification of defects — See Ch. 72.

§ 94-1. Definitions.

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

SIDEWALK — A public walkway for pedestrians.

STREET — Includes public streets, roads, avenues, lanes, or other traffic ways, between right-of-way lines.

§ 94-2. Duty of property owner and occupant.

It shall be the duty of the owner and occupant, jointly, of every parcel of real estate adjoining a public sidewalk, whether the parcel of real estate is occupied by a structure or not, to keep such sidewalks adjoining such property free from snow and ice for the full paved width of such sidewalk.

§ 94-3. Time limit.

Snow and ice shall be removed within 24 hours after the end of a snowfall. In addition, sidewalks in front of commercial establishments and commercial parking lots shall be kept free of snow and ice at all times between the hours of 9:00 a.m. and 5:00 p.m.

§ 94-4. Severe icing.

In case snow and ice on any sidewalk shall be frozen so hard that it cannot be removed without injury to the sidewalk, it shall, within the time specified in § 94-3, be strewn and

kept strewn with ashes, sand, sawdust or other suitable material, so as to be no longer dangerous to life and limb. As soon as practical thereafter, the sidewalk shall be completely cleared of snow, ice and other materials strewn thereon, as provided in this chapter.

§ 94-5. Removal by village.

Whenever the owner or occupant of a parcel of real estate adjoining a public sidewalk fails to remove the snow and ice from such sidewalk adjoining such property within the time specified in this chapter or within four hours after notice by the Superintendent of Public Works to remove same, the Superintendent of Public Works may remove said snow or ice from such sidewalk and notify the Village Clerk of the expense incurred by the amount of labor, equipment and materials used. The charge shall be not less than the equivalent of one hour's wage for the highest paid hourly village employee.

§ 94-6. Collection of costs for removal by village.

The Village Clerk shall promptly present to the owner or occupant of each parcel a bill for the removal of snow and ice as certified by the Superintendent of Public Works. If not paid within 30 days, the cost thereof shall be assessed against the property, added to their tax bill and become a lien thereon, collectible in the same manner as delinquent village taxes.

§ 94-7. Snow, ice and water falling from buildings.

The owners or occupants of buildings adjacent to public sidewalks shall take measures to protect the public from the falling snow, ice or water from such buildings.

§ 94-8. Depositing on streets or sidewalks.

No person, firm or corporation shall deposit, throw, place or strew, nor shall any person, firm or corporation cause to be deposited, thrown, placed or strewn, any snow or ice upon any street, avenue, roadway or sidewalk within the village.

§ 94-9. Placing of snow and ice on another's property.

No person, firm, corporation, property owner or occupant shall remove snow or ice from any parcel of real estate and place it upon another parcel of real estate without the express permission of the owner of the parcel of real estate upon which the snow or ice is to be placed.

§ 94-10. Penalties for offenses.

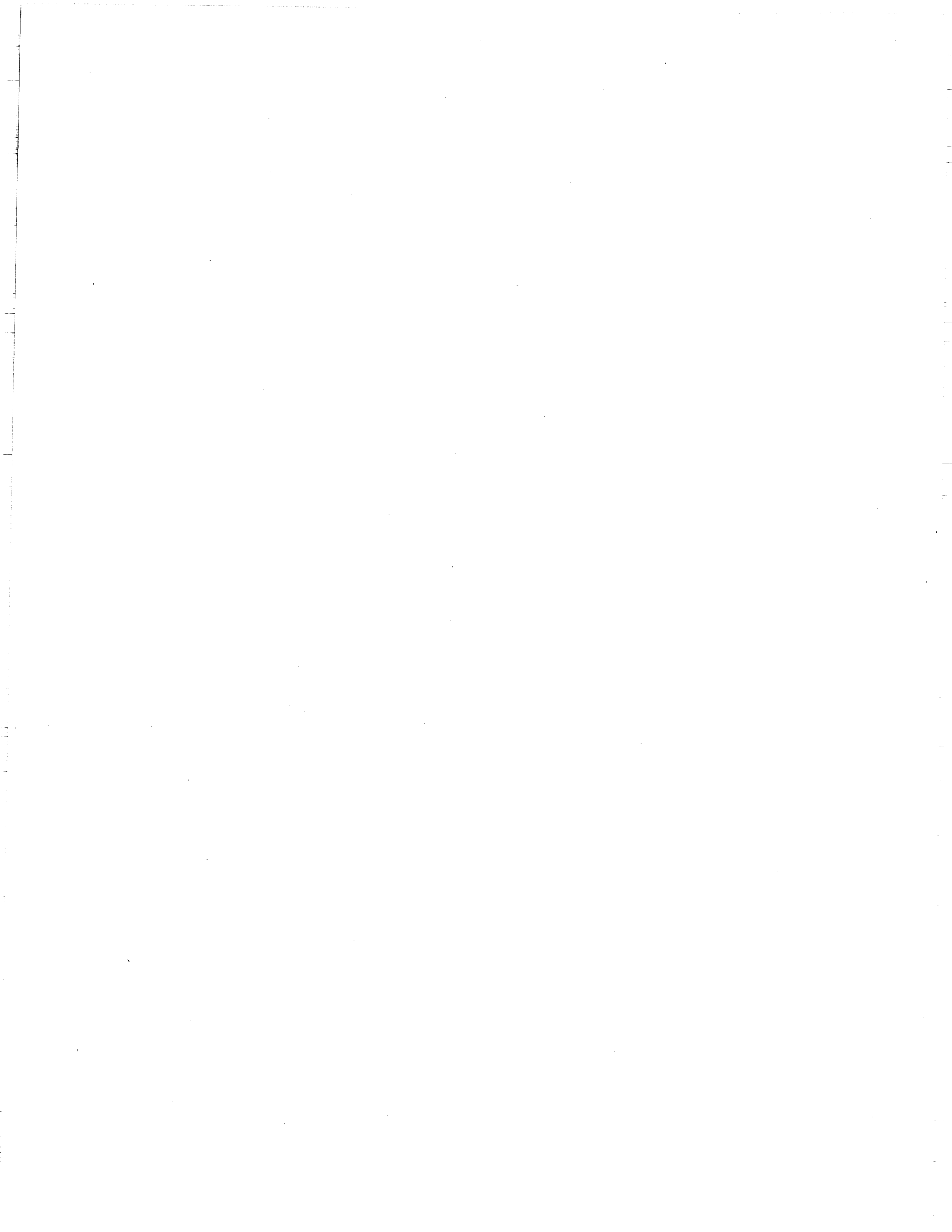
- A. Any person violating any of the provisions of this chapter shall be punished, upon conviction, by a fine not to exceed \$500. Each separate location and each separate incident shall constitute a separate and distinct violation. In addition, each day of continued violation shall constitute a separate and additional violation hereunder.

- B. In addition to any fine that may be assessed, the village may also institute any action or proceeding to compel compliance with this chapter.

§ 94-11. Liability. [Added 2-1-2006 by L.L. No. 1-2006]

- A. Notwithstanding any other provision of law, the owner of real property adjoining any sidewalk, or the agent or occupant to whom the owner has delegated responsibility, shall be liable for any injury to property or personal injury, including death, proximately caused by the failure of such owner, occupant or agent to maintain such sidewalk in a reasonably safe condition. Notwithstanding any other provision of law, the Village shall not be liable for any injury to property or personal injury, including death, proximately caused by the failure of such owner, agent or occupant to maintain such sidewalk in a reasonably safe condition. Failure to maintain such sidewalk in a reasonably safe condition shall include, but not be limited to, the negligent failure to remove snow and ice from the sidewalk.
- B. This section shall not be construed to apply to the liability of the Village as a property owner of streets and public rights-of-way.
- C. Nothing in this section shall in any way affect the provisions of any other law or rule governing the manner in which an action or proceeding against the Village is commenced, including any provisions requiring prior notice to the Village of defective conditions.¹

1. Editor's Note: See Ch. 72, Notification of Defects.



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- § 95-49. Authorization to grant.
- § 95-50. Conditions for granting waivers.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 8-25-1976 as L.L. No. 4-1976. Sections 95-5B, 95-7B, 95-11, 95-14B and 95-20B amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 20.

Environmental quality review — See Ch. 51.

Fire prevention and building construction — See Ch. 56.

Sewers — See Ch. 87.

Water — See Ch. 108.

Zoning — See Ch. 112.

Street specifications — See Ch. A119.

ARTICLE I
General Provisions

§ 95-1. Authorization; declaration of policy; title.

- A. By the authority of Chapter 20, Planning Board, of the Code of the Village of Tully, pursuant to the provisions of § 7-725 of the Village Law of the State of New York, the Planning Board of the Village of Tully is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the county and to approve preliminary plats within the Village of Tully.
- B. It is declared to be the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the village. This means, among other things, that 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; that proper provision shall be made for drainage, water supply, sewerage and other needed improvements; that all proposed lots shall be so laid

out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be properly related to the proposals shown on the Master Plan, if such exists, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire-fighting equipment to buildings; and that proper provision shall be made for open spaces for parks and playgrounds.

- C. In order that land subdivisions may be made in accordance with this policy, these regulations, which shall be known as and which may be cited as the "Village of Tully Land Subdivision Regulations," have been adopted by the Village Board on August 25, 1976.

§ 95-2. Definitions.

For the purpose of these regulations, certain words and terms used herein are defined as follows:

CLERK OF THE PLANNING BOARD — That person who shall be designated to perform the duties of the Clerk of the Planning Board for all purposes of 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.

MAJOR SUBDIVISION — Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five or more lots or any size subdivision requiring any new street or extension of municipal facilities.

MASTER OR COMPREHENSIVE PLAN — A Comprehensive Plan, if such exists, prepared by the Planning Board of the Village of Tully, which indicates the general locations recommended for various functional classes of public works, places and structures and the general physical development of the village, and includes any unit or part of such plan prepared and any amendment to such plan or part therein.

MINOR SUBDIVISION — Any subdivision containing not more than four 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 or Zoning Ordinance, if such exists,¹ or these regulations.

OFFICIAL MAP — The map established by the Village Board showing streets, highways, parks and drainage, both existing and proposed.

PLANNING BOARD or BOARD — The Planning Board of the village.

PRELIMINARY PLAT — A drawing or drawings, clearly marked "preliminary plat," showing the layout of a proposed subdivision, as specified in § 95-47A of these regulations,

1. Editor's Note: See Ch. 112, Zoning.

submitted to the Planning Board for approval prior to the submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

SKETCH PLAN — A sketch of a proposed subdivision showing the information specified in § 95-45 of these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these regulations.

STREET — Includes streets, roads, avenues, lanes or other trafficways, between right-of-way lines.

- A. **MAJOR STREET** — A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.
- B. **COLLECTOR STREET** — A street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major street.
- C. **MINOR STREET** — A street intended to serve primarily as an access to abutting properties.
- D. **DEAD-END STREET or CUL-DE-SAC** — A street or a portion of a street with only one vehicular traffic outlet.

STREET PAVEMENT — The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH — The width of right-of-way, measured at 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 into two or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development, and shall include resubdivision; the terms "subdivision" and "resubdivision" shall also mean any alteration of lot lines or dimensions of any lots or sites shown on a plat previously filed in the office of the County Clerk, and any other reconfiguration of parcels or boundary lines or lot lines. **[Amended 2-7-2018 by L.L. No. 1-2018]**

SUBDIVISION PLAT or FINAL PLAT — A drawing, in final form, showing a proposed subdivision 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 or Registrar.

SURVEYOR — A person licensed as a land surveyor by the State of New York.

VILLAGE ENGINEER — The duly designated Engineer of the village.

§ 95-3. Approval required. [Amended 2-7-2018 by L.L. No. 1-2018]

- A. Notwithstanding § 95-3B below, whenever any subdivision of land is proposed to be made and before any contract for the sale of or any offer to sell any lots in such subdivision or any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures.
- B. The public acquisition by purchase of strips of land for the widening or opening of streets or the sale/transfer of a strip of land to an adjoining property owner where both remaining parcels conform to Chapter 112, Zoning, shall not be subject to these regulations.

ARTICLE II
Sketch Plan

§ 95-4. Submission required.

Any owner of land shall, prior to subdividing or resubdividing land, submit to the Secretary of the Planning Board at least 10 days prior to the regular meeting of the Board two copies of a sketch plan of the proposed subdivision, which shall comply with the requirements of § 95-45, for the purposes of classification and preliminary discussion.

§ 95-5. Discussion of requirements and classification.

- A. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.
- B. Classification of the sketch plan is to be made at this time by the Planning Board as to whether it is a minor or major subdivision as defined in these regulations. The Board may require, however, when it deems it necessary for protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions. If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in Articles III and VII of these regulations. If it is classified as a major subdivision, the subdivider shall then comply with the procedures outlined in Articles IV, V, VI, VII, VIII and IX.²

§ 95-6. Study.

The Planning Board shall determine whether the sketch plan meets the purposes of these regulations and shall, where it deems it necessary, make specific recommendations in writing to be incorporated by the applicant in the next submission to the Planning Board.

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

ARTICLE III
Minor Subdivisions

§ 95-7. Application; fee.

- A. Within six months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plat. Failure to do so shall require resubmission of the sketch plan to the Planning Board for reclassification. The plat shall conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in § 95-46.
- B. All applications for plat approval for minor subdivisions shall be accompanied by a fee as set forth from time to time by resolution of the Board of Trustees.³

§ 95-8. Number of copies submitted.

Eight copies of the subdivision plat shall be presented to the Clerk of the Planning Board at the time of submission of the subdivision plat.

§ 95-9. Attendance at Planning Board meeting.

The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the subdivision plat.

§ 95-10. Time of official submission.

The time of submission of the subdivision plat shall be considered to be the date on which the application for plat approval, complete and accompanied by the required fee and all data required by § 95-46 of these regulations, has been filed with the Clerk of the Planning Board.

§ 95-11. Study.⁴

The Planning Board shall study the practicability of the minor subdivision plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided and the requirements of the Master Plan, the Official Map and zoning regulations, if such exist.

§ 95-12. Hearing.

A public hearing shall be held by the Planning Board within 60 days from the time of submission of the subdivision plat for approval. Said hearing shall be advertised in a

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

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

newspaper of general circulation in the village at least 10 days before such hearing, and notice of hearing shall be posted in three prominent places at least five days before such hearing.

§ 95-13. Action by Planning Board.

- A. The Planning Board shall, within 60 days from the date of the public hearing, act to conditionally approve, conditionally approve with modification, disapprove or grant final approval and authorize the signing of the subdivision plat. This time may be extended by mutual written consent of the subdivider and the Planning Board. Failure of the Planning Board to act within such time shall constitute approval of the plat.
- B. Upon granting conditional approval with or without modification to the plat, the Planning Board shall empower a duly authorized officer to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within 10 days of the resolution granting conditional approval, the plat shall be certified by the Clerk of the Planning Board as conditionally approved, a copy shall be filed in his office and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. Upon completion of such requirements, the plat shall be signed by the duly designated officer of the Planning Board. Conditional approval of a plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed two additional periods of 90 days each.

ARTICLE IV

Preliminary Plats for Major Subdivisions

§ 95-14. Application; fee.

- A. Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file an application for the approval of a preliminary plat of the proposed subdivision. Such preliminary plat shall be clearly marked "preliminary plat" and shall be in the form described in § 95-47 hereof. The preliminary plat shall, in all respects, comply with the requirements set forth in the provisions of § 95-47 of these regulations, except where a waiver may be specifically authorized by the Planning Board.
- B. The application for approval of the preliminary plat shall be accompanied by a fee as set forth from time to time by resolution of the Board of Trustees.⁵

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

§ 95-15. Number of copies submitted.

Ten copies of the preliminary plat shall be presented to the Clerk of the Planning Board at the time of submission of the preliminary plat.

§ 95-16. Attendance at Planning Board meeting.

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

§ 95-17. Study.

The Planning Board shall study the practicability of the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided and the requirements of the Master Plan, the Official Map and zoning regulations,⁶ if such exist.

§ 95-18. Time of official submission.

The time of submission of the preliminary plat shall be considered to be the date on which the application for approval of the preliminary plat, complete and accompanied by the required fee and all data required by § 95-47 of these regulations, has been filed with the Clerk of the Planning Board.

§ 95-19. Approval.

- A. Within 60 days after the receipt of such preliminary plat by the Clerk of the Planning Board, the Planning Board shall hold a public hearing, which hearing shall be advertised at least once in a newspaper of general circulation in the village at least 10 days before such hearing, and notice of hearing shall be posted in three prominent places at least five days before such hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. Within 60 days after the date of such hearing, the Planning Board shall approve with or without modification or disapprove such preliminary plat, and the ground of a modification, if any, or the ground for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such plat may be extended by mutual written consent of the subdivider and the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing such modifications, if any, as it deems necessary for submission of the plat in final form. Within 10 days of the approval of such preliminary plat, it shall be certified by the Clerk of the Planning Board as granted preliminary approval and a copy filed in his office, a certified copy mailed to the owner

6. Editor's Note: See Ch. 112, Zoning.

and a copy forwarded to the Village Board. Failure of the Planning Board to act within such sixty-day period shall constitute approval of the preliminary plat.

- B. When granting approval to a preliminary plat, the Planning Board shall state the terms of such approval, if any, with respect to: the modifications to the preliminary plat; the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, morals and general welfare; and the amount of improvement or the amount of all bonds therefor which it will require as prerequisite to the approval of the subdivision plat. Approval of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations. Prior to the approval of a subdivision plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

ARTICLE V

Final Plats for Major Subdivisions

§ 95-20. Application; fee; time limit for submission.

- A. The subdivider shall, within six months after the approval of the preliminary plat, file with the Planning Board an application for approval of the subdivision plat in final form, using the approved application blank available from the Clerk of the Planning Board.
- B. All applications for plat approval for major subdivisions shall be accompanied by a fee as set forth from time to time by resolution of the Board of Trustees.⁷
- C. If the final plat is not submitted within six months after the approval of the preliminary plat, the Planning Board may refuse to approve the final plat and require the resubmission of the preliminary plat.

§ 95-21. Number of copies submitted.

A subdivider intending to submit a proposed subdivision plat for the approval of the Planning Board shall provide the Clerk of the Board with a copy of the application and 10 copies [one copy in ink on linen or an acceptable equal] of the plat, the original and nine true copies of all offers of cession, covenants and agreements and 10 prints of all construction drawings.

§ 95-22. Time of official submission.

The time of submission of the subdivision plat shall be considered to be the date on which the application for approval of the subdivision plat, complete and accompanied by the

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

required fee and all data required by § 95-48 of these regulations, has been filed with the Clerk of the Planning Board.

§ 95-23. Endorsement of other agencies.

Water and sewer facility proposals contained in the subdivision plat shall comply with the standards set forth in the most recently adopted Village of Tully specifications for water and sewers⁸ and shall be properly endorsed and approved by the Onondaga County Department of Health. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary village, county and state agencies. Endorsement and approval by the Onondaga County Department of Health shall be secured by the subdivider before official submission of the subdivision plat.

§ 95-24. Public hearing.

Within 60 days of the submission of a plat in final form for approval, a hearing shall be held by the Planning Board. This hearing shall be advertised at least once in a newspaper of general circulation in the village at least 10 days before such hearing, and notice of hearing shall be posted in three prominent places at least five days before such hearing; provided, however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under Article IV and modified in accordance with requirements of such approval if such preliminary plat has been approved with modification, the Planning Board may waive the requirement for such public hearing.

§ 95-25. Action by Planning Board.

- A. The Planning Board shall by resolution conditionally approve, conditionally approve with or without modification, disapprove or grant final approval and authorize the signing of such plat within 60 days of its receipt by the Clerk of the Planning Board if no hearing is held, or in the event hearing is held, within 60 days after the date of such hearing. This time may be extended by mutual written consent of the subdivider and the Planning Board. Failure to take action on a final plat within the time prescribed therefor shall be deemed approval of the plat.
- B. Upon resolution of conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. Within 10 days of such resolution, the plat shall be certified by the Clerk of the Planning Board as conditionally approved and a copy filed in his office and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified 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 said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if

8. Editor's Note: See Ch. 108, Water, and Ch. 87, Sewers.

in its opinion such extension is warranted in the circumstances, for not to exceed two additional periods of 90 days each.

ARTICLE VI

Required Improvements

§ 95-26. Construction; surety; performance.

- A. Before the Planning Board grants final approval of the subdivision plat, the subdivider shall follow the procedure set forth in either Subsection A(1) or (2) below:
- (1) In an amount set by the Planning Board, the subdivider shall either file with the Village Clerk a certified check to cover the full cost of the required improvements or file with the Village Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of § 7-730 of the Village Law and, further, shall be satisfactory to the Village Board and Village Attorney as to form, sufficiency, manner of execution and surety. A period of one year [or such other period as the Planning Board may determine appropriate, not to exceed three years] shall be set forth in the bond within which required improvements must be completed.
 - (2) The subdivider shall complete all required improvements to the satisfaction of the Village Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed, the subdivider shall file with the Village Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Village Engineer. Any such bond shall be satisfactory to the Village Board and Village Attorney as to form, sufficiency, manner of execution and surety.
- B. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Village Engineer and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to Subsection A(2), then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond or certified check for all required improvements as specified in Subsection A(1), such bond shall not be released until such a map is submitted.

§ 95-27. Modification of design.

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Village Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Village Engineer may, upon approval by a previously delegated member of the Planning Board, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Village Engineer

shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

§ 95-28. Inspections.

At least five days prior to commencing construction of required improvements, the subdivider shall pay to the Village Clerk the inspection fee required by the Village Board and shall notify the Village Board in writing of the time when he proposes to commence construction of such improvements so that the Village Board may cause inspection to be made to assure that all village specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

§ 95-29. Installation.

If the Village Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Village Board, Building Inspector and Planning Board. The Village Board then shall notify the subdivider and, if necessary, the bonding company and take all necessary steps to preserve the village's rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

ARTICLE VII

Filing of Approved Plats

§ 95-30. Final approval; filing.

Upon completion of the requirements in Article V and VI above and notation to that effect upon the subdivision plat, it shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Planning Board and may be filed by the applicant in the office of the County Clerk. Any subdivision plat not so filed or recorded within 90 days of the date upon which such plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void.

§ 95-31. Revisions after final approval prohibited.

No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat unless the said plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

ARTICLE VIII

Public Streets and Recreation Areas**§ 95-32. Acceptance of streets.**

The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the village of any street, easement or other open space shown on such subdivision plat.

§ 95-33. Ownership and maintenance of recreation areas.

When a park, playground or other recreation area shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the village of such area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Village Board covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation area.

ARTICLE IX

Applicability of Statute**§ 95-34. Approval of plats; conditions for changes in zoning provisions.**

The Board of Trustees hereby empowers the Planning Board, simultaneously with the approval of a plat or plats pursuant to this chapter, to modify applicable provisions of the local laws, subject to the conditions hereinafter set forth and such other reasonable conditions as the Board of Trustees may in its discretion add thereto. Such authorization shall specify the lands to which this procedure may be applicable. The purposes of such authorization shall be to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open lands. The conditions hereinabove referred to are as follows:

- A. If the owner makes written application for the use of this procedure, it may be followed at the discretion of the Planning Board if, in said Board's judgment, its application would benefit the village.
- B. This procedure shall be applicable only to lands zoned for residential purposes, and its application shall result in a permitted number of dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the Zoning Ordinance⁹ applicable to the district or districts in which such land is situated and conforming to all other applicable requirements.
- C. The dwelling units permitted may be, at the discretion of the Planning Board and subject to the conditions set forth by the Board of Trustees, in detached, semidetached, attached or multistory structures.

9. Editor's Note: See Ch. 112 Zoning.

- D. In the event that the application of this procedure results in a plat showing lands available for park, recreation, open space or other municipal purposes directly related to the plat, then the Planning Board as a condition of plat approval may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes. The Board of Trustees hereby requires that such conditions shall be approved by the Board of Trustees before the plat may be approved for filing.
- E. The proposed site plan, including areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed parking spaces and streets, driveways and all other physical features as shown on said plan or otherwise described, accompanied by a statement setting forth the nature of such modifications, changes or supplementations of existing zoning provisions as are not shown on said site plan, shall be subject to review and public hearing by the Planning Board.
- F. Upon the filing of the plat in the office of the County Clerk or Register, a copy shall be filed with the Village Clerk, who shall make appropriate notations and reference thereto in the Village Zoning Law or Map.

ARTICLE X

General Requirements and Design Standards

§ 95-35. General provisions.

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article XII herein.

- 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.
- B. Conformity to Official Map and Master Plan. Subdivisions shall conform to the Official Map of the village and shall be in harmony with the Master Plan, if such exists.
- C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to the village specifications, which may be obtained from the Village Engineer.

§ 95-36. Street layout.

- A. Width, location and construction.
- (1) Streets shall be of sufficient width, suitably located and adequately constructed to conform to the Master Plan, if such exists, and to accommodate the prospective traffic and afford access for fire-fighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no

undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.

- (2) The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above requirements may be modified.
- B. Minor streets. Minor streets shall be so laid out that their use by through traffic will be discouraged.
 - C. Special treatment along major arterial streets. When a subdivision abuts or contains an existing or proposed major arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
 - D. Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations.
 - E. Dead-end streets. The creation of dead-end or loop residential streets will be encouraged wherever the Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a twenty-foot-wide easement to provide for continuation of pedestrian traffic and utilities to the next street. Subdivisions containing 20 lots or more shall have at least two street connections with existing public streets or streets shown on the Official Map, if such exists, or streets on an approved subdivision plat for which a bond has been filed.
 - F. Block size. Blocks generally shall not be less than 400 feet nor more than 1,200 feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a twenty-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its direction, that a four-foot-wide paved footpath be included.
 - G. Intersections with collector or major arterial roads. Minor or secondary street openings into such roads shall, in general, be at least 500 feet apart.
 - H. Street jogs. Street jogs with center-line offsets of less than 125 feet shall be avoided.
 - I. Angle of intersection. In general, all streets shall join each other so that for a distance of at least 100 feet the street is approximately at right angles to the street it joins.

- J. Relation to topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.
- K. Other required streets. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

§ 95-37. Street design.

- A. Design.
- (1) Street and road design must comply with the standards set forth in the most recently adopted Village of Tully specifications for road construction¹⁰ and shall have a minimum width of 60 feet and shall have a minimum paved surface, including curbs or gutters, of 30 feet.
 - (2) The subdivider shall furnish to the Planning Board at the time of submission of the application for subdivision approval a warranty deed conveying to the Village of Tully all lands required for streets for the subdivision and shall execute and deliver to the village a street construction agreement. Both the deed and the street construction agreement shall be on forms furnished by the village. No street construction shall be commenced before subdivision approval has been granted or before the Board of Trustees has signed the street construction agreement.
- B. Improvements. Streets shall be graded and improved with pavements, curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, streetlights and signs, street trees and fire hydrants, except where waivers may be requested, and the Planning Board may waive, subject to appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements shall be improved as required by the Village Engineer. Such grading and improvements shall be approved as to design and specifications by the Village Engineer.
- (1) Fire hydrants. Installation of fire hydrants shall be in conformity with all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York.
 - (2) Streetlighting facilities. Lighting facilities shall be in conformance with the lighting system of the village. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the authorized Village Electric Inspector.

10. Editor's Note: See Ch. A119, Street Specifications.

- C. Utilities in streets. The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and street line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.
- D. Utility easements. Where topography is such as to make impractical the inclusion of utilities within the street rights-of-way, perpetual unobstructed easements of at least 20 feet in width shall be otherwise provided with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.
- E. Grades. Grades of all streets shall conform in general to the terrain and shall not be less than 1/2% nor more than 6% for major or collector streets or 10% for minor streets in residential zones, but in no case more than 3% within 50 feet of any intersection.
- F. Changes. All changes in grades shall be connected by vertical curves of such length and radius as meet with the approval of the Village Engineer so that clear visibility shall be provided for a safe distance.
- G. Curve radii at street intersections. All street right-of-way lines at intersections shall be rounded by curves of at least 20 feet radius and curbs shall be adjusted accordingly.
- H. Steep grades and curves; visibility at intersections. A combination of steep grades and curves shall be avoided. In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new street with an existing street) which is shown shaded on Sketch A¹¹ shall be cleared of all growth (except isolated trees) and obstructions above the level three feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.
- I. Dead-end streets (culs-de-sac). Where dead-end streets are designed to be so permanently, they should, in general, not exceed 500 feet in length and shall terminate in a circular turnaround having a minimum right-of-way radius of 60 feet and pavement radius of 50 feet. At the end of temporary dead-end streets, a temporary turnaround with a pavement radius of 50 feet shall be provided, unless the Planning Board approves an alternate arrangement.

§ 95-38. Watercourses.

- A. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Village Engineer.
- B. Where a subdivision is traversed by a watercourse, drainage-way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way as required by the Village Engineer, and in no case less than 20 feet in width.

11. Editor's Note: Sketch A is on file in the Village Clerk's office.

§ 95-39. Curve radii.

In general, street lines within a block deflecting from each other at any one point by more than 10° shall be connected with a curve, the radius of which for the center line of street shall not be less than 400 feet on major streets, 200 feet on collector streets and 100 feet on minor streets.

§ 95-40. Special considerations for commercial development.

- A. Paved rear service streets of not less than 20 feet in width, or in lieu thereof, adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use.
- B. In front of areas zoned and designed for commercial use or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to assure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking space for such commercial or business district.

§ 95-41. Street names.

- A. Type of name. All street names shown on a preliminary plat or subdivision plat shall be approved by the Planning Board. In general, streets shall have names and not numbers or letters.
- B. Names to be substantially different. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names, except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than 90° without a change street name.

§ 95-42. Lots.

- A. Lots to be buildable. The lot arrangement shall be such that in constructing a building in compliance with the Zoning Ordinance,¹² there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear.
- B. Side lines. All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.
- C. Corner lots. In general, corner lots shall be larger than interior lots to provide for proper building setback from each street and provide a desirable building site.

12. Editor's Note: See Ch. 112, Zoning.

- D. Driveway access. Driveway access and grades shall conform to specifications of the Village Driveway Ordinance, if one exists. Driveway grades between the street and the setback line shall not exceed 10%.
- E. Access from private streets. Access from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations.
- F. Monuments and lot corner markers. Permanent monuments meeting specifications approved by the Village Engineer as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Village Engineer may require, and their location shall be shown on the subdivision plat.

§ 95-43. Drainage improvements.

- A. Removal of spring- and surface water. 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. Such drainage facilities shall be located in the street right-of-way, where feasible, or in perpetual unobstructed easements of appropriate width.
- B. Drainage structure to accommodate potential development upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Village Engineer shall approve the design and size of facility based on anticipated runoff from a ten-year storm under conditions of total potential development permitted by the Zoning Ordinance¹³ in the watershed.
- C. Responsibility for drainage downstream. The subdivider's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Village Engineer. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a five-year storm, the Planning Board shall notify the Village Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.
- D. Land subject to flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions.

§ 95-44. Parks, open spaces and natural features.

- A. Recreation areas shown on Village Plan. Where a proposed park, playground or open space shown on the Village Plan is located in whole or in part in a subdivision, the

13. Editor's Note: See Ch. 112, Zoning.

Board shall require that such area or areas be shown on the plat in accordance with the requirements specified in Subsection B below. Such area or areas may be dedicated to the village or county by the subdivider if the Village Board approves such dedication.

- B. Parks and playgrounds not shown on Village Plan.
- (1) The Planning Board shall require that the plat show sites of a character, extent and location suitable for the development of a park, playground or other recreation purpose. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the plat.
 - (2) The Board shall require that not less than three acres of recreation space be provided per 100 dwelling units shown on the plat. However, in no case shall the amount be more than 10% of the total area of the subdivision. Such area or areas may be dedicated to the village by the subdivider if the Village Board approves such dedication. Appropriate legal measures should be taken to assure that such land can never be developed for other than recreational purposes.
- C. Information to be submitted. In the event that an area to be used for a park or playground is required to be so shown, the subdivider shall submit, prior to final approval, to the Board, three prints [one on cloth] drawn in ink showing, at a scale of not less than 30 feet to the inch, such area and the following features thereof:
- (1) The boundaries of the said area, giving lengths and bearings of all straight lines; radii, lengths, central angles and tangent distances of all curves.
 - (2) Existing features such as brooks, ponds, clusters of trees, rock outcrops, structures.
 - (3) Existing and, if applicable, proposed changes in grade and contours of the said area and of the area immediately adjacent.
- D. Waiver of plat designation of area for parks and playgrounds.
- (1) In cases where the Planning Board finds that due to the size, topography or location of the subdivision, land for park, playground or other recreation purposes cannot be properly located therein, or if, in the opinion of the Board, it is not desirable, the Board may waive the requirement that the plat show land for such purposes. The Board shall then require as a condition to approval of the plat a payment to the village of \$5,500 per gross acre of land which otherwise would have been acceptable as a recreation site. The amount of land which otherwise would have been acceptable as a recreation site shall be determined in accordance with the standards set forth in Subsection B above.
 - (2) Such amount shall be paid to the Village Board at the time of final plat approval, and no plat shall be signed by the authorized officer of the Planning Board until such payment is made. All such payments shall be held by the Village Board in a special Village Recreation Site Acquisition and Improvement Fund to be used for the acquisition of land that is suitable for permanent park, playground or other recreational purposes and is so located that it will serve primarily the general neighborhood in which the land covered by the plat lies and to be used only for park, playground or other recreational land acquisition or improvements. Such

money may also be used for the physical improvement of existing parks or recreation areas serving the general neighborhood in which the land shown on the plat is situated, provided that the Planning Board finds that there is a need for such improvement.

- E. Reserve strips prohibited. Reserve strips of land which might be used to control access from the proposed subdivision to any neighboring property or to any land within the subdivision itself shall be prohibited.
- F. Preservation of natural features. The Planning Board shall, wherever possible, establish the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and falls, beaches, historic spots, vistas and similar irreplaceable assets. No tree with a diameter of eight inches or more as measured three feet above the base of the trunk shall be removed unless such tree is within the right-of-way of a street as shown on the final subdivision plat. Removal of additional trees shall be subject to the approval of the Planning Board. In no case, however, shall a tree with a diameter of eight inches or more as measured three feet above the base of the trunk be removed without prior approval by the Planning Board.

ARTICLE XI

Documents To Be Submitted

§ 95-45. Sketch plan.

- A. The sketch plan initially submitted to the Planning Board shall be based on Tax Map information or some other similarly accurate base map at a scale [preferably not less than 20 feet to the inch] to enable the entire tract to be shown on one sheet.
- B. The sketch plan shall be submitted showing the following information:
 - (1) The location of that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection.
 - (2) All existing structures, wooded areas, streams and other significant physical features within the portion to be subdivided and within 200 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10 feet.
 - (3) The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.
 - (4) The Tax Map sheet, block and lot numbers, if available.
 - (5) All the utilities available, and all streets which are either proposed, mapped or built.
 - (6) The proposed pattern of lots (including lot width and depth), street layout, recreation areas, system of drainage, sewerage and water supply (see § 95-46C) within the subdivided area.

- (7) All existing restrictions on the use of land, including easements, covenants or zoning lines.

§ 95-46. Minor subdivision plat.

In the case of minor subdivision only, the subdivision plat application shall include the following information:

- A. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of tract shall also be located on the ground and marked by monuments as approved by the Village Engineer and shall be referenced and shown on the plat.
- C. All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health, and a note to this effect shall be stated on the plat and signed by a licensed engineer.
- D. Proposed subdivision name, name of the town and county in which it is located.
- E. The date, North point, map scale, name and address of record owner and subdivider.
- F. The plat to be filed with the County Clerk shall be printed on linen or be clearly drawn in India ink on tracing cloth. The size of the sheet shall be 8 1/2 inches by 11 inches or 8 1/2 inches by 14 inches.

§ 95-47. Major subdivision preliminary plat.

The following documents shall be submitted for approval in the case of a major subdivision preliminary plat:

- A. Ten copies of the preliminary plat prepared at a scale of not more than 100 feet but preferably not less than 50 feet to the inch, showing:
 - (1) Proposed subdivision name; name of village and county in which it is located; date; true North point; scale; name and address of record owner, subdivider and engineer or surveyor, including license number and seal.
 - (2) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.
 - (3) Zoning district, including exact boundary lines of district, more than one district and any proposed changes in the zoning district lines and/or the Zoning Ordinance¹⁴ text applicable to the area to be subdivided.
 - (4) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

14. Editor's Note: See Ch. 112, Zoning.

- (5) Location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight inches or more as measured three feet above the base of the trunk and other significant existing features for the proposed subdivision and adjacent property.
 - (6) Location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
 - (7) Contours at intervals of five feet or less as required by the Board, including elevations on existing roads. Approximate grading plan if natural contours are to be changed more than two feet.
 - (8) The width and location of any streets or public ways or places shown on the Official Map or the Master Plan, if such exists, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
 - (9) The approximate location and size of all proposed waterlines, valves, hydrants and sewer lines and fire alarm boxes; connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law; profiles of all proposed water- and sewer lines.
 - (10) Storm drainage plan, indicating the approximate location and size of proposed lines and their profiles, connection to existing lines or alternate means of disposal.
 - (11) Plans and cross sections showing the proposed location and type of sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof; the character, width and depth of pavements and subbase; the location manholes, basins and underground conduits.
 - (12) Preliminary designs of any bridges or culverts which may be required.
 - (13) The proposed lot lines, with approximate dimensions and area of each lot.
 - (14) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than 20 feet in width and which shall provide satisfactory access to an existing public highway or other public highway or public open space shown on the subdivision of the Official Map.
 - (15) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Village Engineer and shall be referenced and shown on the plat.
- B. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than 400 feet to the inch, showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract and the

probable future drainage layout of the entire tract, shall be submitted. The part of the subdivider's entire holding submitted shall be considered in the light of the entire holding.

- C. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

§ 95-48. Major subdivision final plat.

The following documents shall be submitted for major subdivision final plat approval:

- A. The plat to be filed with the County Clerk shall be printed on linen or be clearly drawn in India ink on tracing cloth. The size of the sheets shall be 17 inches by 22 inches or 22 inches by 34 inches, including a margin for binding of two inches outside of the border along the left side and a margin of one-inch outside of the border on the remaining sides. The plat shall be drawn at a scale of no more than 100 feet to the inch and oriented with the North point at the top of the map. When more than one sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible. The plat shall show:
- (1) Proposed subdivision name or identifying title and the name of the village and county in which the subdivision is located; the name and address of record owner and subdivider; name, license number and seal of the licensed land surveyor.
 - (2) Street lines, pedestrianways, lots, reservations, easements and areas to be dedicated to public use.
 - (3) Sufficient data acceptable to the Village Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the state system of plane coordinates, and in any event should be tied to reference points previously established by a public authority.
 - (4) The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale and true North point.
 - (5) The plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefor.
 - (6) All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Village Attorney as to their legal sufficiency.

- (7) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing village practice.
 - (8) Permanent reference monuments shall be shown and shall be constructed in accordance with specifications of the Village Engineer. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Village Engineer and the location noted and referenced on the plat.
 - (9) All lot corner markers shall be permanently located satisfactorily to the Village Engineer, at least 3/4 inch (if metal) in diameter and at least 24 inches in length, and located in the ground to existing grade.
 - (10) Monuments of a type approved by the Village Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Village Engineer.
- B. Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of streets, sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and subbase, manholes, catch basins and other facilities.

ARTICLE XII

Waivers

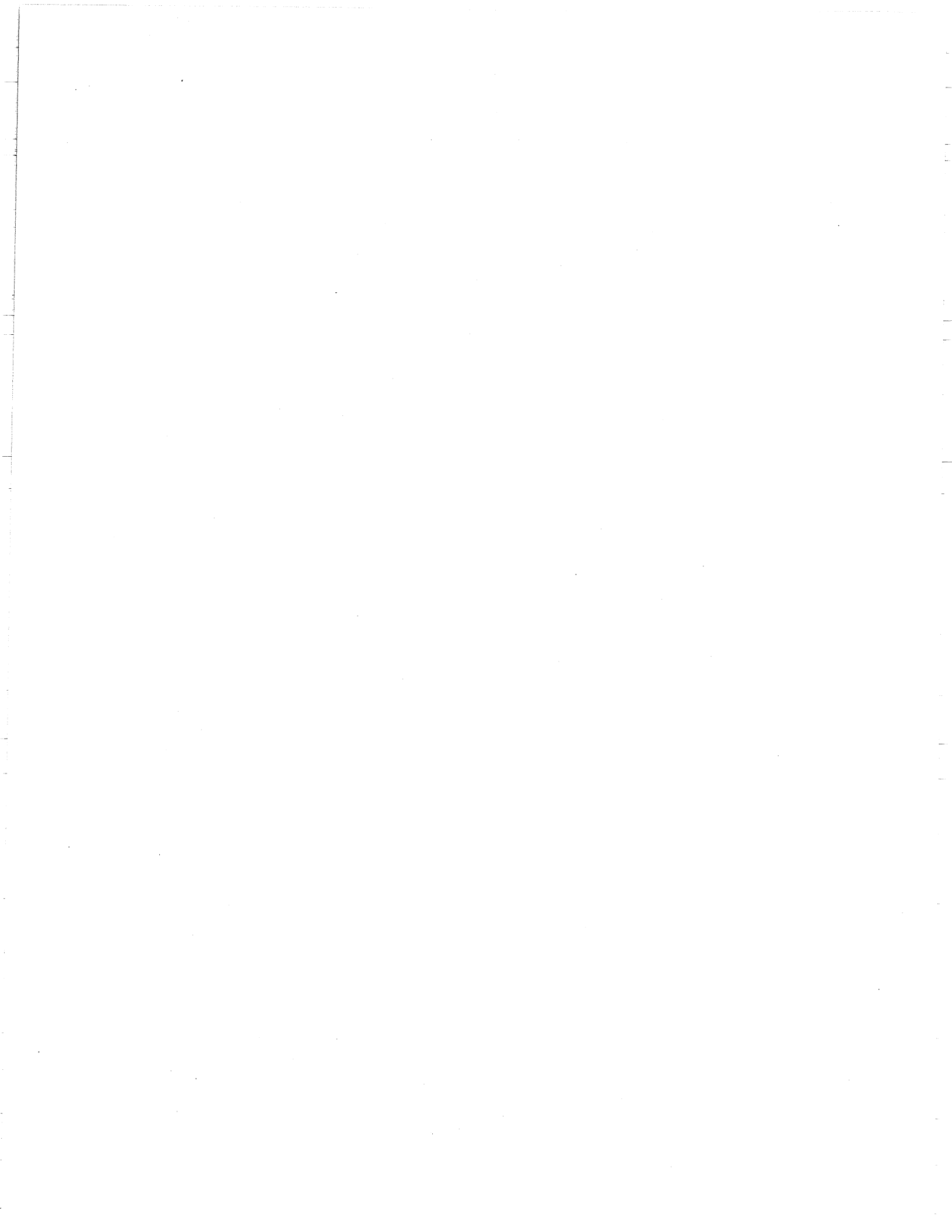
§ 95-49. Authorization to grant.

Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Official Map, the Master Plan or the Zoning Ordinance,¹⁵ if such exists.

§ 95-50. Conditions for granting waivers.

In granting waivers, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

15. Editor's Note: See Ch. 112, Zoning.



Chapter 98
TAXATION

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Fire Fighters Tax Exemption

- § 98-1. Grant of exemption.
- § 98-2. Exemption for volunteer fire fighters and ambulance workers pursuant to state law.

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Utility Tax

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

ARTICLE I

Fire Fighters Tax Exemption**[Adopted 3-1-1976 approved at referendum 3-16-1976]****§ 98-1. Grant of exemption.**

The real property owned by a volunteer member of the Village of Tully Fire Department in the Village shall be exempt from taxation for Village purposes to the extent of \$500 in addition to any other exemption authorized by law.

§ 98-2. Exemption for volunteer fire fighters and ambulance workers pursuant to state law.¹ [Added 2-1-2006 by L.L. No. 2-2006]

- A. This section is adopted pursuant to the authority of New York Real Property Tax Law § 466-g. All definitions, terms and conditions of such statute shall apply to this section.
- B. Real property located in the Village of Tully and owned by an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service or such enrolled member and spouse residing in the Village of Tully shall be exempt from taxation to the extent of 10% of the assessed value of such property for real property taxation, special district or fire district purposes, exclusive of special assessments; provided, however, that such exemption shall in no event exceed \$3,000 multiplied by the latest state equalization rate for the assessing unit in which such real property is located.
- C. Such exemption shall not be granted to an enrolled member of an incorporated volunteer fire company, fire department or incorporated volunteer ambulance service unless:
 - (1) The applicant resides in the Village of Tully and the Village of Tully is served by such fire company, fire department or ambulance service in which the applicant is an enrolled member;
 - (2) The property is the primary residence of the applicant;
 - (3) 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 and the remaining portion only shall be entitled to the exemption provided by this section; and
 - (4) 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.

1. Editor's Note: Former § 98-2, which contained procedural requirements regarding the enactment of this article, was deleted at the request of the Village.

- D. 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 ten-percent exemption as authorized by this section for the remainder of his or her life as long as his or her primary residence is located within the Village of Tully.
- E. Application for such exemption shall be filed with the assessing authority for the Village on a form as prescribed by the State Board of Real Property Services.
- F. No applicant who is a volunteer fire fighter or volunteer ambulance worker who by reason of such status is receiving any benefit under the provisions of this article on the effective date of this section shall suffer any diminution of such benefit because of the provisions of this section.

ARTICLE II

Utility Tax

[Adopted 6-6-1977 by L.L. No. 4-1977]

§ 98-3. Establishment of tax. [Amended 3-21-1989 by L.L. No. 2-1989]

Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, a tax equal to 1% of its gross income, from and after the first day of July 1977, is hereby imposed upon every utility doing business in the Village of Tully which is subject to the supervision of the State Department of Public Services, except an omnibus corporation subject to the supervision of the State Department of Public Services under Article 7 of the Transportation Law, which taxes shall have application only within the territorial limits of the Village of Tully and shall be in addition to any and all other taxes and fees imposed by any other provision of law. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of Tully, notwithstanding that some act is necessarily performed with respect to such transaction within such limits.

§ 98-4. Definitions.

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

GROSS INCOME — Includes receipts received in or by reason of any sale, conditional or otherwise (except sales 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 ultimate consumption or by use by the purchaser in the Village, including cash, credits and property of any kind or nature, whether or not such sale is made or such service is rendered for profit, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or services or other costs, interest or discount paid or any other expense whatsoever; also profits from the sale of 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,

other than such as are received from a corporation, a majority of whose voting stock is owned by the taxpaying utility, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof; and also profits from any transaction, except sales for resale and rentals, within the Village whatsoever; provided, however, that the words "gross income" shall include, in the case of a utility engaged in selling telephony or telephone service, only receipts from local exchange service wholly consummated within the Village and, in the case of a utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated within the village.

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, 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 — Includes 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 and their assignees, lessees, trustees or receivers appointed by any court whatsoever or by any other means, except the state, municipalities, political and civil subdivisions of the state or municipality and public districts.

UTILITY — Includes every person subject to the supervision of the State Department of Public Services, 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, electricity, 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.

VILLAGE — The Village of Tully.

§ 98-5. 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.

§ 98-6. Filing of returns. [Amended 3-21-1989 by L.L. No. 2-1989]

Every utility subject to tax hereunder shall file annually, on or before the 15th day of March, a return for the 12 calendar months preceding such return date or any portion thereof for which the tax imposed hereby is 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 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.

§ 98-7. When payment due.

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.

§ 98-8. Insufficient returns.

- A. In case any return filed pursuant to this Article shall be insufficient or unsatisfactory to the Village Treasurer and if a corrected or sufficient return is not filed within 20 days after the same is required by notice from him or if no return is made for any period, the Village Treasurer shall determine the amount of tax due from such information as he is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. He shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the Village Treasurer for a hearing or unless the Village Treasurer, of his own motion, shall reduce the same. After such hearing, the Village Treasurer shall give notice of his decision to the person liable for the tax. Such decision may be reviewed by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York if application therefor is made within 90 days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the Village Treasurer and an undertaking filed with him, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that, if such proceeding be dismissed or the tax confirmed, the applicant will pay all costs and charges which may accrue in the prosecution of such proceeding; or at the option of the 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.

§ 98-9. Notices.

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.

§ 98-10. Penalties for failure to file.

Any person failing to file a return or corrected return or to pay any tax or any portion thereof within the time required by this Article shall be subject to a penalty of 5% of the amount of tax due, plus 1% of such tax for each month of delay or fraction thereof, except the first month, after such return was required to be filed or such tax became due; but the Village Treasurer, for cause shown, may extend the time for filing any return and, if satisfied that the delay was excusable, may remit all or any portion of the penalty fixed by the foregoing provisions of this section.

§ 98-11. 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 an order to review such determination under said Article 78, subject to the provision hereinbefore contained relating to the granting of such an order.

§ 98-12. Tax as part of operating costs.

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

§ 98-13. Liens.

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

§ 98-14. Powers of Village Treasurer.

In the administration of this Article, the Village Treasurer shall have the 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.

§ 98-15. Secrecy of records.

- 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 to divulge or make known in any manner the amount of gross income or gross operating income or any particulars set forth or disclosed in any return under this Article. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the village 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 any 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 to prevent the inspection by the Village Attorney or other legal representatives of the village of the return of any person who shall bring action to set aside or review the tax based thereon or against whom an action has been instituted in accordance with the provisions of this Article.
- B. Any offense against the foregoing secrecy provisions shall be punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both; and if the offender is an officer, agent, clerk or employee of the village, he shall be dismissed

from office and shall be incapable of holding any office or employment in the village for a period of five years thereafter.

- C. Notwithstanding any provisions of this Article, the Village Treasurer may exchange with the chief 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, 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.

§ 98-16. Disposition of funds.

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

**Proportional Adjustment to Veterans Exemption
[Adopted 12-18-1980 as L.L. No. 4-1980]**

§ 98-17. Title.

This Article shall be known as the "Veterans Proportional Exemption Law of the Village of Tully, Onondaga County, New York."

§ 98-18. Purpose.

The purpose of this Article is to preserve the ratio which each veterans exemption from taxation on real property bears to the total assessed value of the real property for which such exemption has been granted whenever such total assessed value increases or decreases due only to a change in the manner of assessing.

§ 98-19. Definitions. [Amended 3-21-1989 by L.L. No. 2-1989]

The meanings of words and expressions as used in this Article shall be identical to their meanings as used in § 458, as amended, of the Real Property Tax Law of the State of New York.

§ 98-20. Requirements.

- A. If the ratio between the exemption granted under Subdivision 1 of § 458 of the Real Property Tax Law of the State of New York and the total assessed value of the real property for which such exemption has been granted increases or decreases due only to a change in the manner of assessing, other than a court-ordered full-value assessment, in the town, the amount of the exemption heretofore or hereafter granted shall be increased or decreased in such subsequent year in the same proportion as the total assessed value has been increased or decreased.

- B. Such adjustment shall be made by the Assessors in the manner provided in Paragraph 3 of Subdivision 1 of § 458 of the Real Property Tax Law of the State of New York, and no application therefor need be filed by or on behalf of any owner of any eligible property.

ARTICLE IV

Senior Citizens Tax Exemption
[Adopted 3-21-1989 by L.L. No. 2-1989]

§ 98-21. Grant of exemption.

Pursuant to § 467 of the Real Property Tax Law, the Board of Trustees of the Village of Tully hereby grants a tax exemption of up to 50% of assessed valuation on real property located in the Village of Tully and owned by persons 65 years of age or over, provided that the applicant for such exemption meets all of the requirements of § 467 of the Real Property Tax Law and the income of such applicant does not exceed the amount specified in § 98-22 of this Article.

§ 98-22. Level of exemption. [Amended 11-3-1992; 2-19-2001 by L.L. No. 2-2001; 4-4-2007 by L.L. No. 1-2007; 3-5-2008 by L.L. No. 3-2008]

The income of the owner or the combined income of the owners for the calendar year prior to the date that the application is filed shall determine the percentage of assessed valuation which is exempt from taxation, in accordance with the following schedule:

| Exemption | Income Limits (commencing 3-1-08) | Income Limits (commencing 3-1-09) | Income Limits (commencing 3-1-10) |
|------------------|--|--|--|
| 50% | \$27,000 | \$28,000 | \$29,000 |
| 45% | \$28,000 | \$29,000 | \$30,000 |
| 40% | \$29,000 | \$30,000 | \$31,000 |
| 35% | \$30,000 | \$31,000 | \$32,000 |
| 30% | \$30,900 | \$31,900 | \$32,900 |
| 25% | \$31,800 | \$32,800 | \$33,800 |
| 20% | \$32,700 | \$33,700 | \$34,700 |
| 15% | \$33,600 | \$34,600 | \$35,600 |
| 10% | \$34,500 | \$35,500 | \$36,500 |
| 5% | \$35,400 | \$36,400 | \$37,400 |

2. Editor's Note: This local law provided that the schedule of eligibility shall apply to assessment rolls whose taxable status dates occur on or after 3-1-2007.

ARTICLE V

Assessing Unit**[Adopted 9-4-1990 as L.L. No. 9-1990]****§ 98-23. Legislative intent.**

The intent of the Board of Trustees of the Village of Tully is to implement § 1402, Subdivision 3, of the Real Property Tax Law providing for the voluntary termination of the Village's status as an assessing unit, as provided in the Village Law and the Real Property Tax Law. It is also the intent of this Article to abolish the position of the Board of Assessors and to terminate any and all responsibility as provided by law for the review of the assessments of real property located within the Village of Tully.

§ 98-24. Cessation of Village as assessing unit.

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

§ 98-25. Board of Assessment Review abolished.

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

§ 98-26. Town assessment roll.

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

§ 98-27. Copies to be filed.

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

ARTICLE VI

Increase in Veterans Exemption**[Adopted 2-25-1997 by L.L. No. 1-1997]****§ 98-28. Legislative intent and purpose.**

The purpose of this article is to provide for an increase in the maximum exemption allowable for veterans by taking full advantage of the amendment to Subdivision 2(d)(ii) of § 458-a of the Real Property Tax Law enacted by Chapter 477 of the 1996 Laws of New York.

§ 98-29. Tax exemption. [Amended 4-4-2007 by L.L. No. 2-2007³]

Commencing with the preparation of assessment rolls of the Village of Tully occurring immediately after the enactment of this article, the maximum exemption allowable in paragraphs (a), (b) and (c) of Subdivision 2(a), (b) and (c) of § 458-a of the Real Property Tax Law shall be \$36,000, \$24,000 and \$120,000, respectively.

ARTICLE VII

**Tax Exemptions for Persons With Disabilities and Limited Incomes
[Adopted 4-4-2007 by L.L. No. 3-2007⁴]**

§ 98-30. Exemption established.

Real property owned by a person with disabilities whose income is limited by such disabilities, and used as the legal residence of such person, shall be entitled to a partial exemption from taxation to the extent and in accordance with the schedule set forth in § 98-31.

§ 98-31. Eligibility. [Amended 3-5-2008 by L.L. No. 4-2008]

Subject to the provisions of the Real Property Tax Law of the State of New York (R.P.T.L.), § 459-c, real property owned by a person with disabilities whose income is limited by such disabilities and which property is used as the legal residence of such person, shall be exempt from Village taxes according to the following schedule:

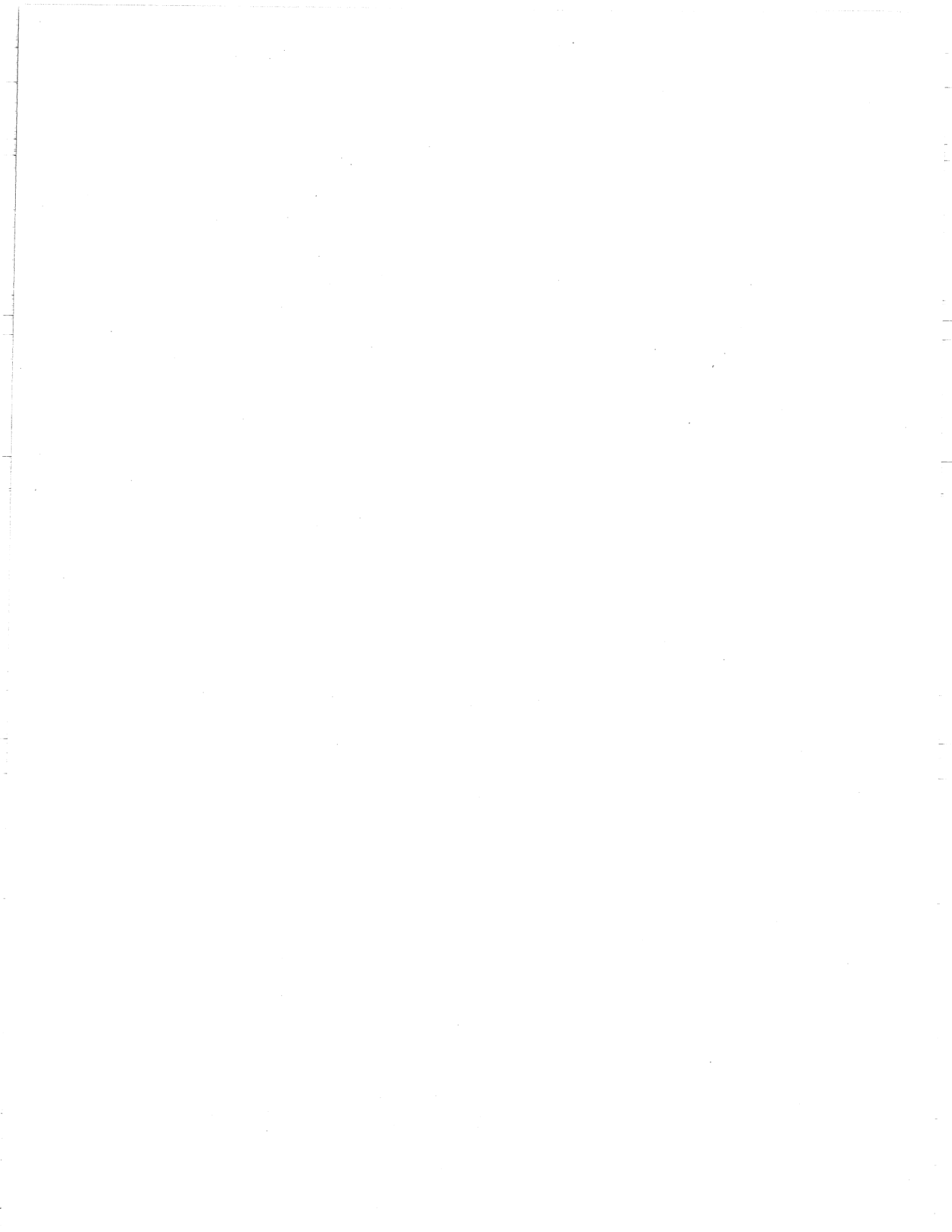
| Exemption | Income Limits (commencing 3-1-08) | Income Limits (commencing 3-1-09) | Income Limits (commencing 3-1-10) |
|-----------|--------------------------------------|--------------------------------------|--------------------------------------|
| 50% | \$27,000 | \$28,000 | \$29,000 |
| 45% | \$28,000 | \$29,000 | \$30,000 |
| 40% | \$29,000 | \$30,000 | \$31,000 |
| 35% | \$30,000 | \$31,000 | \$32,000 |
| 30% | \$30,900 | \$31,900 | \$32,900 |
| 25% | \$31,800 | \$32,800 | \$33,800 |
| 20% | \$32,700 | \$33,700 | \$34,700 |
| 15% | \$33,600 | \$34,600 | \$35,600 |
| 10% | \$34,500 | \$35,500 | \$36,500 |
| 5% | \$35,400 | \$36,400 | \$37,400 |

3. Editor's Note: This local law provided that it shall apply to assessments rolls whose taxable status dates occur on or after 3-1-2007.
4. Editor's Note: This local law provided that the schedule of eligibility applies to assessment rolls whose taxable status dates occur on or after 3-1-2007.



Chapter 101
(RESERVED)

[Former Ch. 101, Unsafe Buildings, adopted 5-1-1990 by L.L. No. 4-1990, was repealed 8-3-2017 by L.L. No. 1-2017.]



Chapter 103
VEHICLES AND TRAFFIC

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- § 103-1. Definitions.
- § 103-2. Authority to install traffic control devices.
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ARTICLE VI
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- § 103-17. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 8-4-1980 by L.L. No. 1-1980. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.
Snowmobiles — See Ch. 91.

Street specifications — See Ch. A119.

ARTICLE I
General Provisions

§ 103-1. Definitions.

- A. The words and phrases used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them by Article I of the Vehicle and Traffic Law of the State of New York.

- B. The following words and phrases, which are not defined by Article I 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 this chapter:

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

HOLIDAYS — Includes New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas and such other days designated as public holidays as provided in § 24 of the General Construction Law.

LOCAL TIME — Whenever certain hours are named herein or are placed upon traffic control devices, they shall have reference to the time standard which is then in current use in the State of New York.

PUBLIC PARKING LOT — A plot or parcel of land or building owned or leased by this village, not including highways, upon or within which the parking of vehicles is regulated by signs and/or parking meters.

§ 103-2. Authority to install traffic control devices.

The Village Superintendent of Public Works shall install and maintain traffic control devices when and as required under the provisions of this chapter and shall install and maintain such additional traffic control devices as he may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provisions of Article 39 of that law.

§ 103-3. Applicability. [Amended 6-2-1992 by L.L. No. 1-1992]

- A. The provisions of this chapter shall apply to all highways and streets within the boundaries of the village, including state highways, subject to the provisions contained in Article 39 of the Vehicle and Traffic Law of the State of New York.
- B. The Board of Trustees may amend the provisions of this chapter, including the enactment of additional traffic rules and regulations, by means of an order adopted by resolution, without notice or hearing, in the manner authorized by § 20-2002 of the Village Law of the State of New York.

ARTICLE II **Speed Limits**

§ 103-4. Maximum speed designated.

Thirty miles per hour is hereby established as the maximum speed limit at which vehicles may proceed within this village on or along highways and streets as follows:

- A. All highways and streets within the village, other than state highways maintained by the state on which the Department of Transportation shall have established higher or lower speed limits.

- B. The maximum speed limit at which vehicles may proceed on or along Onondaga Street within the Village of Tully is 25 miles per hour. **[Added 3-23-2011]**

**ARTICLE III
Parking Regulations**

§ 103-5. Overnight parking.

Notwithstanding any other provisions of this chapter, the parking of vehicles is hereby prohibited on all highways and streets within this village between the hours of 2:00 a.m. and 6:00 a.m. from November 1 of each year to April 1 of the following year.¹

§ 103-6. Parking prohibited in designated areas. [Amended 3-7-1989 by L.L. No. 1-1989; 3-21-1989 by L.L. No. 2-1989]

The parking of motor vehicles is hereby prohibited in any of the following locations:

| Name of Street | Side | Location |
|--|-------|---|
| Clinton Street | North | From the west side of the bridge on Clinton Street along the north curblineline to a point located 372 feet east of said bridge |
| Clinton Street | North | From the intersection of Warren Street along the north curblineline to a point located 20 feet east |
| Clinton Street [Amended 11-2-2011] | South | From the intersection of Lincoln Street along the south curblineline to a point located 313 feet west of the center line of Railroad Street |
| Clinton Street | South | From the intersection of State Street along the south curblineline to a point located 50 feet east |
| Community Drive | Both | From the west end of the street to a point located 60 feet east |
| Elm Street [Amended 4-18-1989 by L.L. No. 3-1989] | North | From the village line east to the intersection of Warren Street |
| Elm Street [Amended 4-18-1989 by L.L. No. 3-1989] | South | From the intersection of State Street along the south curblineline to a point located 150 feet west; and from the village line east along the south curblineline to a point located 723 feet east |

1. Editor's Note: Former Sec. 130.1, Parallel Parking, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

| Name of Street | Side | Location |
|---|-------|---|
| Lincoln Street [Amended 8-1-1989 by L.L. No. 4-1989] | East | From the intersection of Clinton Street along the east curbline to a point located 50 feet south |
| Lincoln Street [Added 8-1-1989 by L.L. No. 4-1989] | West | Entire length |
| Onondaga Court [Added 8-1-1989 by L.L. No. 4-1989] | East | Entire length |
| Onondaga Street | North | From the intersection of State Street along the north curbline to the intersection of Railroad Avenue |
| Onondaga Street [Added 10-3-2000] | South | From 50 feet east of its intersection with State Street to the east side of the driveway at 23 State Street |
| Railroad Street [Amended 8-1-1989 by L.L. No. 4-1989] | East | Entire length |
| Railroad Street [Amended 8-1-1989 by L.L. No. 4-1989] | West | From the intersection of Clinton Street along the west curbline to a point located 200 feet south; and from the intersection of Onondaga Street along the west curbline to a point located 50 feet north |
| Skaddan Terrace | Both | From the intersection of Warren Street to the intersection of Austin Road |
| State Street | East | Entire length |
| State Street | West | From the intersection of Elm Street along the west curbline to a point located 95 feet south |
| Sunny Drive [Added 8-1-1989 by L.L. No. 4-1989] | East | Entire length |
| Sunny Drive [Added 8-1-1989 by L.L. No. 4-1989] | West | From a point located 385 feet north of the intersection of Onondaga Street along the west curbline to the end of Sunny Drive |
| Warren Street | East | From the intersection of Clinton Street along the east curbline to a point located 50 feet north; and from a point located 135 feet north of the intersection of Clinton Street along the east curbline to the village line |

§ 103-7. Parking limited certain hours. [Amended 3-21-1989 by L.L. No. 2-1989]

- A. (Reserved)²
- B. The parking or standing of a motor vehicle between the hours of 7:30 a.m. and 3:30 p.m., Monday through Friday during the school year, is hereby prohibited in the following locations:

| Name of Street | Side | Location |
|--|------|--|
| Elm Street [Repealed 4-18-1989 by L.L. No. 3-1989] | | |
| State Street | West | From a point located 425 feet south of the intersection of Elm Street along the west curbline continuing to a point located 220 feet south |

- C. The parking of a motor vehicle for longer than two hours between the hours of 9:00 a.m. and 5:00 p.m., except on Sundays and holidays, shall be prohibited in the following locations: [Added 8-1-1989 by L.L. No. 4-1989]

| Name of Street | Side | Location |
|-----------------|------|---|
| Lincoln Street | East | From a point located 50 feet south of the intersection of Clinton Street to the intersection of Douglas Street |
| Onondaga Court | West | Entire length |
| Railroad Street | West | From a point located 200 feet south of the intersection of Clinton Street to a point located 50 feet north of the intersection of Onondaga Street |
| Sunny Drive | West | From the intersection of Onondaga Street to a point located 385 feet north |

§ 103-8. Handicapped parking. [Added 3-21-1989 by L.L. No. 2-1989]

- A. The following parking spaces are hereby designated as handicapped parking spaces:

| Name of Street | Side | Location |
|----------------|-------|--|
| Elm Street | South | From a point located 150 feet west of the intersection of State Street along the south curbline continuing to a point located 31 feet west |

2. Editor's Note: Former Subsection A, regarding the parking of a motor vehicle for longer than one hour between the hours of 9:00 a.m. and 5:00 p.m., was repealed 2-4-1996 by L.L. No. 1-1998.

- B. The parking of a motor vehicle in an established handicapped parking space listed in this section is hereby prohibited unless such vehicle displays a permit provided in accordance with § 1203-a of the Vehicle and Traffic Law of the State of New York.

§ 103-9. Additional regulations. [Added 3-21-1989 by L.L. No. 2-1989]

No motor vehicle shall be parked:

- A. To obstruct the use of any public or private driveway.
- B. On any part of a sidewalk.
- C. On the roadway side of any vehicle which is stopped, standing or parked at the edge or curb of a street.
- D. Wholly upon a two-way roadway unless the right-hand wheels of such vehicle are parallel to and within 12 inches of the right-hand curb or edge of the roadway.
- E. In fire lanes as established by the Fire Marshal.
- F. Within 10 feet of a fire hydrant.
- G. On any portion of a street right-of-way between the sidewalk, if any, and the paved portion of the street.
- H. On any street for the purpose of washing, servicing or general repairs.
- I. On any street or within the street right-of-way for the purpose of selling or displaying for sale any vehicle.

§ 103-10. Exemptions. [Added 3-21-1989 by L.L. No. 2-1989]

The Superintendent of Public Works, Deputy Superintendent of Public Works, Building Inspector, Fire Marshal and the Zoning Enforcement Officer shall be exempt from the provisions of this Article while in the performance of their official duties.

ARTICLE IV

Stop and Yield Intersections

[Amended 3-21-1989 by L.L. No. 2-1989]

§ 103-11. Stop intersections.

- A. The following intersections are hereby designated as stop intersections, and stop signs shall be erected at the entrances thereto as indicated:

| Intersection of | With Stop Sign on | At Entrance From |
|-----------------|-------------------|------------------|
| Clinton Street | Lincoln Street | South |
| Clinton Street | Railroad Avenue | South |

| Intersection of | With Stop Sign on | At Entrance From |
|--|-------------------|------------------|
| Douglas Street | Grove Street | South |
| Elm Street | Melinda Lane | North |
| Grove Street | Community Drive | West |
| Grove Street | Robin Lane | West |
| Melinda Lane [Added 6-2-1992 by L.L. No. 1-1992] | Catherine Street | East |
| Onondaga Street | Onondaga Court | North |
| Onondaga Street | Railroad Avenue | North |
| Onondaga Street | Sunny Court | North |
| Skaddan Terrace | Austin Road | South |
| State Street | Onondaga Street | East |
| Warren Street | Skaddan Terrace | West |

- B. No person operating a motor vehicle shall pass through the aforesaid intersections without first bringing said motor vehicle to a complete stop at the points indicated by stop signs as located above.

§ 103-12. Yield intersections.

- A. The following intersections are hereby designated as yield intersections, and yield signs shall be erected at the entrances thereto as indicated:

| Intersection of | With Yield Sign on | At Entrance From |
|---|--------------------|------------------|
| Catherine Street | Skaddan Terrace | West |
| Melinda Lane [Repealed 6-2-1992 by L.L. No. 1-1992] | | |

- B. No person operating a motor vehicle shall pass through the aforesaid intersections without yielding the right-of-way to other vehicles at the points indicated by yield signs as located above.

ARTICLE V

Removal and Storage of Vehicles
[Amended 3-21-1989 by L.L. No. 2-1989]**§ 103-13. Removal by Village officers.**

When any motor vehicle is parked or abandoned on any highway within the Village of Tully during a snowstorm, flood, fire or public emergency or where any motor vehicle is found unattended on any highway within the Village where said vehicle constitutes an obstruction to traffic or where any motor vehicle is parked or abandoned on any highway within this Village where stopping, standing or parking is prohibited, said vehicle may be removed or ordered removed by the Superintendent of Public Works, Deputy Superintendent of Public Works, Building Inspector, Fire Marshal or Zoning Enforcement Officer.

§ 103-14. Storage; charges.

After removal of any vehicle as provided in this article, the Superintendent of Public Works or other Village official may store such vehicle in a suitable place at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon payment to the Superintendent of Public Works of the amount of all expenses actually and necessarily incurred in effecting such removal and storage.

§ 103-15. Notice of removal.

The officer who ordered the removal of any vehicle as provided in § 103-13 shall, without delay, report the removal and the disposition of such vehicle to the Onondaga County Sheriffs Department or New York State Police, including such information as to the make, model, color, license plate number and state of issue and the vehicle identification number, to the extent possible.

§ 103-16. Liability for damages.

This article shall not be construed to hold the Village of Tully or its officers or employees responsible for any damages, actual or consequential, by reason of the removal, storage or retention of any motor vehicle as herein provided.

ARTICLE VA

Special Warning Signs
[Added 7-9-2002]**§ 103-16.1. Deaf person caution signs.**

Signs advising motorists of a deaf person living in the affected area shall be posted directed to the following locations in the Village of Tully.

Address

49 Warren Street (until January 1, 2017)

ARTICLE VI**Enforcement****[Amended 7-8-1982 by L.L. No. 3-1982; 3-21-1989 by L.L. No. 2-1989]****§ 103-17. Penalties for offenses.**

- A. Except as provided in Subsection B below, every person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than \$50 or by imprisonment for more than 15 days, or by both such fine and imprisonment; for a second such conviction within 18 months thereafter, such person shall be punished by a fine of not more than \$100 or by imprisonment for not more than 45 days, or by both such fine and imprisonment; upon a third or subsequent conviction within 18 months after the first conviction, such person shall be punished by a fine of not more than \$250 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.
- B. Parking violations. The following schedule of parking fines shall apply for violation of Village parking regulations:
- (1) No parking: \$15.
 - (2) Overtime parking: \$10.
 - (3) Parked blocking driveway: \$25.
 - (4) Parked blocking sidewalk: \$25.
 - (5) Double parked: \$15.
 - (6) Parked left side to curb: \$15.
 - (7) Restricted parking: \$15.
 - (8) Parked in fire lane: \$25.
 - (9) Parked less than 10 feet from fire hydrant: \$25.
 - (10) Parked in handicapped space: \$25.



Chapter 108

WATER

- | | |
|--|--------------------------------------|
| § 108-1. General provisions. | § 108-9. Bills. |
| § 108-2. Service connection; charge. | § 108-10. Construction contractors. |
| § 108-3. Resale of water; tampering with system. | § 108-11. Swimming pools. |
| § 108-4. Service pipes. | § 108-12. Discontinuance of service. |
| § 108-5. Excavations. | § 108-13. Interest and penalties. |
| § 108-6. Shutoff boxes. | § 108-14. Liens. |
| § 108-7. Meters. | § 108-15. Penalties for offenses. |
| § 108-8. Charges. | § 108-16. Water service assessment. |

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 12-17-1979 by L.L. No. 4-1979. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 56.

§ 108-1. General provisions.

- A. No water from the Village of Tully water supply shall be turned on for service into any premises by any person but the Superintendent of Public Works or some person authorized by him to perform this service.
- B. Application to have water turned on shall be made in writing to the Village Clerk and shall contain an agreement by the applicant to abide by and accept all of the provisions of this chapter as conditions governing the use of the Village water supply by the applicant.
- C. No water shall be turned on for service in premises in which the plumbing does not comply with the ordinances of the Village, provided that water may be turned on for construction work in unfinished buildings, subject to the provisions of this chapter.
- D. All plumbing fixtures and methods of installation shall comply with the requirements of the Uniform Fire Prevention and Building Code. [Amended 3-21-1989 by L.L. No. 2-1989]

§ 108-2. Service connection; charge.

- A. Requirements; establishment of charge. [Amended 3-21-1989 by L.L. No. 2-1989; 1-15-1991 by L.L. No. 1-1991]

- (1) No connections with a water main shall be made without a permit being issued and 72 hours' advance notice having been given to the Superintendent of Public Works. All such connections shall be made under the supervision of the Superintendent, and no connections shall be covered until the work has been inspected by him. The applicant for such permit shall pay to the Village of Tully a service charge for each supply line connected with the water mains or distributing pipes and extending from said mains or distributing pipes to the street or right-of-way lines regardless of location of said water mains or distributing pipes within said streets or right-of-way lines and regardless of soil, rock or other physical conditions within said streets or right-of-way lines.
 - (2) Said service charge shall be a fixed sum, to be established by resolution of the Board of Trustees, or, in those cases where the Village hires a private contractor to do the work, the amount of the actual cost to the Village, whichever is greater.
- B. Said service charge shall apply only to supply lines of one-inch diameter or smaller and shall cover all costs of tapping and placing a curb box. Any additional expenses incurred in such service connection shall be paid by the applicant.
- C. If application is made for a service connection larger than one inch in diameter, the applicant shall secure a competent contractor to perform such work, which contractor will be subject to the approval of the Village Board or the Superintendent of Public Works. Upon approval of the contractor, no work shall be done except upon 72 hours' notice to the Superintendent of Public Works, who shall be present at all stages of such work and shall supervise such installation. All expenses associated with such service connection shall be borne by the applicant.

§ 108-3. Resale of water; tampering with system.

- A. No water shall be resold or distributed by the recipient thereof from the village supply to any premises other than that for which application has been made and the meter installed, except in case of emergency.
- B. It shall be unlawful for any person not authorized by the village to tamper with, alter or injure any part of the village waterworks or supply system or any meter.

§ 108-4. Service pipes.

- A. All service pipes from the mains to the premises served shall be installed by and at the cost of the owner of the property to be served or the applicant for the service. Such installation shall be under the inspection of the Public Works Superintendent.
- B. No service shall be installed unless it conforms to specifications drawn up by the Board of Trustees and approved thereby, a copy of which specifications shall be kept on file by the Clerk and shall be open to inspection by any person interested.
- C. All repairs to service pipes and plumbing systems of buildings shall be made by and at the expense of the owners of the premises served. The village may, in case of an emergency, repair any service pipes, and if this is done, the cost of such repair work shall be repaid to the village by the owner of the premises served.

§ 108-5. Excavations.

Excavations for installing service pipes or repairing the same shall be made in compliance with the ordinance provisions relating to make excavations in streets, provided that it shall be unlawful to place any service pipe in the same excavation with or directly over any drainpipe or sewer pipe.

§ 108-6. Shutoff boxes.

Shutoff boxes or service boxes shall be placed on every service pipe and shall be located between the curblineline and the sidewalk line where this is practicable. Such boxes shall be so located that they are easily accessible and shall be protected from frost.

§ 108-7. Meters.

- A. All premises using the village water supply must be equipped with an adequate water meter furnished by the village but paid for by the consumer, provided that such water service may be supplied by the village at a flat rate of charge until such meter may be installed. This section shall also apply to the replacement of existing meters.
- B. Before any premises are occupied, a water meter shall be installed therein as herein required or application made for such water service at the flat rate of charge until the meter can be installed or no water shall be furnished such premises.
- C. The Superintendent of Public Works shall read or cause to be read every water meter used in the village at such times as are necessary so that the bills may be sent out at the proper time.
- D. Any municipal water meter shall be taken out and tested upon complaint of the consumer, upon payment of a fee of \$50. If upon test the meter is not within 3% of being accurate, it shall be repaired or replaced and the fee returned to the consumer. [Amended 3-21-1989 by L.L. No. 2-1989]

§ 108-8. Charges. [Amended 12-18-1980 by L.L. No. 2-1980; 6-9-1983 by L.L. No. 2-1983; 1-15-1991 by L.L. No. 1-1991; 1-3-1996 by L.L. No. 1-1995]

All property upon which any building has been or may hereafter be erected having a connection with any mains or pipes which may be hereafter constructed in connection with the village water system shall pay a fee in accordance with rates established from time to time by resolution of the Village Board of Trustees.

§ 108-9. Bills.

Bills for water used shall be dated and sent out semiannually at such times as may be directed by the Mayor and Village Board.

§ 108-10. Construction contractors.

During the construction of any building and before any water is installed as is herein provided, the contractor so constructing such building may be permitted to use the village water supply by making application therefor and paying the flat fee prescribed by the Village Board.

§ 108-11. Swimming pools. [Added 3-21-1989 by L.L. No. 2-1989; amended 6-5-1990 by L.L. No. 6-1990]

The following rules shall apply to swimming pools having a water capacity in excess of 100 gallons:

- A. No such swimming pool shall be filled or added to from the village's water supply between the hours of 7:00 a.m. and 10:00 p.m. or at any time during the effectiveness of emergency water orders or measures.
- B. No such swimming pool shall be filled or added to through or by use of a fire hydrant or by any means other than through a water meter without the prior written consent of the Village Superintendent of Public Works and payment of a fee of \$50. Such fee shall be paid in addition to the rates specified in § 108-8.

§ 108-12. Discontinuance of service.

The water supply may be shut off from any premises for which the water bill remains unpaid for a period of 60 days after the bill is rendered and mailed. When shut off, water shall not be turned on except upon the payment of the usual fee for turning on water.

§ 108-13. Interest and penalties. [Amended 3-6-2001 by L.L. No. 3-2001; 5-5-2004 by L.L. No. 3-2004]

- A. A penalty charge in the amount of 10% of the total bill shall be imposed on all water bills remaining unpaid for a period of 30 days from the date of the rendering of such bill by the Village. An additional penalty shall be charged on all bills remaining unpaid beyond the end of such thirty-day period at a rate of 1% of the total bill per month. These penalties shall be compounded.
- B. If the water bill is not paid within 30 days from the date of the rendering of such bill, the Village Clerk or other designated representative of the Village of Tully shall send a notice of nonpayment to the address of the property owner as listed on the most recent tax roll. This notice shall state that if payment of the water bill is not received by the Village within 60 days of its initial due date, there shall be added to the water bill an administrative fee in the amount of \$150. Such fee shall be in addition to those penalties set forth in Subsection A above, and all fee and penalty amounts shall be compounded. The notice shall further state that if payment of the water bill is not received by the Village within 60 days of its due date, the Village will shut off water service to the property as set forth in § 108-12 in addition to imposing any and all available penalties and fees and taking any other enforcement action available by law.

§ 108-14. Liens.

Charges for water shall be a lien upon the premises as provided in § 11-1118 of the Village Law.

§ 108-15. Penalties for offenses. [Added 3-21-1989 by L.L. No. 2-1989]

Any person who violates any provision of this chapter shall, upon conviction thereof, be subject to a fine not to exceed \$250 and/or imprisonment for a term not to exceed 15 days.

§ 108-16. Water service assessment. [Added 9-5-2007 by L.L. No. 4-2007]

A. For the purposes of this section, the following words, terms and phrases shall have the meanings herein ascribed to them:

PENALTY — An additional charge for nonpayment of the water service assessment within a specified period of time as determined by the Board of Trustees of the Village.

WATER SERVICE ASSESSMENT — A special benefit assessment as determined by the Board of Trustees of the Village and imposed for payment of indebtedness with respect to the water service system.

B. The Village does hereby further establish and impose a water service assessment for the payment of annual principal and interest due on indebtedness derived from the repair, improvements and replacements to the Village's water service system, to be levied uniformly on all real property benefitted and required to be serviced, including all vacant lots and any lot with public water within 100 feet of said lot's property line. The water service system assessment shall be levied and collected with and on the Village tax bill each year. The amount of the water service assessment shall be assessed and levied in such amounts as are determined necessary from time to time by the Village Board of Trustees, to pay the debt service for capital improvements to the system, all in accordance with the New York State Village Law.

C. Classification of units; rents; assessments. **[Amended 4-6-2011 by L.L. No. 3-2011]**

(1) The classifications of units shall be according to the benefits and quantities of use of the water system by the various users of real property in the Village. The basis of the charge for water assessments to be by the users shall be according to the following schedule of units of use:

| Classification | Factor (units) |
|--|---|
| Single-family house, including mobile home | 1 |
| Two-family dwelling | 1.75 |
| Multiple dwelling | 1 for first apartment, 0.75 for each additional apartment |

| Classification | Factor (units) |
|--|---|
| Apartment complex, each building | 1 for first apartment, 0.75 for each additional apartment |
| Motels/hotels | 2 for each building, 0.25 for each motel or hotel room |
| Schools | 1 for each 15 pupils and staff members or part thereof |
| Restaurants, car washes, laundry/dry cleaners, industrial, and municipal/ governmental/ public service and similar type uses | 1 for the first 4,500 cubic feet of water or fraction thereof consumed on the premises, and 1 prorated for each additional 4,500 cubic feet of water consumed |
| Commercial, business or uses other than stated above | 1, plus 0.75 for each additional business, store, apartment or use within the same building |

(2) There is hereby established and imposed an annual water service assessment on all users, to be determined by multiplying the unit charge times the number of units assigned to each user based upon the schedule of units in this section. All vacant lots shall be considered as one unit for the purposes and levying of water assessments only.

- D. Water service assessments will be billed annually, with and on the Village tax bill.
- E. All water service assessments imposed hereunder for Village residents shall be due and payable on the first day of June each year. If any water service assessment remains unpaid as of October 31, the Village Clerk shall certify the amount due and payable to the Board of Trustees, who shall levy the same as taxes and add such water service assessment and penalties on the next succeeding tax roll. Such taxes shall be collected and enforced in the same manner and at the same time as provided for the collection and enforcement of Village taxes, and it shall be the duty of the Village Clerk to charge and collect interest thereon at the same rates specified for the collection of Village taxes.
- F. The classification of units provided for in this chapter is not applicable to the extraterritorial sale of water service by the Village of Tully to users or properties located outside of the Village. For each extraterritorial user, the number of units assigned for purposes of water assessment shall be the same as the number of units assigned for sewer assessment purposes on a contract-by-contract basis. Assessment charges for extraterritorial users shall be billed on a semi-annual basis, on the first day of April and the first day of October each year for the six-month period preceding each such date. If not paid by the 30th day of the month when due (June or October respectively), there shall be added to the water service assessment due, a penalty equal to 1/2% per month, or portion thereof, until the assessment and all penalties are paid in full.

Chapter 112

ZONING

ARTICLE I General Provisions

- § 112-1. Preamble.
- § 112-2. Purpose.

ARTICLE II Definitions

- § 112-3. Word usage and definitions.

ARTICLE III District Regulations

- § 112-4. Zoning districts established.
- § 112-5. Zoning Map.
- § 112-6. Interpretation of district boundaries.
- § 112-7. R1 Residential District.
- § 112-8. R2 Residential Districts.
- § 112-9. R3 Residential District.
- § 112-10. MDC Multiple Dwelling Complex District.
- § 112-11. GB General Business District.
- § 112-12. I Industrial District.

ARTICLE IV Additional Regulations

- § 112-13. Application of regulations.
- § 112-14. Standards for special use permits.

- § 112-15. Supplementary regulations.
- § 112-16. Nonconforming uses.
- § 112-17. Signs.
- § 112-17.1. Restrictions on adult uses.

ARTICLE V Administration

- § 112-18. Site plan review.
- § 112-19. Enforcement.
- § 112-20. Board of Appeals.
- § 112-21. Planning Board.
- § 112-21.1. Joint Planning Board.
- § 112-22. Penalties for offenses.

ARTICLE VI Amendments

- § 112-23. Procedure for amendments.
- § 112-24. Referral of proposed zoning amendment or change to Planning Board.

ARTICLE VII Miscellaneous

- § 112-25. Interpretations.
- § 112-26. Severability.
- § 112-27. When effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 2-5-1991 by L.L. No. 3-1991. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 4.
 Planning Board — See Ch. 20.
 Environmental quality review — See Ch. 51.

Fire prevention and building construction — See Ch. 56.
 Subdivision of Land — See Ch. 95.

ARTICLE I

General Provisions**§ 112-1. Preamble.**

Pursuant to the authority conferred by Article 7 of the Village Law of the State of New York and for each and every purpose therein specified, the Board of Trustees of the Village of Tully does hereby repeal any and all existing local laws, ordinances and resolutions, and all amendments thereto, heretofore enacted by the Board of Trustees of the Village of Tully pertaining specifically to zoning in the Village of Tully, Onondaga County, New York, and does hereby enact the following comprehensive local law regulating the location and use of buildings, structures and land for trade, commercial, industrial, residential, farming and other purposes.

§ 112-2. Purpose.

This chapter is enacted for the purpose of regulating and restricting the location, construction and use of buildings, structures and the use of land in the Village of Tully and for said purposes dividing the Village into districts.

ARTICLE II

Definitions**§ 112-3. Word usage and definitions.**

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

ACCESSORY USE/BUILDING — A use or building customarily incidental and subordinate to the main or principal use or building and located on the same lot with such principal use or building.

ADULT ARCADE — An establishment where, for any form of consideration, one or more still or motion picture projectors, slides projectors, or similar machines, or other image producing machines, for viewing for five or fewer persons each, are regularly used to show films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. [Added 7-1-2003 by L.L. No. 1-2003]

ADULT BOOKSTORE OR VIDEO STORE — A business which derives 25% or more of its gross income from the sale or rental of, or utilizes 25% or more of its retail selling area for, or has stock comprised of 25% or more of, any of the following: books, magazines, periodicals, films, motion pictures, videocassettes, slides, compact discs and/or computer generation or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. **[Added 7-1-2003 by L.L. No. 1-2003]**

ADULT CABARET — A nightclub, bar, restaurant, bottle club juice bar, club or similar commercial establishment, whether or not alcoholic beverages are served, which features: **[Added 7-1-2003 by L.L. No. 1-2003]**

- (1) Persons who appear nude or in a state of nudity or seminudity; or
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTEL — A hotel, motel or similar business which: **[Added 7-1-2003 by L.L. No. 1-2003]**

- (1) Offers public accommodations for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions characterized by the depiction or description of specified sexual activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way or by means of any off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or
- (2) Offers a sleeping room for rent for a period of time less than 10 hours; or
- (3) Allows a tenant or occupant to subrent the sleeping room for a period of time less than 10 hours.

ADULT LIVE ENTERTAINMENT — A business where an adult male or female exposes parts of his or her body identified in the definition of "specified anatomical areas." **[Added 7-1-2003 by L.L. No. 1-2003]**

ADULT MOTION PICTURE THEATER — An enclosed or unenclosed building or structure or portion of a building or structure or drive-in theater used for presenting materials having, as a dominant theme, material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein. **[Added 7-1-2003 by L.L. No. 1-2003]**

ADULT NOVELTY STORE — A business which derives 25% or more of its gross income from the sale or rental of, or utilizes 25% or more of its retail selling area for, or has stock comprised of 25% or more of, any of the following; instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human

genital organs or for sadomachistic use or abuse of self or others. [Added 7-1-2003 by L.L. No. 1-2003]

ADULT THEATER — A theater, concert hall, auditorium or similar commercial establishment which permits or provides acts, shows or entertainment by persons who appear in a state of nudity or who display or exhibit any specified anatomical areas. [Added 7-1-2003 by L.L. No. 1-2003]

ADULT USE — Any business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, including but not limited to adult arcades, adult bookstores or video stores, adult cabarets, adult live entertainment, adult motels, adult motion picture theaters, adult novelty stores, adult theaters, sexual encounter centers and massage establishments. [Added 7-1-2003 by L.L. No. 1-2003]

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

AREA, BUILDING — The total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, patios, terraces and steps.

BAR or TAVERN — A building or portion thereof which has as its principal use the sale of liquor or spirits to the public for consumption on the premises.

BOARDINGHOUSE — A building, other than a hotel, where lodging and meals for five or more persons are served for compensation.

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

BUILDING, FRONT LINE OF — The base line of a vertical plane, parallel to the street line and extending from one lot line to another, beyond which no portion of a building shall extend. Side and rear building lines shall be determined in a comparative manner.

BUILDING, HEIGHT OF — The vertical distance measured from the average elevation of the proposed finished grade on all sides of a building to the highest point of the roof of said building.

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

BUSINESS — Any commercial venture designed to generate income.

CHURCH — Any structure used for worship or religious instruction, including social and administrative rooms accessory thereto.

CLUB, PRIVATE OR MEMBERSHIP — A nonprofit social organization whose premises are restricted to its members and their guests, including premises and buildings for recreational and athletic purposes.

CODE — The Code of the Village of Tully, as amended. **[Added 7-1-2003 by L.L. No. 1-2003]**

COMMERCIAL VEHICLE — Every type of motor-driven vehicle having a gross weight of 18,000 pounds or more or designed to carry or pull a payload of 18,000 pounds or more for commercial or business purposes on highways.

COMMUNITY-SPONSORED EVENT — A function or event which is sponsored by the Village of Tully, the school district, public library or a civic, fraternal or other such nonprofit organization designed principally for a public benefit purpose rather than for private gain.

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

DAY-CARE CENTER — A place for the regular care of three or more children away from their own homes who stay for a period of three hours or more but less than 24 hours during any day, irrespective of compensation.

DAY CARE, FAMILY — An activity providing for the care and supervision of minors in a dwelling unit away from their own homes; "family day care" may involve no more than five minors daily who are not related to the head of household of the dwelling unit.

DISSEMINATION — The transfer of possession, custody, control or ownership of or the exhibition or presentation of any performance to a person, customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. **[Added 7-1-2003 by L.L. No. 1-2003]**

DOMESTIC HOUSEHOLD PETS — Small animals customarily permitted within a residence or yard and kept for pleasure or company. Such animals shall include dogs, cats, and other common pets such as birds and fish, provided that these are not raised for commercial purposes. Domestic household pets may also include miniature versions of animals, such as potbelly pigs, provided they are securely contained within a residence or yard, under 18 inches in height at the shoulder, and kept solely as personal pets. The Codes Enforcement Officer shall have sole discretion to determine what constitutes a domestic household pet pursuant to this chapter. This definition excludes large farm animals and poultry as defined in Chapter 35 of the Village of Tully Code. **[Added 10-1-2002 by L.L. No. 3-2002; amended 1-2-2019 by L.L. No. 1-2019]**

DRIVE-IN BUSINESS — Includes restaurants, banks and the like where patrons enter the premises and are served or entertained in automobiles.

DUMP — A parcel of land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

DWELLING — A building designed or used as the living quarters for one or more families.

DWELLING, MULTIPLE — A dwelling which is occupied as the temporary or permanent residence or home of three or more families living independently of each other.

DWELLING, ONE-FAMILY — A dwelling designed for and accommodating only a single family and having two side yards.

DWELLING, PRIVATE — A dwelling occupied exclusively for residence purposes by one or two families and having not more than four boarders, roomers or lodgers in one or both housekeeping units.

DWELLING UNIT — A dwelling or portion thereof designed for or used for housekeeping facilities for one family.

FAMILY — One or more persons occupying the premises and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity or hotel.

FARM — A parcel of land containing at least four acres of land which is used in the raising of agricultural products, horses, livestock, poultry and dairy animals, including necessary farm buildings, one one-family dwelling and the storage of equipment used for the farm. The term "farm" does not include the use of land or buildings for a public stable. [Added 10-1-2002 by L.L. No. 3-2002]

FENCE, INTERIOR PORTION — That side of a fence from which the structural supports are most readily observed.

FLOOR AREA, GROUND FLOOR — The gross horizontal area of the main or first floor of a building, not including the area of unenclosed porches or attached garages. All dimensions shall be measured along the outside faces of the exterior walls.

FLOOR AREA, TOTAL LIVABLE — The gross horizontal area of livable space of a dwelling, excluding the area of unenclosed porches or attached garages, the dimensions being measured along the interior faces of the walls.

GARAGE, PRIVATE — An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein and that no space therein for more than one car is leased to a nonresident of the premises.

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

HAZARDOUS OR TOXIC MATERIALS OR SUBSTANCES — Any material or substance so defined by and according to the New York State Environmental Conservation Law or the New York State Uniform Fire Prevention and Building Code and/or any regulations promulgated pursuant thereto.

HIGHWAY VEHICLE SERVICE STATION — Any area of land, including any structures and buildings thereon, that is used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used for repair, polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning and servicing such motor vehicles.

HOME OCCUPATION — An accessory use of a residence which satisfies all of the standards and provisions of Article IV, § 112-14D(5), of this chapter.

HOSPITAL — Unless otherwise specified, includes any infirmary, dispensary, clinic, extended care facility, nursing home, convalescent home and any other place for diagnosis, treatment or other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

HOTEL/MOTEL — A building used for housing of the transient public in a single room or suites of rooms. Such building may include dining rooms, kitchens, serving rooms, ballrooms and other facilities for accommodation of the public.

JUNKYARD — Any area of land, with or without buildings, which is used or occupied primarily for the collecting, storage, deposit or sale, outside of a completely enclosed building, of wastepaper, rags, scrap metal or discarded material or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition and for the sale of parts thereof. The outside deposit or storage of two or more unlicensed or wrecked or broken-down vehicles or parts of two or more such vehicles for 10 days or more shall be deemed to constitute a "junkyard."

LAUNDROMAT — A business premises equipped with individual clothes-washing machines and/or driers for the use of retail customers.

LINE, STREET — The dividing line between the street or highway and the abutting real properties.

LOT — A parcel of land occupied or used by one principal building or use with its accessory buildings and the required open spaces.

LOT LINES — Any line or boundary dividing one lot from another.

LOT OCCUPANCY — That percentage of a lot covered by structures.

LOT WIDTH — The distance between side lot lines measured at the street line.

MASSAGE — A method of treating the external part of the human body by rubbing, stroking, kneading or vibrating with the hand or any instrument or any other treatment or manipulation of the human body which occurs as part of or in connection with specified sexual activities or where any person providing such treatment, manipulation or service related thereto exposes his or her specified anatomical areas. **[Added 7-1-2003 by L.L. No. 1-2003]**

MASSAGE ESTABLISHMENT — Any business where body rubs, body shampoos, massages (as defined above) or similar services are administered. This definition shall not include persons licensed or authorized pursuant to Article 155 of the Education Law, or specifically exempt from Article 155 of the Education Law. (See Education Law § 7800 et seq.). **[Added 7-1-2003 by L.L. No. 1-2003]**

MOBILE HOME — A one-family dwelling unit designed for temporary or long-term occupancy and sleeping or living accommodations and designed to be transported as a single, complete dwelling unit on its own wheels or on detachable wheels.

MUSEUM — A place or building in which works of artistic, historical or scientific value are cared for and exhibited.

NONCONFORMING BUILDING — A building lawfully existing on the effective date of this chapter, or any amendment thereto, and which does not conform to the regulations, excepting use regulations, of the district or zone in which it is situated.

NONCONFORMING USE — A use of land or buildings lawfully existing on the effective date of this chapter or any amendment thereto which does not conform to the use regulations of the district or zone in which it is situated.

NUDITY — A state where a person is bare, naked or unclothed, or displays or exhibits less than completely and opaquely covered specified anatomical areas. **[Added 7-1-2003 by L.L. No. 1-2003]**

PARKING SPACE — An off-street space available for the parking of one motor vehicle and having an area of not less than 162 square feet and dimension of nine by 18 feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto. **[Amended 9-6-1994 by L.L. No. 1-1994] 112**

PERSON — Any individual, firm, partnership, corporation, association, limited liability company, business entity or legal representative acting individually or jointly. **[Added 7-1-2003 by L.L. No. 1-2003]**

PROFESSIONAL OFFICES OR STUDIOS — A building or portion thereof used to serve clients or patients but not for retail or wholesale sale of goods. Uses such as lawyers' offices, physicians' offices, photo studios and the like are included.

PUBLIC OR PRIVATE SCHOOLS — Buildings used for general instruction of primary and secondary education (preschool through 12th grade).

RESIDENTIAL TREATMENT FACILITY — A residential medical institution, with full-time staff, for the treatment of alcohol, drug and other dependencies. **[Added 2-13-2008 by L.L. No. 2-2008]**

RESTAURANT — A building or portion thereof where food and beverages, whether or not alcoholic, are sold to the public for consumption on the premises.

RETAIL BUSINESS — A commercial activity characterized by the direct on-premises sale of goods and services within the building to the ultimate consumer, generally involving stock-in-trade such as is normally associated with department stores, food markets, shops and similar establishments. This term shall also include personal service shops such as barbershops, beauty salons and dry-cleaning or laundry services of less than 4,000 square feet of gross floor area.

SETBACK — The required distance that any structure must be located from front, side or rear lot lines.

SEXUAL ENCOUNTER CENTER — A business or commercial enterprise that, as one of its business purposes, offers for any form of consideration any of the following: **[Added 7-1-2003 by L.L. No. 1-2003]**

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex.
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is displaying any specified anatomical areas.

SIGN —

- (1) An emblematic design or device, including those which are composed of light rays only and including any billboard, pennant, announcement or symbol designed to inform or attract the attention of persons not on the premises on which the "sign" is located.
- (2) The following shall not be included in the application of the regulations:
 - (a) Flags and insignia of any government, except when displayed in connection with commercial promotions.
 - (b) Legal notices, identification or informational or directional signs erected or required by governmental bodies.
 - (c) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
 - (d) Signs directing and guiding traffic and parking on private property but bearing no advertising matter and conforming to the regulations set forth in the New York State Department of Transportation Manual of Uniform Traffic Control Devices.
- (3) For the purpose of determining the number of signs, a "sign" shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without an organized relationship of elements or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single "sign." The surface area of a "sign" shall be computed as including the entire area within a geometric form or combinations of regular geometric forms comprising all of the display area of the "sign" and including all of the elements of the matter displayed. On two-sided freestanding signs and two-sided signs attached to and projecting perpendicularly from a building, with display surfaces on both sides, only one side will be considered in the computation of the area. Structural members other than decorative frames, for the purpose of supporting signs and not bearing advertising matter, shall not be included in computation of surface area.

SIGN, TEMPORARY — One which directs attention to a special activity or entertainment but not to the sale of any commodity on a continuing basis.

SPECIAL USE PERMIT — See Article IV, § 112-14.

SPECIFIED ANATOMICAL AREAS — Includes any of the following: **[Added 7-1-2003 by L.L. No. 1-2003]**

- (1) Less than the completely and opaquely covered human genitals, pubic region, pubic hair or buttocks or female breast or breasts below a point immediately above the top of the areola.
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITY — Includes any of the following: **[Added 7-1-2003 by L.L. No. 1-2003]**

- (1) Human genitals in a state of sexual stimulation or arousal.
- (2) Acts of actual or simulated human masturbation, sexual intercourse, oral copulation or sodomy.
- (3) Fondling or other intentional erotic touching of human genitals, pubic region, buttocks, anus or female breasts.
- (4) Excretory functions as part of or in connection with any of the activities set forth in Subsections (1) through (3) of this definition.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between any floor and the ceiling next above it.

STREET — A public way which affords principal means of access to abutting properties.

STRUCTURE — A combination of materials to form a construction framed of component structural parts and includes, among other things, stadiums, platforms, radio towers, sheds, storage bins, billboards, pools and buildings but shall not include fences or signs.

SWIMMING POOL — A structure intended for bathing, swimming or diving purposes, made of concrete, masonry, metal or other impervious materials and provided with a recirculating and/or controlled water supply.

TOPSOIL — The surface layer of the soil containing more or less organic matter to a depth usually plowed in cultivation, the A-horizon of the soil column.

TOURIST HOME — A dwelling in which overnight accommodations are provided or offered to transient guests for compensation.

UNDERTAKING ESTABLISHMENT — A structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

USE — The specific purpose for which land or a building is used or occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

VILLAGE — The Village of Tully. **[Added 7-1-2003 by L.L. No. 1-2003]**

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

YARD, REAR — An open space on the same lot with a main building extending the full width of the lot and situated between the rear lot line and the rear line of the principal building.

YARD, SIDE — An open, unoccupied space on the same lot with a principal building, situated between the side lot line and the nearest side line of said principal building and extending from the rear line of the front yard to the front line of the rear yard.

ARTICLE III District Regulations

§ 112-4. Zoning districts established.

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

| | |
|-----|------------------------------------|
| R1 | Residential District |
| R2 | Residential District |
| R3 | Residential District |
| MDC | Multiple Dwelling Complex District |
| GB | General Business District |
| I | Industrial District |

§ 112-5. Zoning Map.

Said districts are and shall be bounded and defined as shown on a map entitled "Zoning Map of the Village of Tully," adopted by the Village Board of Trustees and certified by the Village Clerk. Said map, together with all explanatory matters thereon, is hereby made a part of this chapter and shall be permanently displayed in the meeting place of the Village Board, protected from unauthorized changes and amended within 12 months of the enactment of any zoning change.

§ 112-6. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rule shall apply: In the event that the zoning lines, as established under this chapter, divide a unit or plot of property, that property as a whole (boundaries fixed as they exist at the time of enactment of this chapter) shall be governed under the rules and regulations prescribed for the classification within which the majority of the total unit property area is contained. Under equal division, the most restricted classification will apply.

§ 112-7. R1 Residential District.

The following regulations shall apply in the R1 Residential District:

- A. Permitted principal uses shall be as follows:
 - (1) One-family dwellings only.

- (2) Family day care.

B. Restrictions on principal structures and uses shall be as follows:

- (1) The minimum lot size shall be 20,000 square feet.
- (2) The minimum lot width shall be 125 feet.
- (3) The maximum building height shall be 30 feet.
- (4) The minimum side yard shall be 20 feet.
- (5) The minimum front yard shall be 40 feet.
- (6) The minimum rear yard shall be 40 feet.
- (7) The minimum floor area shall be:
 - (a) Ground floor:
 - [1] Single-story dwelling: 1,200 square feet.
 - [2] Multiple-story dwelling: 800 square feet.
 - (b) Minimum total livable floor area of structure: 1,200 square feet.
- (8) The maximum percent of lot occupancy (total of all structures) shall be 25%.

C. Permitted accessory structures and uses shall be as follows:

- (1) Private garages.
- (2) Toolhouses, playhouses and greenhouses, all noncommercial.
- (3) Swimming pools, subject to local law and other regulations pertaining to the same.
- (4) Structures for housing domestic household pets, provided that the total floor area of all such structures shall not exceed 50 square feet, and provided that within such structures, no use shall be conducted for profit or any commercial purpose. **[Added 10-1-2002 by L.L. No. 3-2002]**

D. Restrictions on accessory uses shall be as follows:

- (1) The maximum height shall be 20 feet.
- (2) The minimum distance from the rear lot line shall be 10 feet.
- (3) The minimum distance from the front street line shall be 40 feet.
- (4) The minimum distance from a side lot line shall be 10 feet.
- (5) Accessory structures shall not be located in front yards.

E. Special permit uses permitted by the Board of Appeals, subject to standards prescribed in Article IV, § 112-14, shall be as follows:

- (1) Public utility buildings for servicing the neighborhood, excluding business offices, repair or storage of equipment and public utility gas regulation stations.
 - (2) Seminaries and convents (not used in connection with schools or churches), universities and colleges.
 - (3) Community buildings.
 - (4) Home occupations.
 - (5) Tennis courts.
 - (6) Churches and other places of worship and religious instruction, parish houses, rectories and convents in connection with schools or churches.
 - (7) Public and private schools.
 - (8) Public recreation buildings and grounds not carried on for financial gain.
- F. Signs permitted. Subject to general provisions contained in Article IV, § 112-17, the following signs are permitted in R1 Residential Districts:
- (1) A sign, limited to one per lot, not to exceed one square foot in area, for the sole purpose of identifying the resident(s). Such sign shall be single-faced only, stationary and not specially illuminated.
 - (2) One professional or home occupation sign, not exceeding four square feet in area, where erected in connection with a duly permitted home occupation as provided for in this chapter. Such sign shall be single-faced only, stationary and not specially illuminated.
 - (3) One temporary sign per lot shall be permitted for a purpose such as to advertise that the premises are for sale or rent or to set forth the names of a contractor, architect or engineer, owner or similar participant in a construction project and to identify the construction project or for other similar purposes. The area of the sign shall not exceed 12 square feet. No sign advertising any building or any lot for sale or rent shall exceed five square feet in area. A temporary sign shall not be illuminated or animated and shall be removed within seven days after the completion of the purpose which it was intended to promote or within seven days of the abandonment of that purpose. A temporary sign may be freestanding or attached, must be stationary, must be secure against removal by wind, need not be located behind the setback and side yard limits of the use district but must be within the boundaries of the lot and not on a public right-of-way. It must comply with all general regulations governing signs (Article IV, § 112-17) which are not excepted by this subsection.
- G. Other provisions and requirements.
- (1) No building, structure or facility will be permitted within a radius of 200 linear feet of any municipal public water supply.
 - (2) On all corner lots or where any boundary of a lot faces any street, notwithstanding other setback provisions of this chapter, there shall be provided

on each side facing said street a yard equal in depth to the front yard required on said street.

- (3) On corner lots or where any boundary of a lot faces any street, notwithstanding other setback provisions of this chapter, accessory buildings shall be set back, on each side facing said street, a distance from the lot line equal to the front yard setback requirements on said street.
- (4) The minimum distance between buildings located on the same premises shall be 10 feet.
- (5) Private garages:
 - (a) If in the rear yard and detached from the principal structure, must be at least five feet away from any lot line.
 - (b) If in the side or rear yard and attached to the principal structure or if in a side yard and detached from the principal structure, must comply with all setback requirements for principal structures in the district in which it is located.
- (6) On corner lots, no fence, wall, hedge or other planting or structure more than 3 1/2 feet in height shall be erected, placed or maintained within the triangular area formed by intersecting street lines and a straight line joining said street lines at points which are 35 feet distant from the point of intersection.
- (7) External placement or keeping of industrial, commercial and business equipment for sale or other use is prohibited.
- (8) External parking of commercial vehicles is prohibited.
- (9) To the extent that the requirements of the New York State Uniform Fire Prevention and Building Code or any successor thereto are more restrictive than those required hereunder, then said code or its successor shall apply.

§ 112-8. R2 Residential Districts.

The following regulations shall apply in the R2 Residential District:

- A. Permitted principal uses shall be as follows:
 - (1) Private dwellings.
 - (2) Family day care.
- B. Restrictions on principal structures and uses shall be as follows:
 - (1) The minimum lot size shall be 15,000 square feet.
 - (2) The minimum lot width shall be 100 linear feet.
 - (3) The maximum building height shall be 30 feet.
 - (4) The minimum side yard shall be 15 feet.

- (5) The minimum front yard shall be 40 feet.
 - (6) The minimum rear yard shall be 40 feet.
 - (7) The minimum floor area shall be:
 - (a) Ground floor:
 - [1] Single-story dwelling: 1,150 square feet.
 - (b) The floor area of a structure:
 - [1] Multiple-story dwelling: 800 square feet.
 - (8) The maximum percent of lot occupancy by all structures shall be 25%.
- C. Permitted accessory structures and uses shall be as follows:
- (1) Private garages.
 - (2) Toolhouses, playhouses and greenhouses, all noncommercial.
 - (3) Swimming pools, subject to local laws and other regulations pertaining to the same.
 - (4) Structures for housing domestic household pets, provided that the total floor area of all such structures shall not exceed 50 square feet, and provided that within such structures, no use shall be conducted for profit or any commercial purpose. **[Added 10-1-2002 by L.L. No. 3-2002]**
- D. Restrictions on accessory structures and uses shall be as follows:
- (1) The maximum height shall be 20 feet.
 - (2) The minimum distances from the front street line shall be 40 feet.
 - (3) The minimum distances from the rear lot line shall be five feet.
 - (4) The minimum distances from a side lot line shall be five feet.
 - (5) Accessory structures shall not be located in front yards.
- E. Special permit uses permitted by the Board of Appeals, subject to standards prescribed by Article IV, § 112-14, shall be as follows:
- (1) Public utility buildings for servicing the neighborhood, excluding business offices, repair or storage of equipment and public utility gas regulation stations.
 - (2) Seminaries and convents (not used in connection with schools or churches), universities and colleges.
 - (3) Community buildings.
 - (4) Home occupations.
 - (5) Day-care centers.

- (6) Tennis courts.
 - (7) Churches and other places of worship and religious instruction; parish houses, rectories and convents, in connection with schools or churches.
 - (8) Public and private schools.
 - (9) Public recreation buildings and grounds not carried on for financial gain.
- F. Signs permitted. Subject to general sign provisions contained in Article IV, § 112-17, the following signs are permitted in R2 Residential Districts:
- (1) A sign, limited to one per lot, not to exceed one square foot in area, for the sole purpose of identifying the resident(s). Such sign shall be single-faced only, stationary and not specially illuminated.
 - (2) One professional or home occupation sign not exceeding four square feet in area where erected and maintained in connection with a duly permitted home occupation as provided for in this chapter. Such sign shall be single-faced only, stationary and not specially illuminated.
 - (3) One temporary sign per lot shall be permitted for a purpose such as to advertise that the premises are for sale or rent or to set forth the names of a contractor, architect or engineer, owner or similar participant in a construction project and to identify the construction project or for other similar purposes. The area of the sign shall not exceed 12 square feet. No sign advertising any building or any lot for sale or rent shall exceed five square feet in area. A temporary sign shall not be illuminated or animated and shall be removed within seven days after the completion of the purpose which it was intended to promote or within seven days of the abandonment of that purpose. A temporary sign may be freestanding or attached, must be stationary, must be secure against removal by wind, need not be located behind the setback and side yard limits of the use district but must be within the boundaries of the lot and not on a public right-of-way. It must comply with all general regulations governing signs (Article IV, § 112-17) which are not excepted by this subsection.
- G. Other provisions and requirements.
- (1) No building, structure or facility will be permitted within a radius of 200 linear feet of any municipal public water supply.
 - (2) On all corner lots or where any boundary of a lot faces any street, notwithstanding other setback provisions of this chapter, there shall be provided on each side facing said street a yard equal in depth to the front yard required on said street.
 - (3) On corner lots or where any boundary of a lot faces any street, notwithstanding other setback provisions of this chapter, accessory buildings shall be setback, on each side facing said street, a distance from the lot line equal to the front yard setback requirements on said street.
 - (4) The minimum distance between buildings located on the same premises shall be 10 feet.

- (5) Private garages:
 - (a) If in the rear yard and detached from the principal structure, must be at least five feet away from any lot line.
 - (b) If in the side or rear yard and attached to the principal structure or if in the side yard and detached from the principal structure, must comply with all setback requirements for principal structures in the district in which located.
- (6) On corner lots, no fence, wall, hedge or other planting or structure more than 3 1/2 feet in height shall be erected, placed or maintained within the triangular area formed by intersecting street lines and a straight line joining said street lines at points which are 35 feet distant from the point of intersection, measured along said street lines.
- (7) External placement or keeping of industrial, commercial and business equipment for sale or other use is prohibited.
- (8) External parking of commercial vehicles is prohibited.
- (9) To the extent that the requirements of the New York State Uniform Fire Prevention and Building Code or any successor thereto are more restrictive than those required hereunder, then said code or its successor shall apply.

§ 112-9. R3 Residential District.

The following regulations shall apply in the R3 Residential District:

- A. Permitted principal uses shall be as follows:
 - (1) Private dwellings.
 - (2) Family day care.
- B. Restrictions on principal structures and uses shall be as follows:
 - (1) The minimum lot size shall be 5,000 square feet.
 - (2) The minimum lot width shall be 50 feet.
 - (3) The maximum building height shall be 30 feet.
 - (4) The minimum front yard shall be 40 feet.
 - (5) The minimum side yard shall be 10 feet.
 - (6) The minimum rear yard shall be 20 feet.
 - (7) The minimum floor area shall be 800 square feet.
 - (8) The maximum percent of lot occupancy by all structures shall be 25%.
- C. Permitted accessory structures and uses shall be as follows:
 - (1) Private garages.

- (2) Toolhouses, playhouses and greenhouses, all noncommercial.
- (3) Swimming pools, subject to local laws and other regulations pertaining to the same.
- (4) Structures for housing domestic household pets, provided that the total floor area of all such structures shall not exceed 50 square feet, and provided that within such structures, no use shall be conducted for profit or any commercial purpose. [Added 10-1-2002 by L.L. No. 3-2002]

D. Restrictions on accessory structures and uses shall be as follows:

- (1) The maximum height shall be 20 feet.
- (2) The minimum distances from the front street line shall be 40 feet.
- (3) The minimum distances from the rear lot line shall be five feet.
- (4) The minimum distances from side lot lines shall be five feet.
- (5) Accessory structures shall not be located in front yards.

E. Special permit uses permitted by the Board of Appeals, subject to standards prescribed by Article IV, § 112-14, shall be as follows:

- (1) Public utility buildings for servicing the neighborhood, excluding business offices, repair or storage of equipment and public utility gas regulation stations.
- (2) Seminaries and convents (not used in connection with schools or churches), universities and colleges.
- (3) Community buildings.
- (4) Orphanages.
- (5) Multiple dwellings not to exceed four dwelling units.
- (6) Home occupations.
- (7) Professional offices or studios as principal use.
- (8) Day-care centers.
- (9) Boardinghouses.
- (10) Tourist homes.
- (11) Tennis courts.
- (12) Churches and other places of worship and religious instruction; parish houses, rectories and convents, in connection with schools or churches.
- (13) Public and private schools.
- (14) Museums.
- (15) Public recreation buildings and grounds not carried on for financial gain.

- (16) Residential treatment facility. [Added 2-13-2008 by L.L. No. 2-2008]
- F. Signs permitted. Subject to general sign provisions contained in Article IV, § 112-17, the following signs are permitted in R3 Residential Districts:
- (1) A sign, limited to one per lot, not to exceed one square foot in area, for the sole purpose of identifying the resident(s). Such sign shall be single-faced only, stationary and not specially illuminated.
 - (2) One professional or home occupation sign not exceeding four square feet in area where erected and in connection with a duly permitted home occupation as provided for in this chapter. Such sign shall be single-faced only, stationary and not specially illuminated.
 - (3) One temporary sign per lot shall be permitted for a purpose such as to advertise that the premises are for sale or rent or to set forth the names of a contractor, architect or engineer, owner or similar participant in a construction project and to identify the construction project or for other similar purposes. The area of the sign shall not exceed 12 square feet. No sign advertising any building or any lot for sale or rent shall exceed five square feet in area. A temporary sign shall not be illuminated or animated and shall be removed within seven days after the completion of the purpose which it was intended to promote or within seven days of the abandonment of that purpose. A temporary sign may be freestanding or attached, must be stationary, must be secure against removal by wind, need not be located behind the setback side yard limits of the use district but must be within the boundaries of the lot and not on a public right-of-way. It must comply with all general regulations governing signs (Article IV, § 112-17) which are not excepted by this subsection.
- G. Other provisions and requirements.
- (1) No building, structure or facility will be permitted within a radius of 200 linear feet of any municipal public water supply.
 - (2) On all corner lots or where any boundary of a lot faces any street, notwithstanding other setback provisions of this chapter, there shall be provided on each side facing said street a yard equal in depth to the front yard required on said street.
 - (3) On corner lots or where any boundary of a lot faces any street, notwithstanding other setback provisions of this chapter, accessory buildings shall be set back, on each side facing said street, a distance from the lot line equal to the front yard setback requirements on said street.
 - (4) The minimum distance between buildings located on the same premises shall be 10 feet.
 - (5) Private garages:
 - (a) If in the rear yard and detached from the principal structure, must be at least five feet away from any lot line.

- (b) If in the side or rear yard and attached to the principal structure or if in the side yard and detached from the principal structure, must comply with all setback requirements for principal structures in the district in which located.
- (6) On corner lots, no fence, wall, hedge or other planting or structure more than 3 1/2 feet in height shall be erected, placed or maintained within the triangular area formed by intersecting street lines and a straight line joining said street lines at points which are 35 feet distant from the point of intersection, measured along said street lines.
- (7) External placement or keeping of industrial, commercial and business equipment for sale or other use is prohibited.
- (8) External parking of commercial vehicles is prohibited.
- (9) To the extent that the requirements of the New York State Uniform Fire Prevention and Building Code or any successor thereto are more restrictive than those required hereunder, then said code or its successor shall apply.

§ 112-10. MDC Multiple Dwelling Complex District.

The following regulations shall apply in the MDC Multiple Dwelling Complex District:

- A. Permitted principal uses shall be as follows:
 - (1) Private dwellings, subject to the requirements of Article III, § 112-8, R-2.
 - (2) Churches and other places of worship and religious instruction; parish houses, rectories and convents, in connection with schools or churches.
 - (3) Public and private schools.
 - (4) Public recreation buildings and grounds not carried on for financial gain.
- B. Restrictions on principal structures and uses shall be as follows:
 - (1) The minimum lot size shall be 21,000 square feet.
 - (2) The minimum lot width shall be 100 feet.
 - (3) The maximum building height shall be 30 feet.
 - (4) The minimum side yard shall be 15 feet or each side yard shall be equal to the height of the principal building, whichever is greater.
 - (5) The minimum front yard shall be 40 feet.
 - (6) The minimum rear yard shall be 40 feet.
 - (7) The minimum floor area shall be 800 square feet per dwelling unit.
 - (8) The maximum percent of lot occupancy by all structures shall be 25%.
 - (9) The minimum lot area required for multiple dwellings shall be 7,000 square feet per dwelling unit.

- C. Permitted accessory structures and uses shall be as follows:
- (1) Private garages.
 - (2) Toolhouses, playhouses and greenhouses, all noncommercial.
 - (3) Swimming pools, subject to local laws and other regulations pertaining to the same.
 - (4) Structures for housing domestic household pets, provided that the total floor area of all such structures shall not exceed 50 square feet, and provided that within such structures, no use shall be conducted for profit or any commercial purpose. [Added 10-1-2002 by L.L. No. 3-2002]
- D. Restrictions on accessory structures and uses shall be as follows:
- (1) The maximum height shall be 20 feet.
 - (2) The minimum distance from the front street line shall be 40 feet.
 - (3) The minimum distance from the rear lot line shall be 10 feet.
 - (4) The minimum distance from the side lot line shall be 10 feet.
 - (5) Accessory structures shall not be located in front yards.
- E. Special permit uses permitted by the Board of Appeals, subject to standards prescribed by Article IV, § 112-14, shall be as follows:
- (1) Multiple dwellings.
 - (2) Public utility buildings for servicing the neighborhood, excluding business offices, repair or storage of equipment and public utility gas regulation stations.
 - (3) Seminaries and convents (not used in connection with schools or churches), universities and colleges.
 - (4) Community buildings.
 - (5) Orphanages.
 - (6) Home occupations.
 - (7) Professional offices or studios as principal use.
 - (8) Day-care centers.
 - (9) Boardinghouses.
 - (10) Tourist homes.
 - (11) Tennis courts.
- F. Signs permitted, subject to general sign provisions contained in Article IV, § 112-17, the following signs are permitted in MDC Multiple Dwelling Complex Districts:

- (1) A sign, limited to one per lot, not to exceed one square foot in area, for the sole purpose of identifying the resident(s). Such sign shall be single-faced only, stationary and not specially illuminated.
- (2) One professional or home occupation sign not exceeding four square feet in area where erected and in connection with a duly permitted home occupation as provided for in this chapter. Such sign shall be single-faced only, stationary and not specially illuminated.
- (3) One temporary sign per lot shall be permitted for a purpose such as to advertise that the premises are for sale or rent or to set forth the names of a contractor, architect or engineer, owner or similar participant in a construction project and to identify the construction project and to identify the construction project or for other similar purposes. The area of the sign shall not exceed 12 square feet. No sign advertising any building or any lot for sale or rent shall exceed five square feet in area. A temporary sign shall not be illuminated or animated and shall be removed within seven days after the completion of the purpose which it was intended to promote or within seven days of the abandonment of that purpose. A temporary sign may be freestanding or attached, must be stationary, must be secure against removal by wind, need not be located behind the setback and side yard limits of the use district but must be within the boundaries of the lot and not on a public right-of-way. It must comply with all general regulations governing signs (Article IV, § 112-17) which are not excepted by this subsection.

G. Other provisions and requirements.

- (1) No building, structure or facility will be permitted within a radius of 200 linear feet of any municipal public water supply.
- (2) On all corner lots or where any boundary of a lot faces any street, notwithstanding other setback provisions of this chapter, there shall be provided on each side facing said street a yard equal in depth to the front yard required on said street.
- (3) On corner lots or where any boundary of a lot faces any street, notwithstanding other setback provisions of this chapter, accessory buildings shall be set back, on each side facing said street, a distance from the lot line equal to the front yard setback requirements on said street.
- (4) The minimum distance between buildings located on the same premises shall be 10 feet.
- (5) Private garages:
 - (a) If in the rear yard and detached from the principal structure, must be at least 10 feet away from any lot line.
 - (b) If in the side or rear yard and attached to the principal structure or if in a side yard and detached from the principal structure, must comply with all setback requirements for principal structures in the district in which located.
- (6) On corner lots, no fence, wall, hedge or other planting or structure more than 3 1/2 feet in height shall be erected, placed or maintained within the triangular area

formed by intersecting street lines and a straight line joining said street lines at points which are 35 feet distant from the point of intersection, measured along said street lines.

- (7) External placement or keeping of industrial, commercial and business equipment for sale or other use is prohibited.
- (8) External parking of commercial vehicles is prohibited.
- (9) To the extent that the requirements of the New York State Uniform Fire Prevention and Building Code or any successor thereto are more restrictive than those required hereunder, then said code or its successor shall apply.

§ 112-11. GB General Business District.

The following regulations shall apply in the GB General Business District:

A. Permitted principal uses shall be as follows:

- (1) Private dwellings.
- (2) Churches and other places of worship and religious instruction; parish houses, rectories and convents, in connection with schools or churches.
- (3) Public and private schools.
- (4) Public recreation buildings and grounds not carried on for financial gain.
- (5) Retail businesses and shops, auto and truck sales and services and equipment and operations incidental thereto.
- (6) Wholesale establishments.
- (7) Banks, professional offices and studios.
- (8) Restaurants.
- (9) Undertaking establishments, theaters and places of public assembly.
- (10) Public utility offices and substations, except gas regulation.
- (11) Veterinary office.
- (12) Indoor theaters.
- (13) Mixed-use occupancies. Up to two residential dwelling units will be allowed in structures also containing retail businesses and shops, auto and truck sales and services, wholesale establishments, banks, professional offices and studios, restaurants, undertaking establishments and veterinary offices. **[Added 4-16-1991 by L.L. No. 4-1991]**
- (14) Libraries. **[Added 8-5-2009 by L.L. No. 2-2009]**
- (15) Multiple dwellings not to exceed four dwelling units. **[Added 8-5-2009 by L.L. No. 2-2009]**

- B. Restrictions on principal structures and uses shall be as follows:
- (1) The maximum height of buildings shall be 34 feet.
 - (2) The minimum side yard (structure to side lot lines) shall be 10 feet.
 - (3) The minimum rear yard (structure to rear lot lines) shall be 30 feet.
 - (4) The minimum front yard shall be 25 feet.
 - (5) The minimum lot width shall be 50 feet.
 - (6) The minimum floor area, main or ground floor, shall be 800 square feet.
 - (7) The maximum percent of lot occupancy shall be 40%.
- C. Permitted accessory uses shall be as follows:
- (1) Private garages.
 - (2) Toolhouses, playhouses and greenhouses.
 - (3) Swimming pools, subject to local laws and other regulations pertaining to the same.
 - (4) Structures for housing domestic household pets, provided that the total floor area of all such structures shall not exceed 50 square feet, and provided that within such structures, no use shall be conducted for profit or any commercial purpose. **[Added 10-1-2002 by L.L. No. 3-2002]**
- D. Restrictions on permitted accessory uses shall be as follows:
- (1) Accessory buildings shall be permitted in rear yards only.
 - (2) The minimum distance from the rear lot line shall be five feet.
 - (3) The minimum distance from the side lot line shall be five feet.
- E. Special permit uses permitted by the Board of Appeals, subject to standards prescribed by Article IV, § 112-14, shall be as follows:
- (1) Hotels/motels, boardinghouses and tourist lodging houses, but not including tourist cabins or trailer camps or trailer parking.
 - (2) Private or membership clubs.
 - (3) Shopping centers.
 - (4) Public garages.
 - (5) Drive-in businesses, such as but not limited to banks or restaurants.
 - (6) Highway vehicle service stations.
 - (7) Bars or taverns.
 - (8) Day-care centers.

- (9) Hospitals.
 - (10) Tourist homes.
 - (11) Tennis courts.
- F. Signs permitted. Subject to general sign provisions contained in Article IV, § 112-17, the following signs are permitted in GB General Business Districts:
- (1) One sign to identify the principal business of the occupant.
 - (a) Unless attached to and parallel with the front of the principal building, each sign shall be limited to nine square feet in area. If mounted on the principal building in a manner other than parallel thereto, such sign may extend to a distance of not more than 4 1/2 feet from said building. If attached and parallel to the building, neither its presenting surface nor any pertinent structural members may stand forward from the surface of the building more than six inches. No sign or its pertinent structures may extend laterally beyond the surface of the wall to which it is attached or above the height of that wall. It must not be mounted on a roof, unless that roof is a surface separate from and lower than that main roof covering the enclosed space of the building so that no part of the sign or its pertinent structures may project above the main roof.
 - (b) A sign may be externally illuminated with a steady, white light. Flashing signs or those which are animated by light or by movement of the sign or of any of its parts are not permitted.
 - (2) Temporary signs.
 - (a) Except as otherwise provided for general business districts in Subsection F(2)(b) below, one temporary sign shall be permitted per dwelling unit or business for a purpose such as to advertise that premises are for sale or rent or to set forth the names of a contractor, architect, engineer, owner or similar participant in a construction project and to identify the construction project or for other similar purposes. The area of the sign shall not exceed 12 square feet. No sign advertising any building or any lot for sale or rent shall exceed five square feet in area. A temporary sign shall not be illuminated or animated and shall be removed within seven days after the completion of the purpose which it was intended to promote or within seven days of the abandonment of that purpose. A temporary sign may be freestanding or attached, must be stationary must be secure against removal by wind, need not be located behind the setback and side yard limits of the use district but must be within the boundaries of the lot and not on a public right-of-way. It must comply with all general regulations governing signs (Article IV, § 112-17) which are not excepted by this subsection.
 - (b) In a general business district, multiple temporary signs advertising sales may be placed in store windows for the duration of such sales and must be removed no later than on the business day following the end of the advertised special sale. Each such sign shall not exceed 12 square feet in area and may not be specially illuminated. They must comply with all

general regulations governing signs which are not excepted by this subsection.

- (3) Signs indicating operating hours. A single sign indicating operating hours of a business or public service (and no other information) and not exceeding 1/2 square foot in surface area may be displayed within a window of a premises as a matter of right and in addition to other permitted signs.

G. Other provisions and requirements.

- (1) No building, structure or facility will be permitted within a radius of 200 linear feet of any municipal public water supply.
- (2) On all corner lots or where any boundary of a lot faces any street, notwithstanding other setback provisions of this chapter, there shall be provided on each side facing said street a yard equal in depth to the front yard required on said street.
- (3) On corner lots or where any boundary of a lot faces any street, notwithstanding other setback provisions of this chapter, accessory buildings shall be set back, on each side facing said street, a distance from the lot line equal to the front yard setback requirements on said street.
- (4) The minimum distance between buildings located on the same premises shall be 10 feet.
- (5) Private garages:
 - (a) If in the rear yard and detached from the principal structure, must be at least five feet away from any lot line.
 - (b) If in the side or rear yard and attached to the principal structure or if in a side yard and detached from the principal structure, must comply with all setback requirements for principal structures in the district in which located.
- (6) On corner lots, no fence, wall, hedge or other planting or structure more than 3 1/2 feet in height shall be erected, placed or maintained within the triangular area formed by intersecting street lines and a straight line joining said street lines at points which are 35 feet distant from the point of intersection, measured along said street lines.
- (7) To the extent that the requirements of the New York State Uniform Fire Prevention and Building Code or any successor thereto are more restrictive than those required hereunder, then said code or its successor shall apply.

§ 112-12. I Industrial District.

The following regulations shall apply in the I Industrial District:

- A. Permitted principal uses shall be as follows:

- (1) Except as otherwise prohibited in this section, any commercial or business use allowed in a general business district, subject to the same conditions and limitations as provided in Article III, § 112-11.
 - (2) Cold storage plant, ice plant, creamery or bottling or central distribution plant.
 - (3) General warehouse.
 - (4) Car wash.
- B. Restrictions for principal structures and uses shall be as follows:
- (1) The maximum height of building shall be 34 feet.
 - (2) The minimum front yard shall be 25 feet.
 - (3) The minimum side yard shall be 10 feet.
 - (4) The minimum rear yard shall be 25 feet.
 - (5) The maximum percent of lot occupancy shall be 50%.
 - (6) The minimum lot width shall be 60 feet.
 - (7) The minimum lot size shall be 6,000 square feet.
- C. Permitted accessory structures and uses shall be as follows:
- (1) Any garage, tool or storage shed, general or professional office or other ancillary structure directly related to a permitted principal use.
- D. Restrictions on permitted accessory structures and uses. Restrictions shall be the same as provided in Subsection B of this section for principal structures and uses, except that the maximum building height of any accessory structure shall be 20 feet.
- E. Special permit uses permitted by the Board of Appeals, subject to standards prescribed by Article IV, § 112-14, shall be as follows:
- (1) Manufacturing establishments.
 - (2) Paint shops and assembly plants.
 - (3) Fuel storage and sale.
 - (4) Lumberyards.
 - (5) Adult uses (meeting the requirements of § 112-17.1 below). **[Added 7-1-2003 by L.L. No. 1-2003]**
- F. Signs permitted in industrial districts. Subject to general sign provisions contained in Article IV, § 112-17, the following signs are permitted in industrial districts:
- (1) One sign to identify the principal business of the occupant.
 - (a) Unless attached to and parallel with the front of the principal building, each sign shall be limited to nine square feet in area. If mounted on the principal building in a manner other than parallel thereto, such sign may extend to a

distance of not more than 4 1/2 feet from said building. If attached and parallel to the building, neither its presenting surface nor any pertinent structural members may stand forward from the surface of the building more than six inches. No sign or its pertinent structures may extend laterally beyond the surface of the wall to which it is attached or above the height of that wall. It must not be mounted on a roof, unless that roof is a surface separate from and lower than that main roof covering the enclosed space of the building so that no part of the sign or its pertinent structures may project above the main roof.

- (b) A sign may be externally illuminated with a steady, white light. Flashing signs or those which are animated by light or any movement of the sign or of any of its parts are not permitted.

(2) Temporary signs.

- (a) Except as otherwise provided for general business districts in Subsection F(2)(b) below, one temporary sign shall be permitted per dwelling unit or business for a purpose such as to advertise that premises are for sale or rent or to set forth the names of a contractor, architect, engineer, owner or similar participant in a construction project and to identify the construction project or for other similar purposes. The area of the sign shall not exceed 12 square feet. No sign advertising any building or any lot for sale or rent shall exceed five square feet in area. A temporary sign shall not be illuminated or animated and shall be removed within seven days after the completion of the purpose which it was intended to promote or within seven days of the abandonment of that purpose. A temporary sign may be freestanding or attached, must be stationary, must be secure against removal by wind, need not be located behind the setback and side yard limits of the use district but must be within the boundaries of the lot and not on a public right-of-way. It must comply with all general regulations governing signs (Article IV, § 112-17) which are not excepted by this subsection.

- (b) In a general business district, multiple, temporary signs advertising sales may be placed in store windows for the duration of such sales and must be removed no later than on the business day following the end of the advertised special sale. Each such sign shall not exceed 12 square feet in area and may not be specially illuminated. They must comply with all general regulations governing signs which are not excepted by this subsection.

- (3) Signs indicating operating hours. A single sign indicating operating hours of a business or public service (and no other information) and not exceeding 1/2 square foot in surface area may be displayed within a window of a premises as a matter of right and in addition to other permitted signs.

G. Other provisions and requirements.

- (1) No building shall be used for residential purposes, except that a room or suite or house may be provided for a custodian and his/her family.
- (2) No off-street parking, except for visitors, shall be allowed in the front yards.

- (3) The following uses are prohibited:
- (a) Rendering plants.
 - (b) Junkyards.
 - (c) Crematories.
 - (d) Manufacture or storage of explosives.
 - (e) Slaughterhouses.
 - (f) Pet cemeteries.
 - (g) Manufacture or storage of hazardous or toxic materials, as defined by the New York Environmental Conservation Law or regulations promulgated pursuant thereto, as both may be amended from time to time.
 - (h) Any other use which is not explicitly permitted.
- (4) No building, structure or facility will be permitted within a radius of 200 linear feet of any municipal public water supply.
- (5) On all corner lots or where any boundary of a lot faces any street, notwithstanding other setback provisions of this chapter, there shall be provided on each side facing said street a yard equal in depth to the front yard required on said street.
- (6) On corner lots or where any boundary of a lot faces any street, notwithstanding other setback provisions of this chapter, accessory buildings shall be set back, on each side facing said street, a distance from the lot line equal to the front yard setback requirements on said street.
- (7) The minimum distance between buildings located on the same premises shall be 10 feet.
- (8) On corner lots, no fence, wall, hedge or other planting or structure more than 3 1/2 feet in height shall be erected, placed or maintained within the triangular area formed by intersecting street lines and a straight line joining said street lines at points which are 35 feet distant from the point of intersection, measured along said street lines.
- (9) To the extent that the requirements of the New York State Uniform Fire Prevention and Building Code or any successor thereto are more restrictive than those required hereunder, then said code or its successor shall apply.

ARTICLE IV
Additional Regulations

§ 112-13. Application of regulations.

- A. Except as hereinafter provided, no building or land shall hereinafter be changed in use and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. Any use which is, in the opinion of the Board of Appeals, similar to those listed may also be permitted in the respective districts.

§ 112-14. Standards for special use permits.

The types of uses for which special permits are required shall be deemed to be permitted in their respective districts, subject, as to each specific use, to the satisfaction of the requirements and the standards set forth in this section. Each specific use for which a special permit is sought shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such use:

- A. Public hearing shall be held, preceded by due notice as specified in Article V, § 112-20C.
- B. Appropriate conditions and safeguards may be fixed by the Board of Appeals as deemed necessary in each case.
- C. For each special use permit, the Board of Appeals shall determine that:
 - (1) The use will not create a hazard to health, safety, morals or public welfare.
 - (2) It is appropriately located with respect to transportation, water supply, fire and police protection, waste disposal and similar facilities.
 - (3) The use will not depreciate or tend to depreciate the value of surrounding property.
 - (4) The use will not be detrimental to the neighborhood and will not alter the essential character of the area.
 - (5) The use will not cause undue traffic congestion or create a traffic hazard.
 - (6) The use is appropriate for the particular lot and location.
 - (7) The subject premises for which the special permit is sought has no existing violation of this chapter.
 - (8) Fulfillment of any other conditions or standards specified in this chapter and especially those listed for specific uses in Subsection D of this section.
- D. Additional standards deemed necessary before a special use permit may be issued for certain specific uses shall be as follows:

- (1) Public garage or highway vehicle service station:
 - (a) Lot width shall be a minimum of 100 feet.
 - (b) One pump island with a maximum of three pumps set back at least 12 feet from the street line or highway right-of-way shall be permitted.
 - (c) A building containing a maximum of two bays and set back at least 25 feet from the street line or highway right-of-way shall be permitted.
 - (d) A minimum of 200 feet visibility of the pumps on the same side of the street and 240 feet of visibility on the opposite side of the street shall be required.
 - (e) A masonry wall or a fence and screen planting where abutting a residence district shall be required.
 - (f) No repair work shall be performed out-of-doors.
- (2) Hospital/clinic/residential treatment facility: **[Amended 2-13-2008 by L.L. No. 2-2008]**
 - (a) The minimum lot area shall be five acres.
 - (b) The minimum distance from any lot line to any building shall be 100 feet.
 - (c) Off-street parking space shall be one unit for each three patient beds (excluding bassinets), staff or visiting doctor, intern, nurse, three employees, three student nurses and a service vehicle. For clinics and outpatient departments, three parking spaces for each examination room shall be required.
 - (d) Adequate unloading space must be provided.
- (3) Membership or private club, community building:
 - (a) The minimum lot area shall be five acres.
 - (b) The minimum distance from any lot line to a principal building shall be 100 feet.
 - (c) No off-street parking shall be allowed in the front yard.
- (4) Multiple dwelling located in MDC District:
 - (a) Lot area shall contain 7,000 square feet per dwelling unit.
 - (b) Each side yard shall be at least 15 feet or the height of the building, whichever is greater.
 - (c) Prior approval of water supply and sewage disposal by the appropriate authority shall be mandatory as shall prior approval of a site plan by the Planning Board, to which body said site plan shall have been submitted at least 30 days prior to action by the Zoning Board of Appeals.
 - (d) Regional need for such use shall be demonstrated.

(5) Home occupation.

(a) Standards. The proposed home occupation:

- [1] Is clearly secondary to and clearly conforms to the principal use of the residence as a dwelling.
- [2] Is carried on only by members of the family residing in the dwelling.
- [3] Is carried on only and completely within the space allocated within the residence and nowhere else on the premises.
- [4] Occupies no more space than an area equal to 25% of the area bounded by the foundation of such dwelling, which in no event shall occupy more than 300 square feet of floor area.
- [5] Has no external evidence of said occupation, including but not limited to displays and the like and which does not alter the external appearance of the dwelling or accessorial buildings. An announcement or professional sign not to exceed four square feet is permitted.
- [6] Does not require or involve any addition, enlargement or other external change to the dwelling or accessorial buildings to initiate or maintain the occupation.
- [7] Does not produce external to the dwelling any noise, fumes, dust, static interference in radio or television reception, waste of a hazardous or nuisance nature or any other nuisance.
- [8] Is carried on only between the hours of 9:00 a.m. and 9:00 p.m. and is limited to no more than two clients on the premises at one time.
- [9] Does not injure the peace and tranquility of the neighborhood or its residential character.
- [10] As it will be established, carried on or maintained will not be in violation of any law or ordinance.
- [11] Has adequate off-street parking for client's vehicles, as well as the vehicles of the occupants of the residence.

(b) Procedure.

- [1] Upon receipt of an application for a special permit to allow a home occupation, the Zoning Enforcement Officer shall require that any application for a special permit under this section be accompanied by a sufficient number of postal cards or other means of written notice furnished by the applicant so that direct written notice shall be sent to each property owner whose property is located within 300 feet of the proposed home occupation site. Said written notices shall be postage prepaid and shall be addressed to each property owner whose property is located within 300 feet of the proposed home occupation site. Said written notice shall advise the addressees that a special

permit for a home occupation is being sought, the nature of the home occupation being sought, the name and address of the applicant, the address of the residence in which the proposed home occupation would be located and the date, location and time of the public hearing to be held on said application for a special permit.

- [2] Upon satisfaction that all of the foregoing standards have been met, the Board of Appeals shall:
 - [a] Impose such additional conditions and restrictions as it deems necessary in order to ensure the preservation and maintenance of the residential quality of the environment in the neighborhood and to avoid traffic hazards, parking problems and danger to persons lawfully using the streets and sidewalks of the area.
 - [b] Fix an appropriate term or date not to exceed two years upon which said special permit will expire, with provisions permitting an application to the Board of Appeals for renewal of such special permit.
- [3] Renewal. Upon application to the Board of Appeals for renewal of such special permit for a home occupation and payment of a renewal fee, the Board of Appeals shall make all of the required findings as required by Subsection D(5)(a)[1] through [11] above, in order to determine whether the circumstances warranting the original grant still apply. In addition, the Board of Appeals shall ascertain whether the applicant has complied with the conditions and safeguards theretofore prescribed by the Board during the term. In the event that the Board shall find that the applicant has been in violation thereof, it shall deny the application for renewal. Renewals shall be issued for terms not to exceed two years.

§ 112-15. Supplementary regulations.

- A. Area. No lot shall be reduced in area so that any required area or open space will be less than prescribed in the regulations for the district in which said lot is located. Whenever such reductions in lot area occur, any building located on said lot shall not thereafter be used until such building is altered, reconstructed or relocated so as to comply with the area and yard requirements applicable thereto. These provisions shall not apply when a portion of a lot is taken for a public purpose.
- B. Existing lots. Other provisions of this chapter notwithstanding, nothing shall prohibit the use of a lot of less than the required area and width for a single-family dwelling in any district, except a lot in an industrial district, provided that all the other provisions of this chapter are complied with when such lot, at the time of the passage of this chapter, was owned or under contract of sale by persons other than those owning or leasing any adjoining lot.

- C. Stripping of topsoil. Any parcel of land having an area of more than one acre from which topsoil has been removed or covered over by fill shall be seeded to provide an effective cover crop within the first growing season following the start of said operation.
- D. Lots in two districts. Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion, provided that the lot has frontage on a street in the less restricted district.
- E. Fences and walls in residential districts. A wall or fence not over four feet high may be erected within or along the outer boundary of any required yard. An exception to this height restriction shall be recognized for fences surrounding swimming pools, which shall be a minimum of six feet in height. In a side or rear yard, unless this abuts a public street, such wall or fence may be higher than four feet if it is a retaining wall, but if it is a fence or freestanding wall above such height, at least 75% of the whole surface shall be unobstructed and open in a uniformly distributed manner. On all zoned properties, wherever a fence or wall is erected within five feet of any property line and is so fabricated that its two major surfaces are dissimilar in structure or appearance, the interior surface, together with all structural supports and framing members, shall be placed on the side facing the erector's property. Such fences or walls as are required to surround swimming pools are governed by the local law regulating the construction and fencing of swimming pools.
- F. Dumping. Dumping of refuse, waste material and other substances is prohibited in all districts in the village.
- G. Harmonizing zoning. The intent of this subsection is to protect residential property against possible detrimental effects of nonresidential use of adjacent properties or properties on the opposite side of the street or roadway which is otherwise appropriate by placing certain restrictions upon the nonresidential use of land so as to sufficiently minimize its effects upon residential use areas.
- (1) Restrictions. The following restrictions upon nonresidential zoned property shall be applicable in cases where such nonresidential zoned land is adjacent to or on the opposite sides of the street from residential zoned land:
- (a) Air pollution. Air pollution by smoke, dust, fly ash, fumes and/or odors, if any, shall be so controlled that the pollution at the property lines shall be not greater than in the adjacent residential area.
 - (b) Noise. Noise shall be so controlled that at the property line it shall not exceed in intensity, pitch and frequency of occurrence as commonly heard in the adjacent residential neighborhood as the same may vary according to time of day.
 - (c) Landscaping. Required front and side yards shall be maintained as a lawn and otherwise landscaped.
 - (d) Parking. There shall be no parking within the front yard setback required in any district. If any part of the front yard beyond the required depth is used

for parking, such parking shall be effectively screened by a shrub line at least four feet high.

- (e) Screening. Screening by rows of trees and hedges along the property lines of adjacent residential property shall be provided. Such screening shall be augmented by a solid opaque wall, five feet high, constructed of masonry or wood, whenever there is a driveway or parking lot used by more than 10 different vehicles per day within 10 feet of the property line between the nonresidential and residential use.
 - (f) Lighting. Artificial lighting shall be so designed and constructed that there is no direct glare in the direction of nearby residential structures.
 - (g) Traffic noise and hazard. To prevent excessive traffic noise in such transition areas, no truck or automobile vehicle traffic generated by nonresidential use of property (if it exceeds the total volume usually generated by a residential area) shall be routed through local streets designed for light traffic. An effective connection shall be provided with a through-traffic street. For the purpose of the determination of the possibility of such excess of volume, the off-street parking requirement in the residential area reduced to the number of car spaces per unit of land area shall be compared with the requirement similarly reduced to the number of car spaces per the same unit of land in the nonresidential use areas. An excess of 30% of such number of car spaces in the latter shall be deemed to be an excess in volume. For the purposes of this subsection, all county and state highways shall be regarded as through streets and all others shall be regarded as local streets.
- (2) Buildings or structures hereafter erected or altered in any nonresidential district on a lot adjacent to or abutting a residential district shall comply with the following requirements:
- (a) Side yards. There shall be provided a side yard of a size at least equal to that required in the adjoining residential district.
 - (b) Rear yard. There shall be provided a rear yard at least equal to the minimum depth required for rear yards in the abutting residential district.
- (3) Compliance with restrictions. To assure compliance with the above restrictions, prior to the issuance of a zoning permit or building permit as the case may be, the Zoning Enforcement Officer or other officer charged with issuance of zoning permits or building permits shall ascertain that the plans provide for necessary arrangements and devices assuring such compliance. Before issuance of the zoning permit or building permit, the Zoning Enforcement Officer or officer charged with issuance of building permits shall ascertain that the construction as completed provides for the above arrangement and devices. In case such arrangements and devices have not been provided, no zoning permit, building permit or certificate of occupancy shall be issued.

H. Other provisions and requirements for all districts.

- (1) Junkyards or automobile wrecking yards are prohibited.

- (2) Mobile homes are prohibited.
 - (3) No use will be permitted wherein the use of water would exceed the calculated runoff rate capabilities of the sanitary sewer system.
 - (4) Setbacks and distances between structures, generally. Notwithstanding any provision to the contrary contained within this Zoning Law, where setback and distance requirements of the New York State Uniform Fire Prevention and Building Code or any successor thereto exceed that required herein, the Uniform Code or its successor shall supersede.
 - (5) No animal, other than domestic household pets as defined herein, shall be maintained, kept, or harbored upon property within the Village of Tully, except on an operating farm as that term is defined in this chapter. Insofar as this code permits the possession and maintenance of domestic household pets, the following shall be applicable: **[Added 10-1-2002 by L.L. No. 3-2002]**
 - (a) No person or persons shall maintain, harbor, keep, or possess a domestic household pet(s) in such a manner as to create offensive odors or unsanitary conditions, which odors or conditions are a menace to the health, comfort, or safety of the general public or the surrounding neighborhood.
 - (b) No person or persons shall keep, harbor, maintain or possess a domestic household pet(s) in such a manner as to cause disturbance of the peace or to interfere with the quiet use and possession of property by another.
 - (c) All domestic household pet(s) and structures for housing domestic household pet(s) provided for herein shall be kept in a clean, sanitary, and adequately ventilated area.
 - (d) Any person or persons not in compliance with the terms set forth herein shall have 90 days from the effective date of this provision to effect full compliance herewith.
- I. Mandatory off-street parking for all districts shall be as follows:
- (1) Auto and equipment sales and service: one unit for each 200 square feet of floor space.
 - (2) Boardinghouses: one unit for every two boarders.
 - (3) Churches/places of worship: one unit for every five seats and one unit for every two adult (over 18 years of age) residents of a parish house or rectory.
 - (4) Clubs: one unit for every two members and one unit for every two employees.
 - (5) Community buildings: one unit for each 200 square feet of floor space.
 - (6) Day-care center: one unit for every two employees and three units for transitory parking (drop-off and pickup).
 - (7) Drive-in business: one unit for every four employees and one unit for every 100 square feet.

- (8) Dwellings: one unit for each dwelling unit.
- (9) Home occupation: three units.
- (10) Hotels/motels: one unit for each rental unit and one unit for the owner or manager.
- (11) Indoor theater: one unit for every four employees and one unit for every five seats.
- (12) Industrial and manufacturing plants and establishments: one unit for every two employees and one unit for each company vehicle.
- (13) Laundromat: one unit for every 100 square feet and one unit for every two employees.
- (14) Multiple dwellings: one unit for each dwelling unit.
- (15) Orphanages: one space for every two employees.
- (16) Personal service shops: one unit for each 100 square feet of floor space and one unit for every four employees.
- (17) Private dwellings: one unit.
- (18) Professional office or studios: one unit for each office and one unit for every four employees.
- (19) Public garage/highway vehicle service stations: five units.
- (20) Public/private schools: one unit for every two employees and one unit for every 100 students in grades 11 and 12.
- (21) Public recreation buildings and grounds: one unit for every two employees and 10 units for visitors.
- (22) Public utility office: one unit for every two employees.
- (23) Restaurants, bars and taverns: one unit for every four seats and one unit for every four employees.
- (24) Retail businesses, banks: one unit for each 100 square feet of floor space and one unit for every four employees.
- (25) Shopping center: one unit for each 100 square feet of floor space and one unit for every four employees.
- (26) Tourist home: one unit per each bedroom.
- (27) Undertaking establishment: one unit for each undertaking vehicle, one unit for each resident, one unit per manager, one unit for every two employees and 10 units for visitors.
- (28) Universities, colleges, seminaries and convents: one unit for every five residents, one space for every five employees and one space for every 25 students.

- (29) Veterinary: one unit for every four employees and one unit for each treatment room.
- (30) Wholesale establishment: one unit for every four employees.
- (31) Miscellaneous commercial uses not otherwise listed: one unit for each 100 square feet of floor space and one unit for every four employees.

§ 112-16. Nonconforming uses.

The lawful use of any building or land existing at the time of the enactment or amendment of this chapter may be continued although such use does not conform with the provisions for the district in which it is situated, subject to the limitations set forth below:

- A. Unsafe structures. Any structure or portion thereof declared unsafe by a proper authority must be restored to a safe condition or demolished.
- B. Extension.
 - (1) A nonconforming use of land shall not be extended in area.
 - (2) Any such use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption of this chapter. A nonconforming use of a building may be changed to another nonconforming use which, in the opinion of the Board of Appeals, either by general rule adopted on a request by the Zoning Enforcement Officer or on a request by the Zoning Enforcement Officer or on a specific finding on appeal in a particular case, is of the same or of a more restricted classification.
- C. Alterations. A nonconforming building may not be structurally altered unless the owner thereof shall first apply to the Board of Appeals for and receive a special permit authorizing such structural alteration. In granting such permit, the Board of Appeals must find that the proposed change will not be detrimental to the neighborhood and in all other respects conform to the requirements of this chapter. A nonconforming building or structure employed in a nonconforming use may not be structurally altered to an extent exceeding in aggregate cost 100% of the assessed value of such building or structure, as such assessed value existed, unless said building is changed or the use for which the same is to be employed is changed to a conforming use.
- D. Restoration. A nonconforming building damaged in excess of 50% of its replacement value shall not be restored, except in conformity with this chapter.
- E. Discontinuance. Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished.
- F. Changes. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of a more restricted classification, and, when changed to a more restricted classification, such use thereafter shall not be changed to a less restricted classification.
- G. Displacement. No nonconforming use shall be extended to displace a conforming use.

- H. Cessation of certain nonconforming uses. Notwithstanding any other provisions of this chapter, any nonconforming auto-wrecking yard or junkyard which is in existence at the date of enactment or amendment of this chapter shall, at the expiration of three years from such date, become a prohibited and unlawful use and shall be discontinued.

§ 112-17. Signs.

- A. No signs shall be permitted in any district except as specifically permitted as follows or as permitted in other sections of this chapter.
- B. Purpose. The purpose of this section is to provide for signage which balances the need for identification of various business and industrial activities with the village's interest in providing signage that is harmonious, safe and architecturally compatible so as to maintain a community appearance which is attractive to business, industry and residential users and is in no way offensive or injurious to the health, safety and/or welfare of the village, its residents or its visitors.
- C. All signs.
- (1) In situations involving residential and nonresidential uses adjacent to one another, no permanent sign erected in the nonresidential zone shall be closer to the front property line than that distance equal to the front yard setback requirement in the adjoining residential district unless such sign is attached to the nonresidential structure.
 - (2) In situations involving residential and nonresidential uses across the street from one another, no permanent sign shall be erected in the nonresidential zone parallel to the street except on the face of the buildings within such nonresidential zone.
 - (3) Signs which by their design or location tend to confuse or impair the effectiveness of traffic regulatory devices, to create a traffic hazard or to constitute a visual obstruction endangering either vehicular or pedestrian traffic are not permitted.
 - (4) No sign shall obstruct any fire escape, fire lane, window, door or opening used as a means of egress, for fire-fighting purposes or for ventilation.
 - (5) No sign shall be placed on any sidewalk, hydrant, lamppost, tree, utility pole, fence or on other public property or right-of-way, except as provided for elsewhere in this chapter.
 - (6) All accessory advertising devices, such as bunting, pennants, banners, pinwheels, streamers or peripheral lighting, are prohibited.
 - (7) No temporary or permanent sign or combination of such signs identifying a general business or industrial use, whether attached and parallel or attached and projecting or detached and freestanding, shall exceed in area 10% of the building's front face or 100 square feet, whichever is less.
 - (8) All signs are to be maintained in good condition and repair and must be free of hazard to the public health or safety, including but not limited to faulty wiring, inadequate support or loose fastening.

- (9) No projecting sign attached to a building shall extend over a driveway or fire lane at a height of less than 12 feet from grade to bottom edge or over a pedestrian right-of-way at a height of less than eight feet from grade to bottom edge.
 - (10) The Zoning Enforcement Officer shall order removal of any sign within 30 days following the termination of its purpose.
 - (11) Illuminated signs, whether alone or in combination with any other illuminated sign(s) or lighting, shall not illuminate or reflect onto other properties. There shall be no direct glare in the direction of nearby residential structures.
 - (12) In no case shall lighted signs be so located that they constitute a hazard to vehicular traffic.
 - (13) Temporary or permanent signs resting on or attached to vehicles shall not be used as a means to circumvent the provisions of this chapter.
 - (14) No private property owner shall erect, post or maintain any sign within the right-of-way of a street or highway. No portion of any sign otherwise permitted hereunder shall extend onto such right-of-way.
- D. Signs, banners and/or other announcements by the Village, other municipalities, the Fire Department, schools, public library or any other organization relating to a community-sponsored event may be erected or installed on Village property, other than streets or rights-of-way, only with the permission of the Village Board of Trustees.
- E. Banners extending over streets and rights-of-way erected by any entity may only be erected if installed with the permission of the Village Board of Trustees. Such banners will only be allowed for civic or community-sponsored events.

§ 112-17.1. Restrictions on adult uses. [Added 7-1-2003 by L.L. No. 1-2003]

- A. No adult use shall be allowed or permitted in any zoning district of the Village, except an Industrial District. All adult uses shall comply with the applicable provisions of the Code, including those relating to structures and uses permitted in an Industrial District.
- B. No person shall construct, establish, operate or maintain, or be issued a certificate of occupancy for, any adult use within the Village, unless such use meets the following standards:
 - (1) No more than one adult use shall be allowed or permitted on any one lot.
 - (2) No adult use shall be allowed or permitted on a lot that is within 250 feet of any church or other regular place of worship, community center, school, nursery school, day-care center, public park, playground, recreational area, field or any hotels or motels.
 - (3) Where there is a conflict between the regulations as provided in this § 112-17.1 and any other law, rule or regulation of the Village, including the Code, the most restrictive law, rule or regulation shall apply.
 - (4) All distances set forth herein shall be measured from lot line to lot line.

- C. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any other lot, including but not limited to any lighting, display, decoration, poster, photograph, video, sign, show, doorway, window, screen or other opening.

ARTICLE V
Administration

§ 112-18. Site plan review.

The following provisions are applicable to all uses except private dwellings:

- A. Before a building permit is issued, drawings shall be submitted to the Village Board relating to all proposed construction and land use. Such drawings shall include a professionally certified site plan with contours, traffic patterns, all elevations of buildings, proposed building materials, dimensions, sewer, water and drainage and landscape plans and such related information as the Village Board may require. No building permit shall be issued until such plans have been approved by the Village Board or its authorized representative.
- B. The proposed construction and use shall be reviewed by the Village Board or its authorized representative to determine the extent to which the proposed use will produce discharge of wastes into the Village's sanitary sewer system, result in increased motor vehicle traffic, cause the discharge of surface waters onto adjoining properties or streets, and emit noise or light or any substance or factor detrimental to the environment.
- C. No building permit shall be issued until the Village Board or its designated agent shall have certified that:
- (1) Discharge of wastes and surface waters is in conformity with state, county and Village laws, rules and regulations.
 - (2) Motor vehicle traffic is controlled and regulated to the maximum extent practicable.
 - (3) Emission of noise, light or any other substance or factor is controlled and is within limits set by state, county and Village laws, rules and regulations.
- D. The Village Board, as part of such certification, may attach such requirements and conditions as it deems proper to accomplish the purposes of this section. Such conditions may be limited in time or indefinite, as the Board may see fit.
- E. Construction and use shall be in accordance with plans finally approved by the Village Board. No certificate of occupancy shall be granted until such approved plans have been complied with. In addition to any other remedies, a certificate of occupancy may be revoked by the Village Board upon notice to the owner if the plans, conditions and limitations which are part of the certification are not complied with for a period of more than 10 days.

§ 112-19. Enforcement.

- A. Zoning Enforcement Officer. The Village Board may, from time to time, designate and appoint a Zoning Enforcement Officer who shall be charged with the administration, supervision and enforcement of this chapter. The Village Board shall fix the salary or remuneration of such officer and shall provide for the payment thereof.
- B. Zoning permits.
- (1) No building or structure shall be excavated for, erected, added to or structurally altered until a zoning permit therefor has been issued by the Zoning Enforcement Officer. Except upon a written order of the Board of Appeals, no such zoning permit, building permit or a certificate of occupancy shall be issued for any building where said construction, addition or alteration or use thereof would not conform with the provisions of this chapter.
 - (2) There shall be submitted with all applications for zoning permits two copies of a layout of the plot plan showing the actual dimensions of the lot to be built upon, the actual size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this chapter.
 - (3) One copy of such layout or plot plan shall be returned to the applicant when approved by the Zoning Enforcement Officer, together with such zoning permit, upon payment of a fee as set from time to time by the Board.

§ 112-20. Board of Appeals.

- A. Creation, appointment and organization. A Board of Appeals is hereby created and shall have all of the powers and duties in accordance with the provisions of the Village Law applicable thereto. Said Board shall consist of five members appointed by the Village Board, who shall also designate the Chairman and Deputy Chairman who shall act in the absence or inability of the Chairman. The initial terms of office of said Board of Appeals members shall be in accordance with the section of the New York Village Law applicable thereto. The Board of Appeals shall appoint a Secretary and shall prescribe rules for the conduct of its affairs, all likewise in accordance with the sections of the New York Village Law applicable thereto.
- B. Powers and duties. The Board of Appeals shall have all of the powers and duties prescribed by law and by this Zoning Law, some of which are more particularly specified as follows:
- (1) Interpretation. Upon appeal from a decision by the Zoning Enforcement Officer, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
 - (2) Special use permits:

- (a) To issue special use permits for any of the uses for which this Zoning Law requires the obtaining of such permits, subject to the limitations prescribed by this chapter.
 - (b) No such permit shall be granted by the Board of Appeals unless it finds that the use for which such permit is sought will not, in the circumstances of the particular case and under any conditions that the Board of Appeals considers to be necessary or desirable, be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (3) Variances:
- (a) To vary or modify the application of any of the requirements, regulations or provisions of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case.
 - (b) No variance in the strict application of any provision of this chapter shall be granted by the Board of Appeals unless it finds:
 - [1] That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variances are sought, which circumstances or conditions are such that the strict applications of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.
 - [2] That for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board of Appeals is the minimum variance that will accomplish this purpose.
 - [3] That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

C. Procedure.

- (1) The Board of Appeals shall act in accordance with the procedures specified by law and by this chapter. All appeals and applications made to the Board of Appeals shall be in writing on forms prescribed by the Board.
- (2) Every appeal or application shall refer to the specific provision of the local law involved and shall exactly set forth the interpretation that is claimed, the use for which the special use permit is sought or the details of the variance that is applied for and the grounds on which it is claimed that the applicable request should be granted, as the case may be.
- (3) The Board of Appeals shall fix a reasonable time to hold a public hearing required for every appeal or application and shall give public notice thereof.

- (4) Notice of the time and place of such public hearing shall be given by the Board of Appeals as follows:
 - (a) By giving due notice thereof to the parties.
 - (b) By publishing a notice of the time, date and place of said hearing in the official newspaper of the village at least 10 days prior to the hearing date.
- (5) At least 10 days before the date of the public hearing required by law on an application or appeal to the Board of Appeals, the Board or its designee shall transmit to the Planning Board of the village a copy of said application or appeal and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said application or appeal; and the Planning Board shall submit a report of such advisory opinion prior to the date of said public hearing. The Planning Board, upon the specific request of its Chairman at the time of the public hearing, shall be afforded a time extension not to exceed 30 days in order to develop and submit its recommendations, and, if such extension is so requested; the public hearing shall be adjourned for a similar period of time, not to exceed 30 days.
- (6) Every decision of the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the Village Clerk, by case number under one or another of the following headings: special use permits; interpretations; or variances; together with all documents pertaining thereto. The Board of Appeals shall notify the Village Board, the Village Planning Board, the Zoning Officer, Building Inspector and Fire Marshal of each special permit use and each variance granted under the provisions of this chapter.

§ 112-21. Planning Board.

- A. A Planning Board consisting of five members is hereby created. The members and the Chairman thereof shall be appointed by the Village Board of Trustees in accordance with the provisions of the Village Law. The Planning Board shall have all the powers and duties and functions prescribed by all applicable laws of the State of New York. With specific reference to plat approval, the term "subdivision" shall include subdivision, resubdivision, street development and lot alteration.
- B. In addition, the Planning Board shall also review all applications for variances, special permits, zone changes and text amendments and submit recommendations to the legislative body prior to their decision on such matters. The recommendations of the Planning Board in this capacity shall be deemed advisory only.
- C. If the Planning Board fails to report or advise within a period of 30 days from receipt of a matter on which it is required by this chapter to advise or report, then the referring agency or Board may act without such report.
- D. The functions of the Planning Board prescribed herein shall be in addition to any other review of land use activities otherwise required by this chapter.

- E. It shall be a violation of this chapter for any person, firm, corporation, owner or any other entity to split or separate any parcel of land into two or more parcels, lots, blocks or sites without the prior consideration and approval of the Village Planning Board.

§ 112-21.1. Joint Planning Board. [Added 7-7-2010 by L.L. No. 1-2010¹]

- A. Legislative intent and purpose. The Village Board of Trustees desires, in the interest of intermunicipal cooperation, cost efficiency and in recognition of the common planning and zoning interests of the Village and Town, to create a consolidated planning board to replace the individual planning boards of the Village and Town of Tully, and for the Town and the Village of Tully to work cooperatively to provide such services for the benefit of both municipalities.
- B. Authority. This section is enacted under the authority granted pursuant to the General Municipal Law, Town Law and Village Law of the State of New York.
- C. Creation of Joint Planning Board. The creation of a Joint Planning Board of the Town of Tully and the Village of Tully is hereby authorized. Said Joint Planning Board shall be the sole Planning Board within the Village and Town of Tully. As and if required by applicable law, the Town and Village of Tully shall enter into an intermunicipal cooperative agreement further providing for such Joint Planning Board as provided herein and the resolution of related operational and administrative issues. The Planning Board of the Village of Tully, as established under § 7-718 of the Village Law and previously duly adopted ordinance or local law of the Village Board of Trustees, shall be abolished as of the effective date of the Joint Planning Board established under this § 112.-21.1, subject however to the provisions of § 112-21.1L mandating the automatic reestablishment and effectiveness of the Village Planning Board upon the dissolution of the Joint Planning Board established hereunder.
- D. Conflict with prior local laws; conditional dissolution of Village Planning Board.
- (1) Except as specifically provided at § 112-21.1D(2) following, if any local laws, ordinances, codes or parts of same of the Town or Village of Tully are inconsistent with any of the provisions of this chapter, the terms of this chapter shall control.
 - (2) Wherever the term "Planning Board" is used in any local laws, ordinances, and codes of the Village and Town of Tully, said term shall mean the Joint Planning Board as established by this section. The Joint Planning Board's authority shall specifically, but without limitation include those powers, duties and functions described at Chapters 95 (Subdivision of Land) and 112 (Zoning) of the Village of Tully Code.
 - (3) Subject to and conditioned upon § 112-21.1L herein, and in order to effect the creation of the Joint Planning Board herein, the existing Planning Board of the Village of Tully is hereby conditionally dissolved and terminated.

1. Editor's Note: This local law also provided that it would be effective on the first day of the third full month after being filed in the Secretary of State's office ("effective date"), and that, during the transition period, the Village Planning Board would continue as previously established.

E. Membership; appointment; vacancies.

- (1) The Joint Planning Board shall consist of seven members. Three members shall be appointed by the Town Board of the Town of Tully and three members shall be appointed by the Village Board of Trustees of the Village of Tully and one member shall be appointed jointly by both the Board of Trustees of the Village and the Town Board of the Town.
- (2) The original Joint Planning Board shall be appointed as follows: the Town Board of the Town of Tully shall appoint three members, one each for terms of one, three and five years. The Board of Trustees of the Village of Tully shall appoint three members, one each for terms of two, four and six years. The Town Board of the Town of Tully and the Board of Trustees of the Village of Tully shall jointly appoint one member for a term of seven years. All such appointments shall be made from those individuals serving on the preexisting Planning Boards of the Town and Village, unless such persons, or any one of them, is unable or willing to serve. Upon the expiration of the terms of the original members, successors shall be appointed by the same procedures, and by the same Board, or jointly by the Boards, that appointed the original members for a term of seven years. Terms shall run from January 1 through December 31.
- (3) Vacancies shall be filled by the appointment of replacement members by the same Board, or jointly by the same Boards, that appointed the member leaving office to fill the unexpired term of that member.

F. Alternate members.

- (1) Because it may sometimes be difficult to maintain a quorum on the Planning Board due to members being ill, on extended vacation or finding they have a conflict of interest on a specific matter before such Board, in such instances, official business cannot be conducted which may delay or impede adherence to required time limits. The use of alternate members in such instances is hereby authorized pursuant to the provisions of this chapter.
- (2) This section is hereby adopted pursuant to the provisions of § 10 of the New York State Municipal Home Rule Law and § 10 of the New York State Statute of Local Governments. It is the intent of the Village Board of Trustees of the Village of Tully, pursuant to § 10 of the New York Municipal Home Rule Law, to supersede the provisions of §§ 7-712 and 7-718 of the New York State Village Law relating to the appointment of members.
- (3) The number of alternate members shall be four. Two members shall be appointed by the Board of Trustees of the Village of Tully, and two members shall be appointed by the Town Board of the Town of Tully.
- (4) Alternate members originally appointed shall be appointed as follows: the Town Board of the Town of Tully shall appoint two members, one each for terms of one and three years. The Board of Trustees of the Village of Tully shall appoint two members, one each for terms of two and four years. Upon the expiration of the terms of the original members, successors shall be appointed by the same Board as appointed the original member for a term of four years. Terms shall run from January 1 through December 31. All such appointments shall be made from

those individuals serving on the preexisting Planning Boards of the Town and Village, unless such persons, or any one of them, is unable or unwilling to serve.

- (5) Vacancies shall be filled by the appointment of replacement members by the same Board as appointed the member leaving office to fill the unexpired term of that member.
- G. Chairperson. The members of the Joint Planning Board shall at their last meeting of the calendar year, elect a Chairperson to so act for the next calendar year or until a successor is elected.
- H. Adoption and Establishment of rules and regulations and supplemental provisions. The members of the Joint Planning Board may adopt such rules and regulations and supplemental provisions as they shall deem necessary and proper for their operation and administration, and for the conduct of their meetings and business, including by duly adopted intermunicipal cooperation agreement(s).
- I. Continuing education and training. Each regular member and alternate member shall complete such training and continuing education as may be required by law and mandated by joint resolution of the Town Board of the Town of Tully and the Board of Trustees of the Village of Tully. Except if such practice becomes prohibited by a superseding state law, the failure to mandate such training shall be conclusively deemed an election to opt out of any such discretionary requirement of the State of New York.
- J. Compensation. Members may receive such compensation and reimbursement for expenses necessarily incurred in the performance of their duties as may be established by joint resolution of the Town Board of the Town of Tully and the Board of Trustees of the Village of Tully and/or by intermunicipal cooperation agreement as provided for at § 112-21.1H hereof.
- K. Duties/application of laws. The Joint Planning Board shall act on all matters which shall come before it pursuant to the applicable codes, ordinances and local laws of the Town of Tully and the Village of Tully and on all matters referred to it by either the Town Board of the Town of Tully or the Board of Trustees of the Village of Tully and shall comply with all rules, regulations and other requirements mandated by law. As to property located within the Village of Tully, the procedural and substantive provisions of the Village of Tully Code and the (New York State) Village Law shall apply; as to property located within the Town of Tully, the procedural and substantive provisions of the Town of Tully Code and the (New York State) Town Law shall apply.
- L. Dissolution. Except as may otherwise be provided by intermunicipal cooperation agreement, the Joint Board established hereby shall be dissolved upon the duly adopted resolution of either the Village of Tully Board of Trustees or the Town Board of the Town of Tully. Upon any such resolution being duly adopted, a certified copy shall be delivered to each of the Town and Village of Tully's respective Clerks for filing, and the Joint Board shall become dissolved and no longer in effect upon the last day of the second full month following such resolution and the latter of the dates of filing in the office of their respective Clerks ("dissolution date"). Except as otherwise determined by the respective (Town and Village) Boards, their respective appointed resident Joint Board members shall continue in such position on their respective Town and Village Planning Boards, upon such terms and conditions, and as supplemented by those

additional members and conditions and provisions as may be determined by their respective (Town and Village) Boards and applicable state law not superseded hereby, and the Village Planning Board, as previously established, shall be deemed reestablished and in full force and effect upon the day following the dissolution date, such establishment to be automatic, subject and pursuant to Village Law § 7-718, and, upon such reestablishment, with the minimum number of members required under Village Law § 7-718.

§ 112-22. Penalties for offenses.

- A. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$500 or imprisonment for a period not to exceed 15 days, or both. However, for the purpose of confirming jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purposes only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- B. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used or any land is divided into lots, blocks or sites in violation of this chapter or in case of any other violation of this chapter, the Village Board may, in addition to any other remedies, institute an appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use or division of land to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises which is in violation of this chapter.

ARTICLE VI Amendments

§ 112-23. Procedure for amendments.

In accordance with the applicable sections of the New York Village Law, amendments to this chapter may be made by the Village Board either upon its own motion or by petition or upon recommendation of the Planning Board, after public notice and hearing. At least 10 days' notice of the time and place of such hearing shall be published in the official newspaper designated by the Village Board and having general circulation within the village. Notice shall be given as required by the New York Village Law.

§ 112-24. Referral of proposed zoning amendment or change to Planning Board. [Amended 5-7-1996 by L.L. No. 1-1996]

Every such proposed amendment or change, whether initiated by the Village Board or by petition, shall be referred to the Planning Board for report thereon before such public hearing.

ARTICLE VII

Miscellaneous**§ 112-25. Interpretations.**

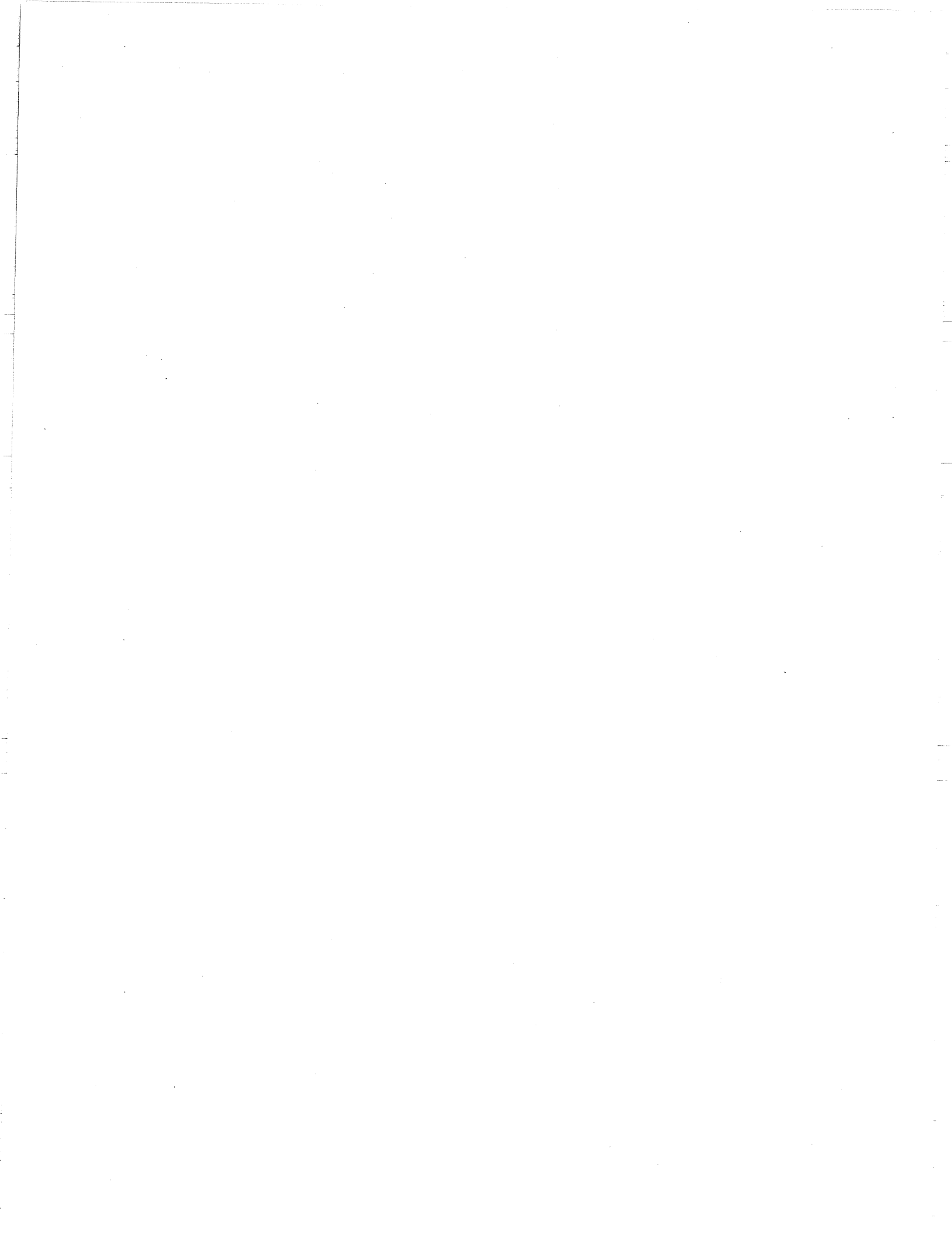
In their interpretations and application, the provisions of this chapter shall be held to be the minimum requirements adopted for promotion of the public health, morals, safety or the general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully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

§ 112-26. Severability.

If any section, paragraph, subsection, clause, phrase or provision of this chapter shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this chapter as a whole or any part or provisions thereof other than the part so declared to be invalid or unconstitutional.

§ 112-27. When effective.

This chapter shall be in force and effect immediately upon adoption and publication or personal service, as provided by law.



APPENDIX



Chapter A118

BYLAWS, VILLAGE

§ A118-1. Bylaws.

[These bylaws, adopted 12-2-2001, were the basis for local government for many years. Because of this, they have been included in this chapter for historical and informational purposes; however, they have no effect on any provisions contained in the Code of the Village of Tully.]

§ A118-1. Bylaws.

Bylaw No. 1. No person shall encumber the streets, sidewalks or crosswalks of said village with any material whatever without the permission of the Trustees.

Bylaw No. 2. All owners or occupants of premises are hereby required to keep their sidewalks in good and safe repair and free from snow and ice during all seasons of the year to prevent accident thereon and consequent suits for damages.

Bylaw No. 3. Owners or occupants of premises are required to keep their premises free from nuisance by the use of lime or other disinfectants in order to preserve private and public health.

Bylaw No. 4. All disorderly assemblages of persons upon the streets, sidewalks or elsewhere within the limits of said village are hereby strictly forbidden, under penalty of law.

Bylaw No. 5. The use of vile, indecent or profane language in the highways or public parks or places within said village and all lewd or disorderly conduct, is hereby strictly forbidden, under penalty of law.

Bylaw No. 6. No person shall disturb any public meeting or assembly within said village.

Bylaw No. 7. All public vice, immorality and drunkenness are hereby strictly forbidden within the bounds of said village.

Bylaw No. 8. All owners or occupants of premises are hereby required to keep their shade trees in the street or extending over the walks trimmed up so that none of the branches shall hang low enough to interfere with travelers thereon, and no person shall cut down or otherwise mar or injure any shade or ornamental trees within the boundaries of said village, under penalty of law.

Bylaw No. 9. No cattle, sheep, horses, mules, swine, geese or other animals shall be allowed to run at large or to go unattended upon any street, walk or lane within the limits of said village.

Bylaw No. 10. No person shall mark, injure or post any notice upon any electric light pole or willfully interfere with or damage any electric lamp used for lighting any street, walk or lane in said village.

Bylaw No. 11. No game, practice or amusement in any manner endangering property or person or interfering with the rights of the public shall be allowed in any street, lane or sidewalk in said village.

Bylaw No. 12. No person shall hitch or tie a horse or other animal to any shade tree in said village.

Bylaw No. 13. All owners or occupants of premises are hereby required to keep the streets in front of such premises free and clear from all rubbish, coal, ashes, straw, leaves, brush or papers that present an unsightly appearance or are liable to spread fire.

Bylaw No. 14. No exhibition or performance for money or hire shall be allowed without a license or permission of the Trustees of said village and except on such terms as they shall deem expedient.

Bylaw No. 15. Any person violating any of the above bylaws shall be liable to a penalty of not less than \$5 nor more than \$10.

Bylaw No. 16. All owners or occupants of premises are hereby strictly forbidden to repair their sidewalks with scraps of sheet iron, tin or boards nailed above or on top of said walks, under a penalty of \$5 for each and every offense.

Bylaw No. 17. No person or persons shall within the village in any manner fire or in any manner assist in firing any gun or guns, whether large or small, crackers, rockets, squibs, or throw or play with fireballs or any other fireworks charged with gunpowder or other explosive or highly flammable material, nor build any fire or fires in any of the public streets of said village, or blow any horn or horns or make any improper noise which may disturb the peace of said village in the day- or nighttime, provided that the provisions of this ordinance shall not apply to the day celebrated as the anniversary of American Independence, and also provided that the doing on said anniversary day of any of the above-forbidden acts shall be strictly under the directions and regulations of the Board of Trustees of said village; and any person who shall be guilty of violating any of the prohibitions in this section contained, and any person aiding or abetting such violation, shall, for each offense, forfeit and pay a penalty not to exceed \$10.

Bylaw No. 18. It shall not be lawful for any person or persons to keep open for use any room for gambling purposes, any nine- or ten-pin alley or gun alley, shuffleboard, e.o. table, faro bank or any other instrument of games, including slot machines, within said village. Any person or persons offending against either of the provisions of this section shall be liable to a penalty of \$25 for each and every offense, and a further fine of \$25 for every 24 hours kept open after the first conviction.

Bylaw No. 19. No person shall write, print, publish or post any obscene or indecent writing, picture or print in said village, and no person shall deface any post, wall, fence, building or other surface with any obscene or indecent mark, writing, picture or print. Any person offending against the provisions of this section shall forfeit a penalty not less than \$5 nor more than \$25.

Bylaw No. 20. It shall not be lawful for persons to congregate upon the sidewalks or crosswalks of said village or in the streets of the same in such a manner as to obstruct the same, nor to disturb the peace and quiet of said village by shouting or other improper noises, nor to use vulgar, obscene or indecent or profane language in the presence or hearing of citizens or other persons. Any person offending against the provisions of this section shall forfeit to said village a penalty not to exceed \$10.

Bylaw No. 21. It shall not be lawful for any person to drive on any of the streets or lanes of said village any horse or animal at an inordinate rate of speed, nor shall it be lawful for any person or persons to race within the corporation bounds of said village either for a purse or otherwise, and for any offense against the provisions of this section the person or persons so offending shall forfeit to said village not less than \$5 nor more than \$20.

Bylaw No. 22. It shall not be lawful for any person or corporation to throw upon or deposit or cause to be put or come upon or into any of the squares, streets or lanes of this village or the creek or other waters, or under any bridge or in any public place, any dung, dead animals or putrid meat or fish or slops or the contents of any privy vaults or dirty water or nuisance of any kind, except that the same be permitted by the Board of Trustees of the village, under a penalty not to exceed \$10 for each offense.

Bylaw No. 23. No person shall ride, drive, lead or place any horse or other animal upon a sidewalk in said village, except to cross the same when necessary, and no person shall place or lead or permit to remain any horse or any other animal or animals upon the crosswalks in said village. Any person offending in anywise against the provisions of this ordinance shall forfeit to said village, for each and every such offense, the sum of not less than \$1 nor more than \$10.

Bylaw No. 24. No person shall willfully give or cause to be given or made any false alarm of fire.

No member of the Fire Department or other person shall be insubordinate or disorderly at fires or obstruct the operations of the Fire Department or willfully neglect or refuse to obey or attempt to prevent or obstruct the execution of the orders of the Trustees or officers of the Fire Department.

All owners, occupants, managers and trustees of hotels, factories, theaters, opera houses, music halls or other places of amusement, assembly halls, churches, schools and literary and charitable institutions are hereby required to erect and provide such fire escapes, doors, windows and stairs as shall be ordered by the Board of Trustees and within such time as the Board of Trustees shall direct.

Whoever shall violate any provision of this ordinance shall for each offense forfeit and pay \$10 for the use of said village.

Bylaw No. 25. No person or persons shall be permitted to ride a bicycle upon any of the sidewalks in the Village of Tully, New York. Any person violating any of the provisions of this ordinance shall be liable to a penalty not to exceed \$5 for each offense.

Bylaw No. 26. Every Police Justice duly elected as such in said village may, in addition to the fines and penalties imposed under any section of the bylaws or ordinances of said village, add as many days' imprisonment in the penitentiary of Onondaga County as, in his discretion, may be deemed best, and in all cases where the arrested party shall refuse or be unable to pay, each dollar of fine shall represent one day's imprisonment.



Chapter A119

HIGHWAY AND DRAINAGE SPECIFICATIONS AND STANDARDS

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§ A119-40. End section installation.

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§ A119-41. Catch basin and manhole installation.

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§ A119-42. Underdrain installation.

**Appendix A, Standard
Highway and Drainage
Details**

[HISTORY: Adopted by the Board of Trustees of the Village of Tully 9-13-1976; amended in its entirety 5-3-2006 by L.L. No. 4-2006. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Development fees — See Ch. 45.
Subdivision of land — See Ch. 95.

Zoning — See Ch. 112.

**Part 1
General Conditions and Requirements**

ARTICLE I
General

§ A119-1. Applicability; approval of plans required; definitions.

- A. These minimum standards apply to work performed in the Village of Tully, Onondaga County, New York, for general improvements to highways and roads and associated drainage for subdivisions proposed to be dedicated to the Village of Tully. These specifications supersede the previous specifications.
- B. All plans for roads and subdivisions shall be reviewed and must be approved by the Village of Tully prior to commencement of construction. Contacts for coordination and copies of all submissions shall be provided to each of the following:
- (1) Village Mayor and Board.
 - (2) Village Planning Board Chairman.
 - (3) Village Superintendent of Public Works.
 - (4) Village Engineer.
 - (5) Village Codes Enforcement Officer.
 - (6) Village Attorney.

HIGHWAY AND DRAINAGE SPECIFICATIONS AND
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§ A119-2

(7) Village of Tully, 5833 Meetinghouse Road, PO Box 1028, Tully, NY 13159.
(315) 696-5041.

C. Definitions. As used in this Part 1, the following terms shall have the meanings indicated:

VILLAGE — The Village of Tully.

OWNER/DEVELOPER — The responsible party performing work on existing Village highways or highways to be dedicated to the Village of Tully.

ENGINEER — The Village Engineer, or his approved agent.

SUPERINTENDENT — The Village of Tully Superintendent of Public Works or his duly appointed agent.

FINE GRADE — Grading to a tolerance of 1/2 inch in 10 feet.

NYS DOT SPECIFICATIONS — The New York State Department of Transportation Standard Specifications dated January 2, 2002, and addenda thereof, issued to and including the date of approval of plans for the highway construction.

ROAD SECTION — The entire area disturbed for street construction, including ditches.

ROADWAY — That portion of the street included between the outside edges of the paved surfaces, curbs or gutters.

SUBGRADE — The bottom of the granular base, i.e., undisturbed native material.

SURFACE COURSE — The asphalt pavement on which traffic travels.

§ A119-2. Permits, approvals and fees.

- A. The owner/developer shall prepare, at his own expense, all documents and plans incidental to and/or complying with all the requirements for:
- (1) Village of Tully Board and Planning Board approvals.
 - (2) Permits and posting all related notices.
 - (3) Related government requirements for taxes, fees or other costs.
 - (4) Certificates of inspection or compliance required by any agency having jurisdiction, and/or any other required written approval.
- B. The owner/developer shall be responsible for obtaining all necessary permits and approvals required prior to commencement of work.
- C. If the owner/developer proposes development which includes dedication of roads, utilities and/or drainage facilities to the Village, the owner/developer shall, upon approval of the development plan by the Village, enter into a developer agreement with the Village, outlining the owner/developer's obligations in connection with the project construction.

- D. The owner/developer shall be responsible to defray all related expenses incurred by the Village for attorney and engineering fees in connection with the proposed project, in accordance with Chapter 45 of the Village Code.

§ A119-3. Insurance and bonding.

- A. The owner/developer shall purchase and maintain such insurance as shall protect the owner/developer and the Village from all claims for damages associated directly or indirectly with respect to the project, including but not limited to workmen's compensation and disability benefits, bodily injury of employees and others, general public liability and property damage, and any additional insurance applicable to the project work, as determined by the Village with respect to types and limits of coverage.
- B. The owner/developer shall obtain security which can be in the form of a letter of credit, bond, cash or such other form as is acceptable to the Village in amounts equal to 100% of the cost of public improvements (roads, utilities, drainage, etc., which will be conveyed to the Village), but in no case less than \$50,000. The Village Superintendent of Public Works, in conjunction with the Village Engineer, shall estimate the amount of security required for the purposes of determining the security amounts required hereunder.

§ A119-4. Codes and standards.

- A. All work performed by the owner/developer shall conform to applicable federal, state, and local laws and regulations, including, but not limited to:
- (1) New York State Uniform and Fire Prevention Code.
 - (2) NFPA requirements.
 - (3) OSHA standards.
 - (4) New York State labor standards.
 - (5) Underwriter's Laboratory or approved inspecting agency.
 - (6) Local Fire Department regulations.
 - (7) Utility company regulations.
 - (8) Insurance underwriters.
 - (9) Contract Work Hour and Safety Standards Act.
 - (10) NYS DEC applicable regulations.
 - (11) NYS DOH applicable regulations.
 - (12) All applicable federal regulations (EPA, Army Corps of Engineers, etc.).
 - (13) Onondaga County applicable regulations.
 - (14) Village of Tully applicable regulations.

HIGHWAY AND DRAINAGE SPECIFICATIONS AND
STANDARDS

§ A119-4

§ A119-6

- B. New York State Department of Transportation Standard Specifications and as addended, dated January 2, 2002, or latest published edition: related work shall comply with this specification as referenced herein.

§ A119-5. Work coordination and schedule.

- A. All work shall be coordinated with the Village of Tully Public Works Department.
- B. The owner/developer shall submit to the Village for approval a proposed progress schedule for the work.
- C. The work shall progress with all reasonable speed and diligence based on the approved work schedule.

§ A119-6. Drawings.

- A. The owner/developer shall submit four complete sets of drawings and plans for the proposed work to the Village for approval. The plans shall include, at a minimum, site plans, drainage plans, erosion and sediment control plans, typical road cross-section, etc. Drawings shall meet the requirements of the applicable Village regulations, and include:
- (1) Drawings showing road right-of-way, travel lanes and shoulders, sidewalks at outer edge of ROW (if required), drainage pipe and ditch sizes, catch basins and manholes, other drainage features, key elevations and including details of gutters, drainage structures and connections; show relationship of all utilities within road right-of-way.
 - (2) Road profile drawings (original and proposed) showing road gradient and vertical curves. Draw profiles at a horizontal scale of not less than one inch equals 50 feet and a vertical scale of not less than one inch equals five feet; indicate pipe and underground structures; show types, sizes, materials, and elevations of other utilities crossing road or highway.
 - (3) Details for work shall meet or exceed the requirements of the general details given in this specification.
- B. The owner/developer shall submit three sets of record, as-built drawings prior to the Village's final approval of the work. All locations on record drawings shall reference surface bench marks. These record drawings shall accurately show final installed locations of:
- (1) Drainage systems, including catch basins, pipe types, sizes, inverts, etc.
 - (2) Curbs, signs, and other key surface objects.
 - (3) Correct location of all underground utilities found and/or installed during the course of the work.
- C. The drawings for the proposed project shall be submitted to the Planning Board, the Code Enforcement Office, the Village Attorney and Village Engineer before the final

subdivision plat approval can be given. No construction shall commence until approval of the plans has been granted. After construction and before acceptance, the as-built drawings noted above must be submitted and approved by the Village Engineer.

§ A119-7. Submittals.

- A. The owner/developer shall submit to the Village for approval product and materials data, specifications and shop drawings for all products, equipment and materials for the proposed project.
- B. All submittals shall be made with four copies for approval by the Village Engineer prior to the start of any construction. Only approved items shall be used.

§ A119-8. Special conditions and additional requirements.

- A. All work completed by the owner/developer will carry a one-year guarantee for materials and workmanship. The guarantee period will commence on the date of the written final approval subsequent to the submission of the as-built drawings.
- B. Final acceptance. Before the streets, utilities and other improvements constructed in accordance with these specifications and standards will be approved, the owner/developer shall make such request to the Village Board and the Village Engineer stating that the improvements and all areas within the designated rights-of-way and easements have been completed in accordance with the approved plans and specifications, the request is accompanied with the required as-built drawings. Thereafter, upon recommendation of the Village Engineer, a written final approval will be issued to the owner/developer.
- C. Inspections and notifications. All phases of the work are subject to both the Superintendent's and Village Engineer's inspection and approval. If unsatisfactory work is not brought into compliance promptly, the owner/developer will be ordered to stop work on the project, pending resolution of the problem. The owner/developer will be obligated to inform the Village Engineer of his progress prior to starting the following construction operations:
 - (1) Commencing any work at the project site.
 - (2) Preparation of subgrade for all roadway areas.
 - (3) Placement of subbase materials.
 - (4) Placement of any asphalt pavement course.
 - (5) Installation of any curbs or gutters.
 - (6) Installation of any utility systems: water, sewer, stormwater, etc.
- D. If sufficient notice is not given and, therefore, the proper inspection of each operation is not made, the Village has the right to test the final subbase course or pavement by making three consecutive passes over the area in question with a legally fully loaded ten-wheel, three-axle, self-propelled dump truck at a maximum speed of five miles per

HIGHWAY AND DRAINAGE SPECIFICATIONS AND
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§ A119-9

- hour. If the material/pavement shows any weaving, rifting, displacement or other deformation. it will be considered as unacceptable by the Village and must be replaced.
- E. Both the subgrade and subbase conditions and materials shall be verified via test rolling the subgrade and performing in-place compaction tests on the subbase materials to insure compliance.
 - F. Rough grading must be completed before the construction of any utilities is commenced. All yards facing a public street shall be properly graded at the time of the street construction consistent with the street grades as constructed and in accordance with the Village Zoning Ordinance¹ and other applicable requirements.
 - G. The owner/developer is required to remove from the project site all construction equipment, excess or unused earthen and construction materials, other equipment and/or products, field offices, debris and all other waste materials, once the project is complete.

Part 2
Highway Specifications

ARTICLE II

Design Criteria; Inspections; Subbase and Pavement Specifications

§ A119-9. Design criteria.

- A. All roads and streets shall conform to the minimum requirements shown on the Standard Highway Details.²
- B. A description of the various street classifications is presented in The Street or Highway Resolution of the Village of Tully.
- C. Application of concrete curb and gutter and granite curb.
 - (1) Roads and streets serving subdivisions with lots less than one acre in size shall have concrete curb systems as given in the Standard Highway Details.³ In certain instances, if directed by the Village, granite curbs may be required so as to match existing granite curbing in the vicinity of the project.
 - (2) Roads and streets serving subdivisions with lots greater than or equal to one acre shall have concrete gutter systems as given in the Standard Highway Details. Asphalt curbs and gutters will not be permitted.
 - (3) For either system noted above, a closed storm drainage collection system shall also be required as part of the proposed road design.

1. Editor's Note: See Ch. 112, Zoning.

2. Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

3. Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

- D. All utilities for lots shall be laid out on drawings as required by Village of Tully Subdivision Regulations.⁴
- E. All proposed dead ends must be designed with Village approval and shall be suitable for plow trucks to safely turn around.
- F. Street grades. Road grades should generally conform to the terrain and shall have a minimum grade of 1/2% and a maximum grade of 6% for major/collector roadways and maximum 10% for minor and all other residential roads. At intersections, the roadways shall have a maximum one-percent grade within 50 feet of the intersection and a maximum three-percent grade for the next 50 feet back.

§ A119-10. Road subgrade inspection and evaluation.

- A. The owner/developer shall notify the Village Superintendent for scheduling road subgrade inspection prior to commencement of roadwork.
- B. The inspection shall include proof rolling by a loaded ten-wheel dump truck, provided by the Village of Tully, The Village Superintendent, Village Engineer, and the owner/developer shall be present during the inspection.
- C. The subgrade shall be examined by the Village Superintendent of Public Works and Village Engineer for any rutting, waving, and rolling created by proof rolling.
- D. The Village Superintendent of Public Works and Village Engineer shall determine if geotextile stabilization fabric is required based on the extent of soil instability demonstrated during proof rolling.
- E. If, in the opinion of the Village Superintendent of Public Works and Engineer, the subgrade conditions are marginal and/or unsatisfactory, the owner/developer of the project shall have a New York State licensed professional engineer prepare an evaluation of the conditions and a remedial plan to remedy same. Said plan may include some of the following: (1) the overexcavation of the subsoils and installation of compacted controlled fill, (2) the installation of longitudinal underdrains (maximum length 100 feet) and (3) the installation of key "spot" relief underdrains. The remedial plan shall be submitted to the Village for its review and approval prior to proceeding further with the work.

§ A119-11. Highway subbase and pavement specifications.

- A. Prior to the placement of each course of material specified herein, the Village Superintendent of Public Works shall inspect and approve the roadway construction. The owner/developer shall install all conduits required by any utility company prior to the placement of gravel subbase material at depths and locations required by the respective utility company.

4. Editor's Note: See Ch. 95. Subdivision of Land.

- B. All road materials shall be furnished, placed and compacted in conformance with the New York State Department of Transportation Standard Specifications — Construction and Materials, as addended, dated January 2, 2002, or latest published edition.

ARTICLE III
Materials

§ A119-12. Granular subbase materials.

- A. Materials shall consist of stone, sand and gravel or blends of these materials, free of organic or other deleterious materials.

- B. Screened gravel.

- (1) Clean well-graded gravel material meeting the requirements of NYS DOT Item 304.14M Type 4 with the following gradation:

| Sieve Size Designation | % Passing by Weight |
|-----------------------------------|--------------------------------|
| 2-inch | 100% |
| 1/4-inch | 30% to 65% |
| No. 40 | 5% to 40% |
| No. 200 | 0 to 10% |

- (2) Soundness: magnesium sulfate soundness loss after four cycles of 20% or less. The materials shall be free of shale or other soft, poor durability particles.

- (3) Plasticity index: The plasticity index of the material passing the No. 40 mesh sieve shall not exceed 5.0.

- C. Crusher-run stone:

- (1) Crushed limestone, unwashed but free of debris, meeting the requirements of NYS DOT Item 304.12M Type 2 with the following gradation:

| Sieve Size Designation | % Passing by Weight |
|-----------------------------------|--------------------------------|
| 2-inch | 100% |
| 1/4-inch | 25% to 60% |
| No. 40 | 5% to 40% |
| No. 200 | 0 to 10% |

- (2) Fraction passing the No. 40 mesh sieve shall meet the following:

- (a) Liquid limit: 30 maximum.
(b) Plasticity index: six maximum.

§ A119-13. Geotextile stabilization filter fabric.

Geotextile stabilization filter fabric shall meet the following requirements: A woven geotextile filter fabric having the following minimum average roll values: puncture strength of 120 pounds (ASTM D4833), grab tensile strength of 315 pounds, Mullen Burst resistance of 600 pounds per square inch (ASTM D 3786) and an apparent opening size equal to or less than the No. 40 U.S. standard sieve size (ASTM D 4751); Mirafi 600X or approved equal. Depending on the anticipated traffic loads and strength of the subgrade (CBR value), the Village may require a different fabric to insure adequate stabilization.

§ A119-14. Asphalt concrete courses.

Asphalt concrete courses include the following:

- A. Hot, plant-mixed, asphalt concrete in conformance with the New York State Department of Transportation Standard Specifications — Construction and Materials of January 2, 2002, and as amended.
- B. Asphalt binder course: comply with the requirements of NYSDOT Item 403.138902M Asphalt Concrete, Type 3, Dense Binder and the following:

| Sieve Size Designation | % Passing by Weight | Tolerance |
|------------------------|---------------------|-----------|
| 1 1/2-inch | 100% | — |
| 1-inch | 95% to 100% | — |
| 1/2-inch | 70% to 90% | +6% |
| 1/4-inch | 48% to 74% | +7% |
| 1/8-inch | 32% to 62% | +7% |
| No. 20 | 15% to 39% | +7% |
| No. 40 | 8% to 27% | +7% |
| No. 80 | 4% to 16% | +4% |
| No. 200 | 2% to 8% | +2% |

- (1) Asphalt content: 4.5% to 6.5%, tolerance: +0.4%.
- (2) Asphalt cement grade AC: 20.
- (3) Mixing and placing temperature range of 2,500° F. to 3,250° F.

- C. Asphalt top course: comply with the requirements of NYSDOT Item 403.198902M Asphalt Concrete, Type 7, Top Course and the following:

| Sieve Size Designation | % Passing by Weight | Tolerance |
|------------------------|---------------------|-----------|
| 1/2-inch | 100% | — |
| 1/4-inch | 90% to 100% | — |
| 1/8-inch | 45% to 70% | +6% |
| No. 20 | 15% to 40% | +7% |

HIGHWAY AND DRAINAGE SPECIFICATIONS AND
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§ A119-14

§ A119-16

| Sieve Size Designation | % Passing by Weight | Tolerance |
|-----------------------------------|--------------------------------|------------------|
| No. 40 | 8% to 27% | +7% |
| No. 80 | 4% to 16% | +4% |
| No. 200 | 2% to 6% | +2% |

- (1) Asphalt content: 5.7% to 8%.
 - (2) Asphalt cement grade AC: 20.
 - (3) Mixing and placing temperature range of 2,500° F. to 3,250° F.
- D. NOTE: For additional specifications refer to NYSDOT Standard Specification Section 401 — Plant Mix Pavement — General, Subsection 401-2 Materials of the above State Specifications.

§ A119-15. Granular fill materials.

- A. Fill materials shall have no particles greater than six inches in maximum dimension, no more than 15%, by weight, passing the No. 200 sieve, and contain no deleterious or large organic matter.
- B. Material shall conform to the requirements defined in NYSDOT Standard Specification, Section 203-2.02 E.

§ A119-16. Portland cement concrete curb and gutter.

- A. General. This section includes minimum requirements for Portland cement concrete in curb and gutters on a prepared subbase as shown on the Standard Highway Details.⁵
- B. Conventionally formed: Forms shall be steel, wood, or other suitable material of size and strength to resist movement during concrete placement and to retain horizontal and vertical alignment until removal. Use straight forms, free of distortion and defects.
 - (1) Use flexible spring steel forms or laminated boards to form radius bends as required.
 - (2) Coat forms with a nonstaining form release agent.
- C. Machine formed: provide suitable equipment to produce the required size and dimensions of the curb as indicated on the Standard Highway Details.⁶
 - (1) Tolerance: within 1/2 inch of established line and 1/4 inch of established grade.
- D. Reinforcement steel: ASTM A-615, Re-bar, Size #5, Grade 60.

5. Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

6. Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

- E. Concrete materials: comply with requirements of NYS DOT Standard Specifications Section 501 for concrete materials, admixtures, bonding materials, curing materials, and others as required.
- (1) Conventionally formed: Class A, NYSDOT Table 501-3.
 - (2) Machined formed: Class J, NYSDOT Table 501-3.
- F. Contraction joints: Joints shall be formed or saw cut to a width of 1/8 inch minimum, 1/4 inch maximum, and to a depth of 1 1/2 inches. If joint is sawcut, this must be done within eight hours of placement. Spacing interval shall be every eight feet for curbs and gutters and every five feet for sidewalks.
- G. Liquid-membrane forming and sealing curing compound: comply with ASTM C 309, Type I, Class A unless another type is acceptable to the owner or owner's representative; moisture loss no more than 0.055 grams per square centimeter when applied at 200 square feet per gallon.
- H. Concrete mix design; compressive strength of 4,000 psi minimum at 28 days, unless otherwise indicated.
- (1) Conventionally formed: slump range of 2 1/2 to 3 1/2 inches.
 - (2) Machined formed: slump range of 1/2 to 1 1/2 inches.
 - (3) Air content: 5% to 8%.

§ A119-17. Granite curb.

Granite curb shall comply with NYSDOT Specification 714-01, Type A. Dimensions and finishes shall meet all requirements of the above specification and any additional requirements stated herein and/or shown on the Standard Highway Details.⁷

§ A119-18. Stone material.

Stone material shall conform to the following:

- A. Graded stone: washed, evenly graded mixture of crushed stone or crushed gravel, stone size complying with NYSDOT Stone Size Designation of #1 or #2, as required by the Village Superintendent of Public Works and Village Engineer.
- B. Pea gravel: washed, evenly graded mixture of crushed stone, crushed gravel or uncrushed gravel, stone size complying with NYSDOT Stone Size Designation 1A.
- C. Medium rip rap: hard, angular solid stone shaped as nearly as practicable in the form of rectangular prisms. Material shall be 50% greater than 100 pounds and 50% greater than 50 pounds per piece.

⁷ Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

- D. Heavy rip rap: hard angular solid stone shaped as nearly as practicable in the form of rectangular prisms. Material shall be 50% greater than 600 pounds per piece with less than 10% of the stone size smaller than six inches.

§ A119-19. Topsoil and seeding.

Topsoil and seeding shall conform to the following:

- A. Grass seed mix: Kentucky Bluegrass, 25%, Creeping Red Fescue, 50%, Perennial Ryegrass, 25%; minimum PLS equals 80%; weed seed/inert matter equals 15% maximum.
- B. Topsoil and fertilizer:
- (1) The material can be reused surface soils stockpiled at the project site but the owner/developer must verify suitability to meet requirements and amend when necessary.
 - (2) If on-site quantities are insufficient, supplement with imported topsoil. Topsoil must be clean and free of roots, plants, sods, stones of one inch or larger in any direction, clay lumps and other extraneous materials harmful to plant growth. Fertilizer shall be commercial grade consisting of fast- and slow-release nitrogen, 50% derived from natural organic sources. Composition to be one pound per 1,000 square feet of actual nitrogen, 4% phosphorous and 2% potassium by weight; slow-release to be 50% water-insoluble with composition of 5% nitrogen, 10% phosphorous and 5% potassium by weight.
- C. Erosion control materials: all areas to be mulched, and particularly steep slopes or other locations with unique conditions; use any of the items listed in the required combination needed to allow for proper growth to be established. Items include mulch of seed-free threshed straw of wheat, rye, oats or barley, fiber mesh of twisted jute and fiber mulch of biodegradable dyed-wood cellulose-fiber.

ARTICLE IV
Execution

§ A119-20. General.

- A. If construction equipment or other traffic must ride on the exposed subgrade surface, that surface shall be graded two inches higher than its final grade. Just before placement of the subbase material, that final two inches shall be removed so that no subgrade material appears above its final plan grade. The subbase material shall not be placed until the entire subgrade, to the right-of-way limits, has been graded in accordance with the requirements of the Standard Highway Details.⁸
- B. The asphalt concrete wearing course widths and thicknesses shall be in accordance with the Standard Highway Details.

⁸ Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

§ A119-21. Site conditions.

All frames, grates, valve boxes and manholes shall be constructed at an elevation equal to the finish surface elevation of the subbase course material. Prior to placement of asphalt surface, frames, grates, valve boxes and manholes shall be raised to the final surface elevation of the wearing course in accordance with the Standard Highway Details.⁹

§ A119-22. Excavation for pavements.

Cut surface under pavements shall comply with cross-sections, elevations and grades as required to meet subgrade.

§ A119-23. Granular fill material placement and compaction.

Granular fill material placement and compaction shall conform to the following:

- A. Ground surface preparation: remove vegetation, debris, unsatisfactory soil materials, obstructions, and deleterious materials from ground surface prior to placement of fills and subbase materials.
- B. Place fill materials in layers not more than eight inches in loose depth for material compacted by heavy compaction equipment, and not more than six inches in loose depth for material compacted by hand-operated tampers.
- C. Before compaction, moisten or aerate uniformly each layer as necessary to provide optimum moisture content. Do not place fill material on surfaces that are muddy, frozen, or contain frost or ice.
- D. Percentage of maximum density requirements: compact soil to not less 95% maximum density, in accordance with ASTM D1557.

§ A119-24. Geotextile filter fabric.

Geotextile fabric shall be placed on proposed roadway covering prepared subgrade surface, or excavated pavement subgrade areas in accordance with NYSDOT Specifications Section 207 and as per manufacturer's recommendations.

§ A119-25. Granular subbase material placement and compaction.

- A. Subbase materials shall consist of two separate subbase courses of screened gravel and crusher-run stone. The bottom layer shall consist of a minimum of 12 inches compacted thickness of screened gravel. The top layer shall consist of a minimum of six inches compacted thickness of crusher-run.
- B. Compact each layer of subbase to 95% maximum density as determined by Modified Proctor Test. All subbase compaction shall be performed in accordance with NYSDOT Standard Specification Section 203-3.12.

9. Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

§ A119-26. Surface preparation prior to asphalt application.

Surface preparation prior to asphalt application shall conform to the following:

- A. General: remove loose material from compacted subbase surface immediately before applying herbicide treatment or prime coat.
- B. Proof-roll prepared subbase surface to check for unstable areas and areas requiring additional compaction.
- C. Notify Village Superintendent of Public Works of any unsatisfactory conditions. Do not begin paving work until deficient subbase areas have been corrected and are ready to receive paving.
- D. Tack coat: apply to contact surfaces of previously constructed asphalt and surfaces abutting or projecting into hot-mixed asphalt pavement.
- E. Allow to dry until at proper condition to receive paving.
- F. Exercise care in applying bituminous materials to avoid smearing of adjoining concrete surface. Remove and clean damaged surfaces.

§ A119-27. Placing asphalt mix.

Placing asphalt mix shall conform to the following:

- A. General: Place asphalt concrete mixture on prepared surface, in accordance with NYS DOT Standard Specifications Sections 403 and 401-3. Place areas inaccessible to equipment by hand. Place each course to required grade, cross-section, and compacted thickness.
- B. Asphalt concrete shall consist of two courses, a binder course and a top wearing course. The binder course shall consist of a four-inch compacted thickness of NYSDOT Type 3 Dense Binder. The top course shall consist of a 1 1/2 inch compacted thickness of NYSDOT Type seven Top.
- C. Immediately correct surface irregularities in finish course behind paver. Remove excess material forming high spots with shovel or lute.
- D. Joints: Make joints between old and new pavements, or between successive days' work, to ensure continuous bond between adjoining works. Construct joints to have same texture, density, and smoothness as other sections of hot-mixed asphalt course. Clean contact surfaces and apply tack coat.
- E. The mixture shall not be laid on a frozen or wet surface. Before laying the asphalt concrete binder course, the subbase surface temperature taken at three separate locations at least 25 feet apart shall be at least 40° F. Before top course placement, the asphalt binder surface temperature shall be at least 45° F.
- F. The binder course shall be allowed to reach the ambient air temperature prior to top course application.

§ A119-28. Asphalt compaction.

Asphalt compaction shall conform to the following:

- A. General: Begin rolling when mixture will bear roller weight without excessive displacement.
- B. Equipment shall be in accordance with NYS DOT Standard Specification Section 401-3.12.
- C. Compact mixture with hot hand tampers or vibrating plate compactors in areas inaccessible to rollers.
- D. Breakdown rolling: Accomplish breakdown or initial rolling immediately following rolling of joints and outside edge. Check surface after breakdown rolling and repair displaced areas by loosening and filling, if required, with hot material.
- E. Second rolling: Follow breakdown rolling as soon as possible, while mixture is hot. Continue second rolling until mixture has been evenly compacted.
- F. Finish rolling: Perform finish rolling while mixture is still warm enough for removal of roller marks. Continue rolling until roller marks are eliminated and course has attained 95% laboratory density.
- G. Patching: Remove and replace paving areas mixed with foreign materials and defective areas. Cut out such areas and fill with fresh, hot-mixed asphalt. Compact by rolling to specified surface density and smoothness.
- H. Protection: After final rolling, do not permit vehicular traffic on pavement until it has cooled and hardened.
- I. Erect barricades to protect paving from traffic until mixture has cooled enough not to become marked.

§ A119-29. Quality control.

- A. Upon completion of placement of asphalt courses, core samples shall be taken to verify depth of materials placed. The location and number of core samples shall be as determined by the Superintendent of Public Works. The cost for the core samples and reports shall be borne by the owner/developer. The testing services shall be performed by an agency approved by the Superintendent of Public Works.
- B. Prior to placement of the top wearing course, the surface of the binder course shall be swept and cleaned with a self-propelled street sweeper and joints, settlements and cracks filled with wearing surface material, compacted and approved by the Superintendent of Public Works.

§ A119-30. Concrete curb and gutter.

Concrete curb and gutter shall conform to the following:

- A. Remove loose material from compacted subbase surface immediately before placing concrete.
- B. Proof-roll prepared subbase surface and correct if needed for unstable areas and need for additional compaction.
- C. Conventionally formed: Set forms to required grades and lines, braced and secured. Install forms to allow continuous progress of work and so that forms can remain in place at least 24 hours after concrete placement.
- D. The curb shall meet the following tolerances:
 - (1) Top of curb shall not vary from established line more than 1/8 inch in 10 feet.
 - (2) Vertical face on longitudinal axis, not more than 1/4 inch in 10 feet.
- E. Locate, place and support reinforcement as shown on Standard Highway Details.¹⁰
- F. Do not place concrete until subbase and forms have been checked for line and grade. Moisten subbase if required to provide a uniform dampened condition.
- G. Place concrete by methods that prevent segregation of mix and dislocation of reinforcing, dowels, and joint devices.
- H. Use bonding agent at locations where fresh concrete is placed against hardened or partially hardened concrete surfaces.
- I. Deposit and spread concrete in a continuous operation between joints as far as possible. If interrupted for more than 1/2 hour, place an expansion joint.
- J. Contraction joints: Provide contraction joints at indicated intervals and at abutting curbs, catch basins, inlets, structures, walks, and other fixed objects, unless otherwise indicated.
 - (1) Locate contraction joints at eight feet on center (curbs and gutters) and at five feet on center (sidewalks) and at end of placements unless otherwise indicated.
 - (2) Joints to be formed or cut to a width of 1/8 inch minimum to 1/4 inch maximum and to a depth of 1 1/2 inch. If sawcut, the work must be done within eight hours of placement.
- K. Concrete finishing: After striking-off and consolidating concrete, smooth surface by screeding and floating. After floating, test surface for trueness with a straightedge. Curbing shall be rubbed finished. Protect and cure finished concrete paving using membrane-forming curing and sealing compound or approved moist-curing methods.
- L. Repair or replace broken or defective concrete and protect concrete from damage until acceptance of work. Exclude traffic from pavement for at least 14 days after placement.

10. Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

When construction traffic is permitted, maintain pavement as clean as possible by removing surface stains and spillage of materials as they occur.

- M. Quality control: The contractor\developer will hire a qualified testing and inspection agency to sample materials, perform tests, and retain test reports during concrete placement for submittal to the Village of Tully.
- N. Testing: compressive-strength tests (ASTM C 39), slump (ASTMC 143), and air content (ASTM C 231), one set (four standard cylinders) for each day's pour or each concrete class exceeding five cubic yards but less than 25 cubic yards, plus one set for each additional 50 cubic yards. Test one specimen at seven days, test two specimens at 28 days, and retain one specimen in reserve for later testing if required. Strength level of concrete will be considered satisfactory if averages of sets of three consecutive strength test results equal or exceed specified compressive strength and no individual strength test result falls below specified compressive strength by more than 500 psi.
- O. Concrete test results will be available to the Village of Tully upon request.

§ A119-31. Granite curb.

Granite curb shall conform to the following:

- A. Prepare and compact all subgrade surfaces and subbase materials as required to allow for proper curb setting and installation.
- B. All granite curbing shall be set on either dry concrete mix or granular materials as shown. Continuous concrete backing shall be installed as per NYDOT Specification 609-3. No mortar shall be placed in joints between pieces, and ends shall be butted together.
- C. Prior to continuing with other work adjacent to the new curb, the curb shall be backfilled as required and material shall be suitably tamped.

§ A119-32. Topsoil and seeding.

- A. Hydroseeding is permitted in lieu of conventional seed and mulch, but all areas to have four inches of topsoil applied onto a loosened subgrade free of stones larger than two inches and sticks, roots, debris, etc.
- B. Spread all topsoil evenly and smoothly and remove all unwanted items of stones, roots or debris. Lightly roll and moisten the soil before planting if dry. Evenly apply fertilizer at a rate of 800 pounds per acre and seed mix at a rate of 100 pounds per acre. Rake lightly into the top portion of the soil, fully cover with mulch, roll lightly and water with a fine spray to initiate germination.

Part 3 Drainage Specifications

ARTICLE V

General and Design Criteria**§ A119-33. Quality assurance.**

- A. Drainage design standards shall be employed as a guide in the development of a stormwater management plan and the design of drainage facilities for a proposed project. This plan shall consist of a map of the watershed(s) in which the project is situated, an analysis of anticipated run-off from the watershed(s), and methods to provide for adequate conveyance and the proper discharge of the anticipated run-off quantities. The plan shall comply with all state and federal requirements for the preparation of stormwater pollution prevention plans (SWPPP) and the requirements/guidelines of the NYSDEC publication "New York State Stormwater Management Design Manual." The plan shall be considered an integral part of all project plans submitted for Village approval.
- B. Storm sewer specifications shall be employed in the final design and installation of the drainage facilities proposed in the stormwater management plan. Detailed drawings for such facilities shall be considered an integral part of the final plans submitted for Village approval.
- C. Soil erosion and sediment control (E&SC) measures shall be incorporated into the final plans and employed during construction in order to minimize the degree of soil erosion and sedimentation caused by construction activity. Measures shall comply with the most recent edition of the NYS Standards and Specifications for Erosion and Sediment Control. Both active and passive measures shall be utilized and it is critical that all E&SC features be properly maintained throughout the duration of the project.
- D. Easements shall be obtained for all existing and proposed drainageways (closed systems or open ditches) that are associated with the project, either on- or off-site. For closed systems, the minimum width shall be 20 feet, and for open channels a minimum of 20 feet adjacent to the ditch shall be provided to allow for access and maintenance.
- E. Protection of facilities is required for all existing and new facilities (roads, drainage systems, sewer, water, electric, etc.) for the duration of the project. In addition, during the entire project all traffic (vehicular and pedestrian) must be suitably maintained and controlled as well as any dust that may be present.
- F. Quality control is required for all installations and will include at a minimum complete cleaning of all piping of any debris or sediment, flushing as needed, visual lamping of pipe once installed to insure proper alignment, etc.

§ A119-34. Drainage design criteria.

- A. General. The drainage design standards that are to be used as a guide in the preparation of a stormwater pollution prevention plan (SWPPP) and the design of drainage facilities for a proposed project are those set forth in the latest edition of the New York State Stormwater Management Design Manual and NYS Standards and Specifications for Erosion and Sediment Control (NYSDEC publications).

B. Off-site drainage criteria.

- (1) In general, the peak run-off flow rate of discharge from a proposed site after development shall not exceed the peak run-off flow rate that prevailed prior to development. In general, this requirement will necessitate the design and construction of detention/retention facilities of various types. Such facilities may include roof-top storage, parking lot storage, subsurface seepage pits and detention/retention basins.
- (2) A peak run-off flow rate entering the proposed site from an upper portion of the watershed(s) shall be incorporated into the stormwater management plan for the proposed site. However, it may be assumed that this flow rate will not increase in the future as upper portions of the watershed are developed. If this assumption is not made, and therefore added capacity within the drainage facilities of the proposed site is provided, then such capacity shall be so stated in the SWPPP.

- C. Culverts and storm sewer pipe sizing and placement. Pipes shall be sized for peak storm flows as required by the standards and design guidelines noted above. As required by the Village, culvert designs shall include an analysis of the inlet/outlet control conditions. All culverts shall include the installation of end sections, and proper slope stabilization for nearby embankments shall be included. The minimum pipe diameter for storm sewers shall be 12 inches. The horizontal alignment shall be in accordance with Standard Highway Details,¹¹ and vertical alignment shall provide for a minimum cover of 2 1/2 feet or as recommended by the pipe manufacturer if less.
- D. Catch basin placement. The distance which water is allowed to run in open gutter/curb flow along streets shall not exceed 300 feet. A shorter distance than this maximum limit may be necessary due to site-specific conditions. Catch basins shall be placed at all street intersections.
- E. Underdrain pipe. When groundwater and soil conditions are such that subsurface highway drainage becomes necessary, a perforated underdrain pipe shall be installed along the highway profile. This underdrain pipe will connect into junction boxes, directly into the catch basins at the edge of pavement or to daylight if appropriate. A standard trench detail for underdrain pipe is provided on the Standard Details.¹² NOTE: All underdrain pipe shall be shown on the plans or installed as required by the Superintendent of Public Works.
- F. Wherever a new driveway is being proposed, the new culvert pipe shall be installed in full compliance with all of the applicable driveway permit requirements defined in the Village of Tully application for permit. Driveway pipes shall be a minimum 12 inches diameter, and the backfill over the pipe shall extend at least 15 inches above the outside of the installed pipe. If, in the opinion of the Village Public Works Superintendent, the pipe size and depth of cover need to be increased, the owner/developer shall comply.
- G. For open channel drainageways, and based on the velocity at peak flow conditions, an appropriate lining of the channel bed and side slopes shall be employed to eliminate

11. Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

12. Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

erosion. When channels discharge into existing streams, appropriate measures will be taken to minimize streambed erosion at the point of discharge.

- H. Retention and detention facilities may be necessary to satisfy both on-site and off-site drainage criteria. The basis for the design of these facilities is the NYSDEC regulations in force at the time of the proposed project. If downstream drainage conditions are such that more stringent design criteria are deemed necessary, such criteria shall be decided upon by the Village and/or other applicable regulatory agencies. Integral to the design shall be measures to ensure minimal maintenance of such facilities. The inclusion of ponds or reservoirs shall require some form of protective fencing when deemed necessary by the Village. Measures shall also be taken to minimize soil erosion over the long term, as well as during the construction of these facilities.

ARTICLE VI

Materials

§ A119-35. Storm sewer pipe.

- A. Description. All storm sewer pipe and fittings shall be smooth-interior corrugated polyethylene plastic pipe (Cpep) made from high-density polyethylene (HDPE); comply with AASHTO M 252, Type S, with smooth waterway for coupling joints. Couplings shall be PE sleeve with ASTM F 477 elastomeric seals that mate with pipe and fittings to form watertight joints.
- B. Size. The pipe size shall be as determined by drainage study and under no circumstances less than twelve-inch diameter.
- C. Materials. All corrugated pipe shall conform to the following standards as applicable:
- (1) Pipe which is defective from any cause, including damage during handling, shall be unacceptable for installation and shall be replaced as directed by the Village Engineer or Village Superintendent of Public Works.
- D. Standard gauge. All storm piping shall be of the gauge required to meet H-20 loading and conform to appropriate AASHTO specifications or as required by the Village Superintendent of Public Works.

§ A119-36. End sections.

All end sections shall be manufactured of Cpep materials and be fully compatible with pipe and other fittings. Shape and dimensions of end sections shall be as provided by the manufacturer for each application. End sections shall comply with NTSDOT Standard Specification Section 706-12.

§ A119-37. Catch basins and manholes.

- A. Description. This section covers specifications for catch basins and storm manholes, as shown on the Standard Highway Details.¹³
- (1) Rectangular precast concrete catch basin. All materials and dimensions to be in conformity with details shown on Standard Highway Details.
 - (2) Round precast concrete manhole: The precast concrete base shall be a minimum of eight-inch thickness, and riser sections shall have a minimum diameter of four feet and a minimum thickness of five inches.
 - (3) These two structures must be used, unless a particular type (approved by the Village) is specified in the plans or required by the Village Superintendent of Public Works.
- B. Materials.
- (1) Precast concrete units (Sump depths may vary from detail, if approved by Village.):
 - (a) All precast concrete sections and units shall be reinforced concrete conforming to ASTM Designation C-478, latest revision.
 - (b) All reinforced concrete shall be 4,000 psi strength concrete at 28 days with Portland cement, coarse and fine aggregates, steel reinforcement and low water cement ratios consistent with workability. The Portland cement shall be air-entrained Portland cement ASTM Designation C-33, latest revision. The gradation requirements may be modified as required, subject to the approval of the Superintendent of Public Works. All concrete shall be thoroughly mixed by a mechanical batch mixer. The proportions of cement aggregate and water shall be such as to obtain a twenty-eight-day compressive strength of 4,000 psi.
 - (c) Precast riser sections of variable heights shall be installed over the bottom section as required and shall be continued to the surface. The joints between the several sections shall be sealed by a flexible premoulded endless rubber gasket (ASTM C 443) held in compression by the precast concrete joint.
 - (d) The precast concrete lid shall be reinforced concrete with a minimum thickness of eight inches designed to withstand all superimposed earth loads in addition to maximum AASHTO H20 truck loadings (maximum wheel load 16,000 pounds). The lid shall be cast with a concentric opening of the shape and size required by the frame and grate specified on the plans.
 - (2) Crushed stone or screened gravel: No. 2 crushed stone or screened gravel shall be used as the standard subbase for precast catch basins.
 - (3) Steps: Catch basin and/or manhole steps shall be required only when catch basin depth exceeds four feet. Steps shall be in line vertically and spaced as shown on

13. Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

the Standard Highway Details.¹⁴ Steps shall be reinforced copolymer polypropylene plastic conforming to ASTM C-478. Cast into the base, riser and top section sidewalls at twelve-inch maximum height intervals.

- (4) Frames and grates: Frames and covers for manholes shall be cast iron, and rectangular frames and grates for catch basins shall be galvanized steel (heavy-duty suitable for H-20 loading), conforming in all respects to those shown and specified in the Standard Highway Details. The standard grate within paved areas of a street shall be the rectangular grate. Any substitution must be approved by the Village Engineer and Village Superintendent of Public Works. Catch basin grates shall be Syracuse Castings Item 11 as shown on the chart for NYSDOT rectangular types. For manholes, frames and covers shall be Syracuse Castings 1009.
- (5) Grade adjustments: Use concrete riser rings (minimum two-inch thickness) or cast-in-place concrete (minimum three-inch thickness) to raise frames to grade. No bricking will be permitted.

§ A119-38. Underdrain pipe.

- A. Description. This section covers specifications for all underdrain pipe, as well as any portions of storm sewer pipe which are to function as underdrain pipe, as called for on the plans or as required by the Superintendent of Public Works.
- B. Materials. All underdrain pipe shall be perforated corrugated polyethylene tubing conforming to NYSDOT Standard Specifications Section 706-13 for same, and the current AASHTO Designation M-252.
- C. Pipe which is defective from any cause, including damage during handling, shall be unacceptable for installation and shall be replaced as directed by the Village Engineer or Village Superintendent of Public Works.

ARTICLE VII

Execution

§ A119-39. Pipe installation.

Pipe installation shall conform to the following:

- A. Placement: All pipe shall be handled and assembled in accordance with the manufacturer's instructions, except as modified by the plans or by the Village Superintendent of Public Works. Pipe shall be installed in accordance with the requirements shown on the plans. All pipe shall have a full, firm and even bearing. Pipe laying shall begin at the down-grade end and progress in the up-grade direction, maintaining a constant slope as designed.

14. Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

- B. Where necessary, proper facilities shall be provided for lowering the pipe into the trench. Pipe shall not be thrown from the truck or into the trench. Pipe shall be laid carefully and true to lines and grade as given. Pipe not in true alignment, or which shows abnormal settling after placement, shall be taken up and relayed.
- C. Joint connections shall be in full compliance with the manufacturer's recommendations. When trench conditions consist of "running sand" (saturated fine sand material), joint connections may require being wrapped with a filter fabric material approved by the Superintendent of Public Works. This material is to be wrapped and taped around the joint and pipe for a minimum length of three feet on both sides of the joint.
- D. Backfilling of storm sewer pipe: Fill material shall be deposited evenly on both sides of the pipe in tamped layers not exceeding six-inch depth until at least 3/4 the depth of the pipe has been reached. For wide trenches, tamping shall be done for a distance on each side of the pipe equal to at least the diameter of the pipe.
- E. Inspection: Pipe in trench shall be checked for trueness of line and grade, for absence of leaks, for alignment of joints and freedom from structural damage. Prior to street dedication, the pipe shall be clean and free of all deposits of sand, dirt, concrete or other foreign materials.

§ A119-40. End section installation.

End section installation shall conform to the following:

- A. End sections shall be installed as shown on the plans or as required by the Superintendent of Public Works.
- B. Assemble and install end sections in accordance with the manufacturer's recommendations. All culvert ends and other inlets/outlets of the drainage system not discharging to a structure shall have end sections.

§ A119-41. Catch basin and manhole installation.

Installation of catch basins and manholes shall conform in all respects to details shown on the plans and on the Standard Highway Details.¹⁵

- A. Set all structures to precise grades and alignment to accept piping and frames and grates/covers. Provide and place sections and joints in accordance with ASTM C891 and ASTM C443.
- B. Once set, grout both the inside and outside joints of sections.

§ A119-42. Underdrain installation.

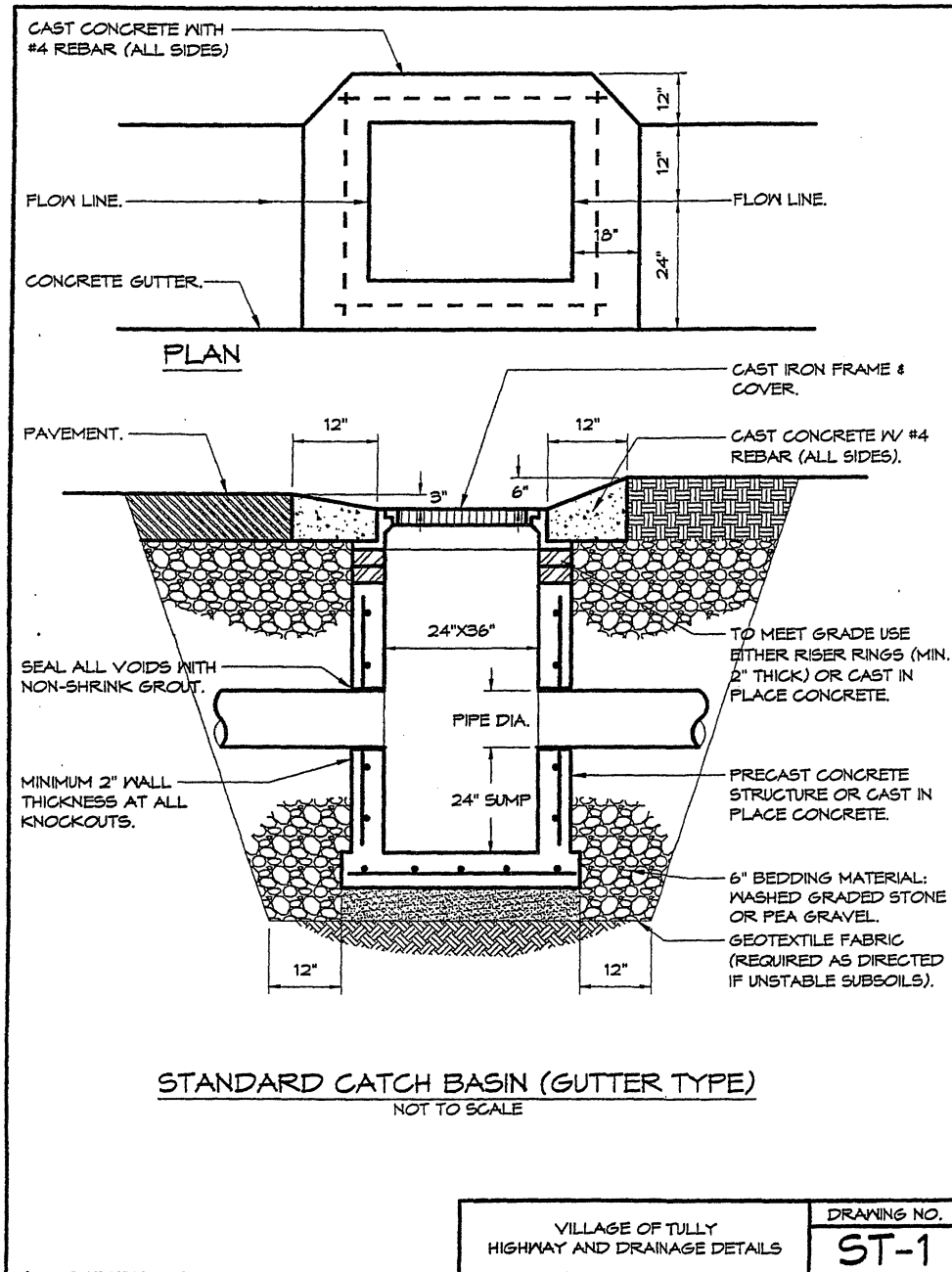
Underdrain pipe shall be installed in accordance with the plans and the typical trench cross-section as shown on the Standard Highway Details, or as required by the Superintendent of Public Works.

¹⁵. Editor's Note: The Standard Highway and Drainage Details are included at the end of this chapter.

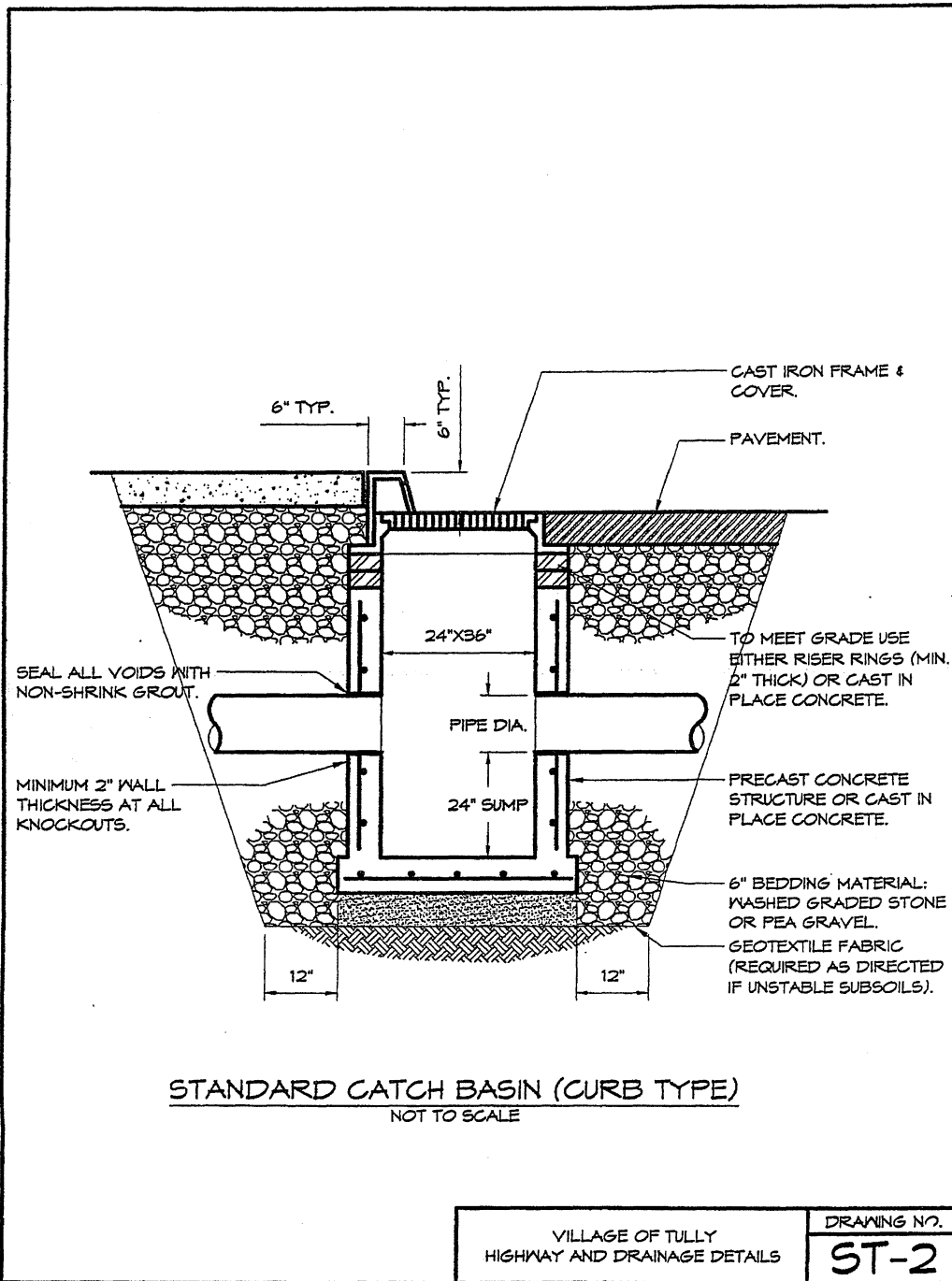
HIGHWAY AND DRAINAGE SPECS

A119 Attachment 1

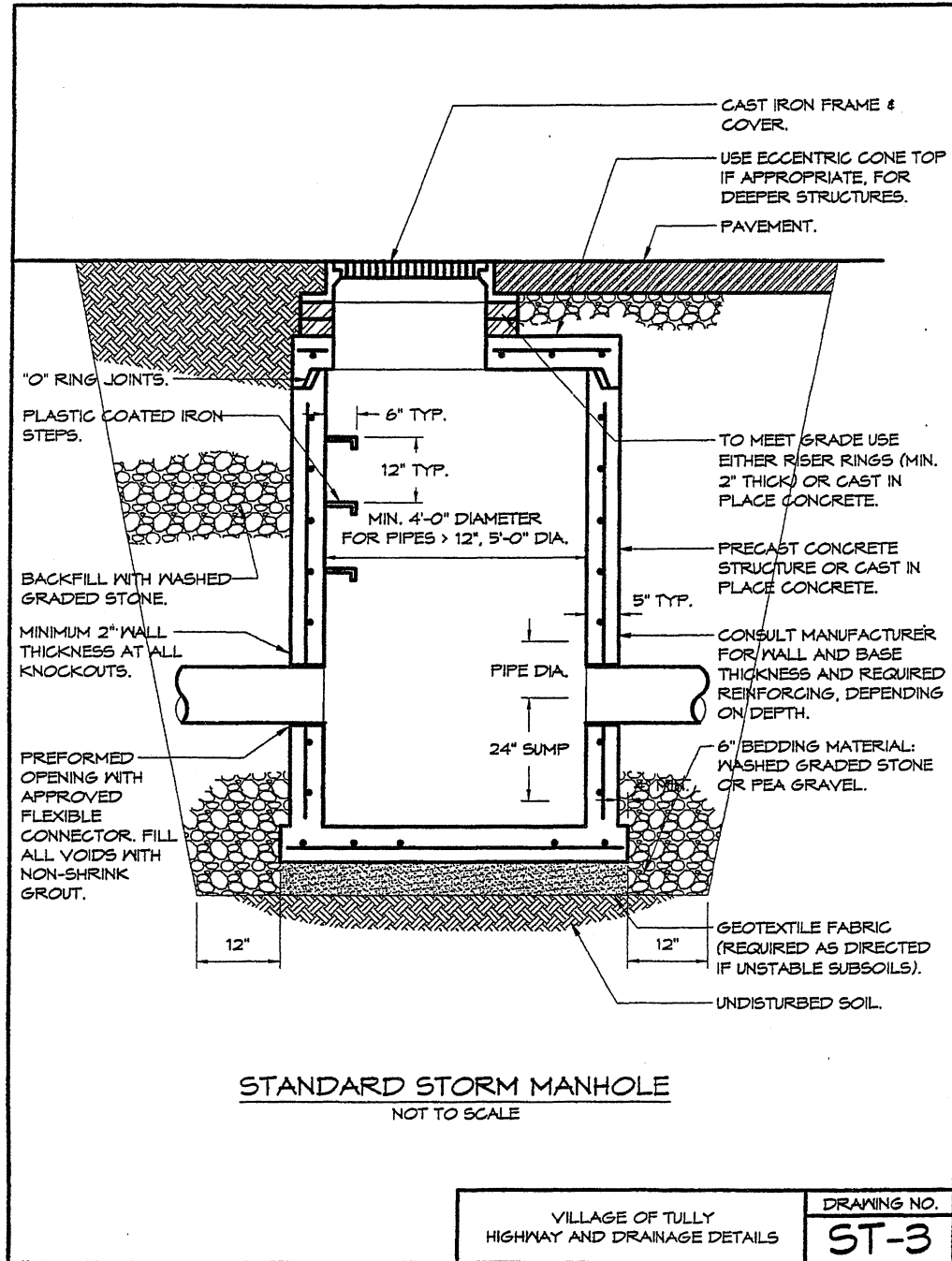
Village of Tully

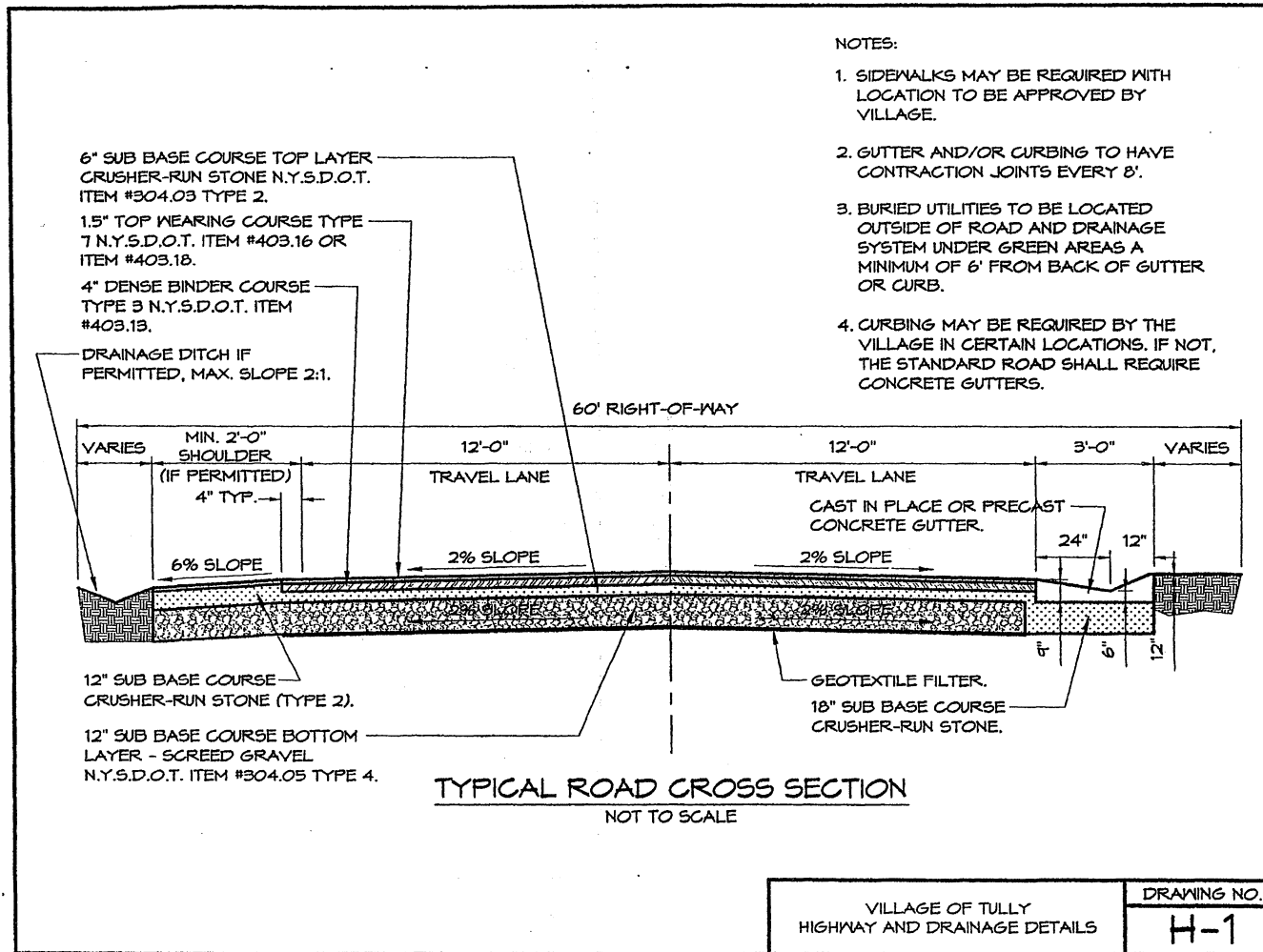


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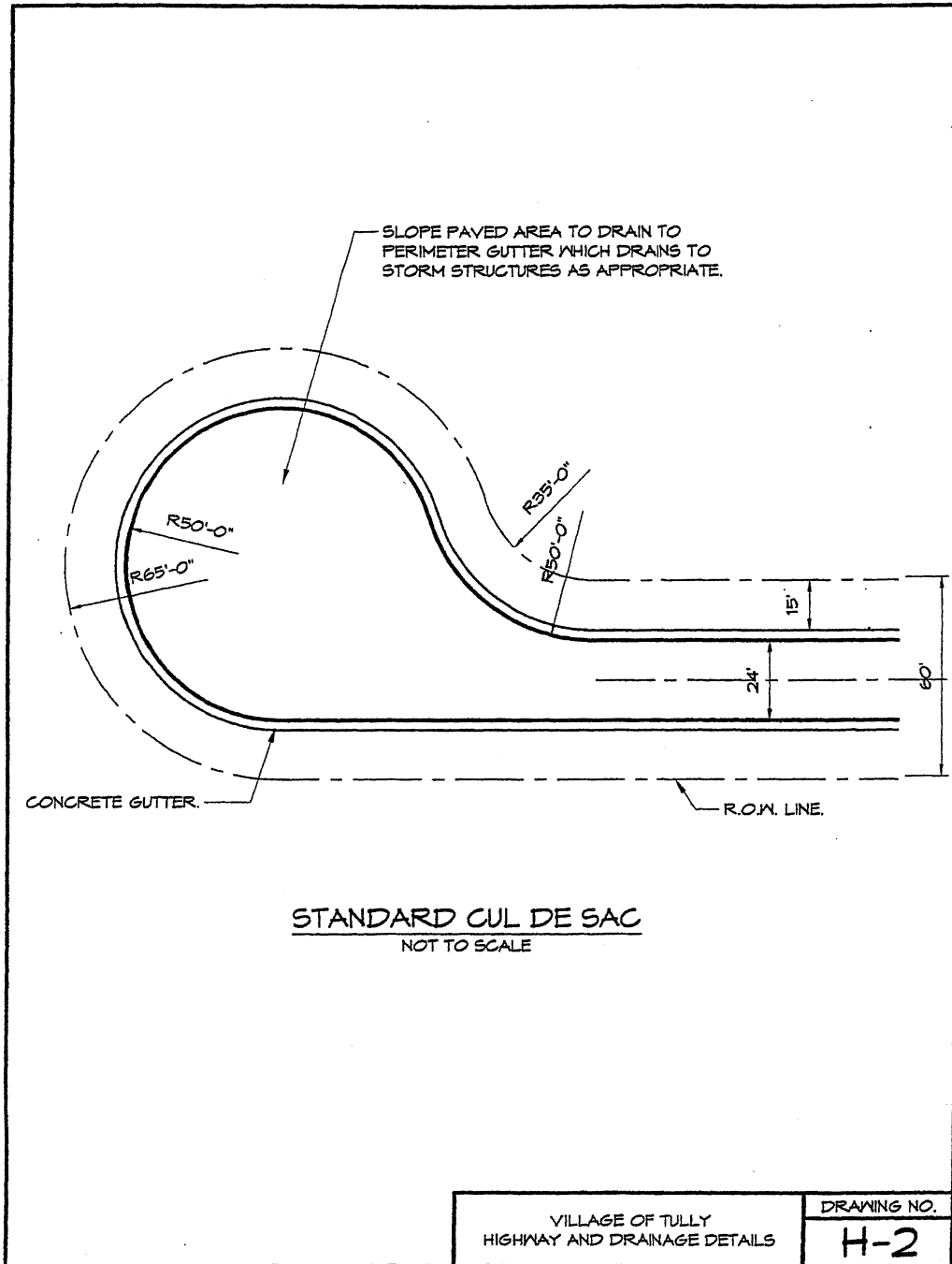


HIGHWAY AND DRAINAGE SPECS

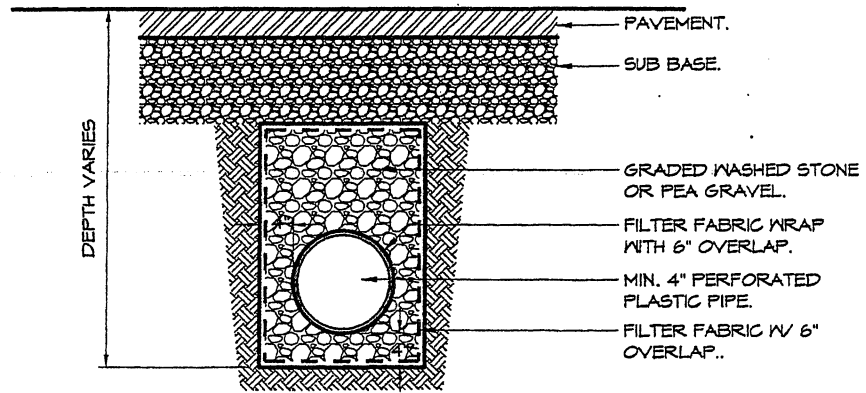




HIGHWAY AND DRAINAGE SPECS



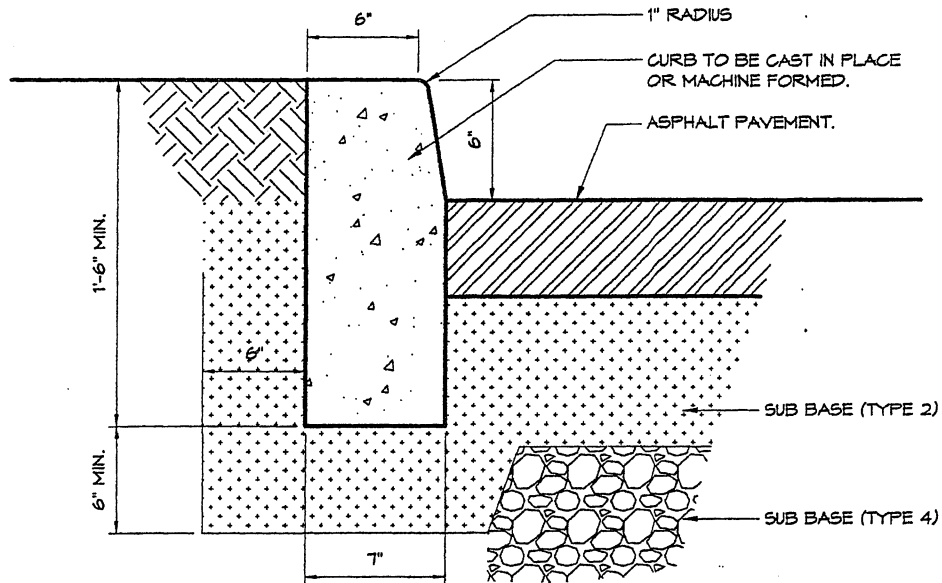
TULLY CODE



STANDARD TRENCH DETAIL FOR UNDERDRAIN PIPE
NOT TO SCALE

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HIGHWAY AND DRAINAGE SPECS



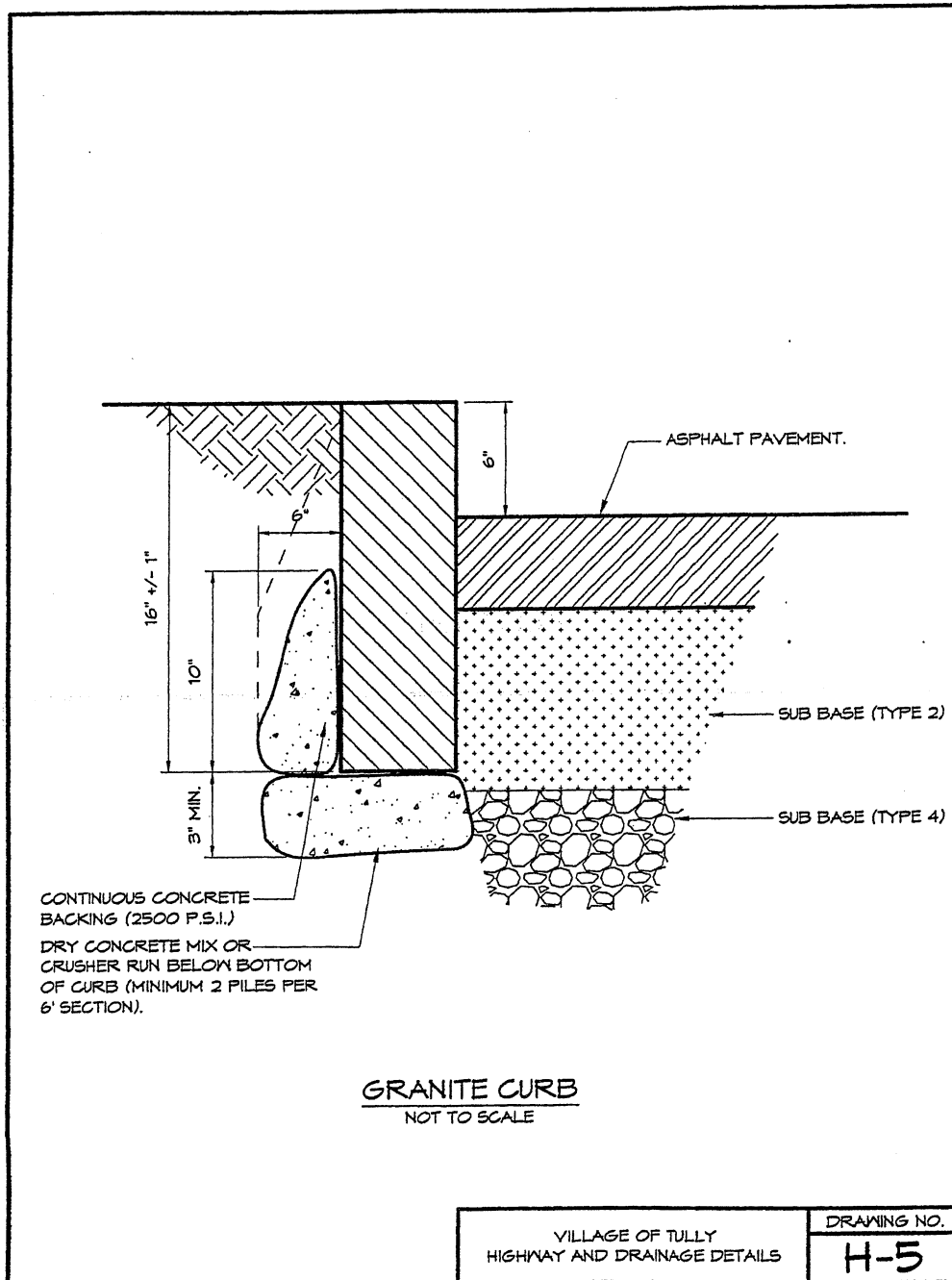
CONCRETE CURB
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HIGHWAY AND DRAINAGE DETAILS

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H-4

TULLY CODE



**DISPOSITION
LIST**



Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Town of Tully adopted since January 1, 2006, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Consult municipal records for disposition of prior legislation.

§ DL-1. Disposition of legislation.

| Enactment | Adoption Date | Subject | Disposition |
|-----------------|---------------|--|------------------|
| L.L. No. 1-2006 | 2-1-2006 | Snow and ice amendment | Ch. 94 |
| L.L. No. 2-2006 | 2-1-2006 | Fire fighters tax exemption amendment | Ch. 98, Art. I |
| | 4-6-2006 | Notification of information security breaches | Ch. 19 |
| L.L. No. 3-2006 | 4-20-2006 | Zoning Map amendment | NCM |
| L.L. No. 4-2006 | 5-4-2006 | Highway and drainage specifications and standards | Ch. A119 |
| L.L. No. 1-2007 | 4-4-2007 | Senior citizens tax exemption amendment | Ch. 98, Art. IV |
| L.L. No. 2-2007 | 4-4-2007 | Increase in veterans exemption amendment | Ch. 98, Art. VI |
| L.L. No. 3-2007 | 4-4-2007 | Tax exemptions for persons with disabilities and limited incomes | Ch. 98, Art. VII |
| L.L. No. 4-2007 | 9-5-2007 | Water amendment | Ch. 108 |
| L.L. No. 1-2008 | 2-13-2008 | Property annexation | NCM |
| L.L. No. 2-2008 | 2-13-2008 | Zoning amendment | Ch. 112 |
| L.L. No. 3-2008 | 3-5-2008 | Senior citizens tax exemption amendment | Ch. 98, Art. IV |
| L.L. No. 4-2008 | 3-5-2008 | Tax exemptions for persons with disabilities and limited incomes amendment | Ch. 98, Art. VII |
| | 6-4-2008 | Credit card policy | Ch. 9 |

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|-----------------|---------------|--|--------------------------------|
| L.L. No. 5-2008 | 7-2-2008 | Fire Department repealer | Ch. 16, reference only |
| L.L. No. 6-2008 | 11-5-2008 | Dogs amendment; pooper scooper regulations | Ch. 35, Arts. II and III |
| L.L. No. 1-2009 | 7-1-2009 | Zoning Map amendment | NCM |
| L.L. No. 2-2009 | 8-5-2009 | Zoning amendment | Ch. 112 |
| L.L. No. 3-2009 | 11-4-2009 | Codes Enforcement Officer | Ch. 8A |
| L.L. No. 4-2009 | 11-4-2009 | Fire prevention and building construction amendment | Ch. 56 |
| L.L. No. 1-2010 | 7-7-2010 | Zoning amendment | Ch. 112 |
| Res. | 3-2-2011 | Procurement policy | Ch. 21 |
| Res. | 3-23-2011 | Vehicles and traffic amendment | Ch. 103 |
| L.L. No. 1-2011 | 4-6-2011 | Internet and communications systems usage and privacy policies | Ch. 16 |
| L.L. No. 2-2011 | 4-6-2011 | Development fees repealer; professional services reimbursement | Ch. 45, reference only; Ch. 81 |
| L.L. No. 3-2011 | 4-6-2011 | Water amendment | Ch. 108 |
| L.L. No. 4-2011 | 5-4-2011 | Peddlers, hawkers, vendors and solicitors | Ch. 78 |
| L.L. No. 5-2011 | 11-2-2011 | Fireworks displays | Superseded by L.L. No. 1-2012 |
| L.L. No. 6-2011 | 11-2-2011 | Tax levy limit override | NCM |
| Res. | 11-2-2011 | Vehicles and traffic amendment | Ch. 103 |
| L.L. No. 1-2012 | 1-4-2012 | Fireworks displays | Ch. 57 |
| L.L. No. 2-2012 | 1-4-2012 | Tax levy limit override | NCM |
| L.L. No. 1-2013 | 4-3-2013 | Tax levy limit override | NCM |
| L.L. No. 2-2013 | 4-3-2013 | Procurement policy amendment | Ch. 21 |
| L.L. No. 1-2015 | 7-1-2015 | Property maintenance: general landscape | Repealed by L.L. No. 1-2017 |
| L.L. No. 1-2016 | 10-5-2016 | Flood damage prevention | Ch. 59 |
| L.L. No. 1-2017 | 8-3-2017 | General Property Maintenance; Unsafe Buildings Repealer | Ch. 82; Ch. 101, ref. only |

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|-----------------|---------------|---|-------------|
| L.L. No. 1-2018 | 2-7-2018 | Subdivision of Land Amendment | Ch. 95 |
| L.L. No. 2-2018 | 5-2-2018 | Community Choice Aggregation (Energy) Program | Ch. 43 |

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|-----------------|---------------|---|--|-----------|
| L.L. No. 1-2019 | 1-2-2019 | Animal Control; Apiaries Amendment; Large Farm Animals; Poultry; Zoning Amendment | Ch. 35, Art. I; Ch. 35, Art. IV; Ch. 35, Art. V; Ch. 112 | 46 |
| L.L. No. 1-2020 | 6-3-2020 | Flood Damage Prevention | Ch. 59 | 46 |



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