

**Code
of the
Village of
Mohawk**

COUNTY OF HERKIMER
STATE OF NEW YORK

SERIAL NO.: _____

**OFFICIALS
OF THE
VILLAGE OF
MOHAWK**

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2010

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Village Clerk-Treasurer

JUDY L. BRAY

Village Attorney

KARL E. MANNE, ESQ.

CERTIFICATION

VILLAGE OF MOHAWK

Office of the Village Clerk-Treasurer

I, JUDY L. BRAY, Village Clerk-Treasurer of the Village of Mohawk, New York, 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 Mohawk, and that said local laws, ordinances and resolutions, as revised and codified, renumbered as to sections and rearranged into chapters, constitute the Code of the Village of Mohawk, County of Herkimer, State of New York, as adopted by local law of the Board of Trustees on July 14, 1997.

Given under my hand and the Seal of the Village of Mohawk, County of Herkimer, State of New York, this 14th day of July, 1997, at Mohawk, New York.

s/ JUDY L. BRAY
Village Clerk-Treasurer

PREFACE

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

Contents of Code

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Board of Trustees of the Village of Mohawk, 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 two major divisions. The first division includes the Charter of the village. The second division includes all legislation of a general and permanent nature as Parts I and H. Part I, Administrative Legislation, contains all village legislation of an administrative nature, such as 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.

Reserved Chapters

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

Pagination

A unique page-numbering system has been used, in which each chapter forms an autonomous unit. One hundred pages have been allotted to each chapter, and the first page of each is the number of that chapter followed by the numerals "01." Thus, Chapter 6 begins on page 601, Chapter 53 on page 5301, etc. By use of this system, it is possible to add or to change pages in any chapter without affecting the sequence of subsequent pages in other chapters, and to insert new chapters without affecting the existing organization.

Numbering of Sections

A chapter-related section-numbering system is employed, in which each section of every 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 is § 6-1, while the fourth section of Chapter 53 is § 53-4. New sections can then be added between existing sections using a decimal system. Thus, for example, if two sections were to be added between §§ 53-4 and 53-5, they would be numbered as §§ 53-4.1 and 53-4.2.

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 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 amended or revised are indicated in the text by means of Editor's Notes referring to the chapter cited above.

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.

Disposition List

The Disposition List is a chronological listing of legislation adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

Index

The Index is a guide to information. Since it is likely that this 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 1, 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).

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

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THE CHARTER

CHARTER

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[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk L. 1844, c. 157. Amendments noted where applicable.]

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- § C-1. Boundaries; corporate name. [Amended L. 1866, c. 309; L. 1882, c. 315; L. 1941, c. 801; L. 1950, c. 662¹]

All that district of country in the Town of German Flats, in the County of Herkimer, contained in the following boundaries, namely: Beginning at a point in the center of the highway leading from the Village of Mohawk to the Village of Herkimer, at the south end of the bridge over the Mohawk River, and running thence along the south bank of said river westerly to the point where the east line of the Village of Ilion strikes said Mohawk River; thence southerly, along said east line of said Village of Ilion, to a point on the ridge of lands southwesterly of the dwelling house formerly owned by John H. Myers, thence south fifty-nine degrees east, twelve chains eighteen links, to an apple tree on the easterly side of Warren Road; thence south forty-four degrees thirty minutes east, fifty-seven chains twelve links, to an elm tree on the easterly bank of Fulmer Creek; thence south forty-four degrees east, five chains ninety-five links, to the north corner of the bridge across said creek near a plaster mill; thence south thirteen degrees east, seven chains, up the eastern bank of said creek; thence south eighty-six degrees east, two chains twenty-seven links, to a buttonwood tree; thence north four degrees thirty minutes east, four chains fifty-two links, to a maple tree; thence north thirty-three degrees forty-five minutes east, fourteen chains four links, to an apple tree standing near the north side of the highway; thence north thirty-three degrees thirty minutes east, twenty-three chains five links, to a point; thence north thirty-eight degrees forty-five minutes east, thirteen chains ninety links, to an elm tree at the edge of the woods; thence north forty-eight degrees forty-five minutes east, seven chains twenty-six links, to a point in the edge of the woods; thence north sixty-three degrees forty-four minutes east, seven chains thirty-eight links, to a pine tree; thence north

¹ Editor's Note: Effective 4-14-1950. Amended at time of adoption of Code; see Ch 1, General Provisions, Art. I.

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sixty-one degrees east, one chain eighty-six links, to a maple tree; thence north thirty-nine degrees east, fourteen chains three links, to a point on the south bank of the Mohawk River; thence north forty-five degrees fifteen minutes west, nine chains, up the southern bank of said river to the place of beginning; together with all that district of country in the Town of German Flats, in the County of Herkimer, contained in the following boundaries, namely: Beginning at a concrete monument set in the foregoing boundary line, said monument being located south thirty-eight degrees forty-five minutes west and one hundred forty-eight and sixty-one hundredths feet distant from an angle point in said boundary line, said angle point being the fifth angle point in said boundary line south of the Mohawk River; and running thence from said place of beginning south sixteen degrees one minute east along the westerly boundary of lands now or formerly owned by Washer, one hundred seventy-five and thirty-four hundredths feet to the southwesterly comer thereof, thence north seventy-four degrees twenty-two minutes east along the southerly boundary of said Washer lands and lands formerly owned by the Schaufler estate and recently acquired by the Village of Mohawk from the County of Herkimer, five hundred twenty-four and twenty-six hundredths feet to the northeasterly comer of lands of the Village of Mohawk heretofore acquired from the Quackenbush estate; thence south sixty-eight degrees forty-seven minutes east three hundred thirty-seven and ninety-one hundredths feet to the northwesterly comer of a parcel heretofore acquired by the Village of Mohawk from Kazimiez Morcewicz and Antonina Morcewicz; thence south fifty-three degrees fifty-seven minutes east along the northerly line of said village parcel one hundred ninety-nine and seventy-seven hundredths feet to the northeasterly comer thereof, thence south thirty-five degrees fifty-two minutes west along the easterly boundary of said village parcel two hundred fifty-one and seventy-one hundredths feet to the southeasterly comer thereof, thence north forty degrees nineteen minutes west along the northerly boundary of lands now or formerly owned by Lyle B. Brown and wife, one hundred three and eighty-two hundredths feet to a point; thence south sixty-nine degrees fifty minutes west along the easterly line of a parcel heretofore acquired by the Village of Mohawk from said Lyle B. Brown and wife, one hundred seventy-one and ninety-eight hundredths feet to the most southerly comer thereof-, thence south thirty-five degrees fifty-one minutes west along the westerly boundary of the Lyle B. Brown property, two hundred thirty-four and fifty-one hundredths feet to the southeasterly comer of said lands heretofore acquired by the Village of Mohawk from the Quackenbush estate; thence north fifty-seven degrees fifty minutes west along the southerly line of said village lands, which is also the northerly line of lands now or formerly owned by Alexander Reardon, eight hundred eight and thirty-nine hundredths feet to a concrete monument set in said foregoing boundary line, thence north thirty-eight degrees forty-five minutes east along said boundary line two hundred seventy and ninety-six hundredths feet to the place of beginning, together with all that district of country in the Town of German Flats in the County of Herkimer contained in the following boundaries, namely: Beginning at a point in the boundary line of the Village of Mohawk designated by a concrete corporation marker known as "No. 6," erected in 1941 by G. L. Forrest, C.E., which marker is located upon the property now or formerly owned by Dwight and Mary Dodge on the northerly side of Henry Street and running thence southwestly along said village line a distance of 93.9 feet to a point marked by an iron pipe; thence southeasterly along the westerly line of the Shoemaker Hill County Road right-of-way, making an exterior angle on the easterly side of $116^{\circ} 13'$ a distance of 31.0 feet to a point marked by an iron pipe; thence southerly along the westerly line of the Shoemaker Hill County Road right-of-way, making an interior angle on the westerly side of $161^{\circ} 41'$ a distance of 70.85 feet to a point marked by an iron pipe; thence southerly along the westerly line of the Shoemaker Hill County Road right-of-way making an angle on the westerly side of $172^{\circ} 351'$ a distance of 214.23 feet to a point marked by an iron pipe; thence southeasterly along the westerly line of the Shoemaker Hill County Road right-of-way making an angle on the westerly side of $191^{\circ} 52'$ a distance of 264.0 feet to a point marked by an iron pipe; thence northwesterly along the lands now or formerly owned by J. Millard Johnson making an angle of $65^{\circ} 09'$ a distance of 456.1 feet to a point marked by an iron pipe; thence northeasterly along said

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village line making an angle of 64° 56' a distance of 595.2 feet to the place of beginning, shall hereafter be known and distinguished as the “Village of Mohawk,” and the inhabitants residing within the bounds aforesaid shall hereafter be a body corporate, by the name of the “Village of Mohawk.”

§ C-2. Elections; officers; terms. [Amended L. 1894, c. 99; L. 1896, c. 162; L. 1941, c. 441; L. 1963, c. 13; 7-14-1997 by L.L. No. 4-1997¹

- A. The inhabitants residing within the bounds of said village shall meet on the third Tuesday of June in each year, at a place within said village to be fixed and designated by the Board of Trustees of said village, for the purpose of electing officers for said village. The Clerk-Treasurer of said village shall cause to be published in a newspaper published in said village for at least two (2) weeks before every such election a notice of the time and place of such election or, if the Board of Trustees so directs, such notice may be posted for the same length of time in five (5) public and conspicuous places in said village in lieu of such publication, but a failure to so publish or post such notice shall not invalidate an election. Every inhabitant of such village who shall have been an actual inhabitant of such village for at least thirty (30) days prior to the day of such election and who shall be entitled by law to vote at a town meeting for the election of town officers shall be entitled to vote at such election, provided that he or she shall have complied with the election laws of the state. The polls of such election shall be kept open from 12:00 noon to 9:00 p.m., and such election shall be opened and presided at by at least two (2) of the Trustees of said village. Such elections shall be by ballot and shall be held and conducted according to the election laws of this state, as far as applicable. **[Amended 3-10-1997 by L.L. No. 1-1997; 10-18-2004 by L.L. No. 4-2004]**
- B. The Board of Trustees of the village shall be comprised of a Mayor and four (4) Trustees. At the annual election to be held on the first Tuesday in March in 1978, and at alternate such annual elections thereafter, there shall be elected a Mayor who shall hold office for four (4) years. Also at that election there shall be elected a Trustee, who shall hold office for three (3) years, and a Trustee who shall hold office for four (4) years, and at each successive such annual election there shall be elected a Trustee to fill the office of the Trustee whose term is then expiring, all such Trustees in each such successive annual election so elected to hold office for four (4) years; this to the end that the Board of Trustees shall at all times be comprised of four (4) Trustees and the Mayor. **[Amended 1-25-1977 by L.L. No. 1-1977³; 1-14-2008 by L.L. No. 1-2008⁴; 2-8-2010 by L.L. No. 1-2010⁵]**
- C. **[Repealed 2-8-10 by L.L. No. 1-2010]**
- D. No person shall be eligible to any of said offices unless he or she shall be entitled to vote at the election at which he or she shall be so elected, and if any person elected to any of said offices shall be removed from said village, the office to which he or she was elected shall thereupon

² Editor's Note: This local law was subject to permissive referendum. No valid petition for such referendum was filed.

³ Editor's Note: This local law passed at referendum 3-29-1977.

⁴ Editor's Note: This local law was subject to permissive referendum. No valid petition for such referendum was filed.

⁵ Editor's Note: This local law was approved upon permissive referendum 4-13-2010.

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become vacant. Any vacancy occurring in any of said offices for any cause shall be filled for the unexpired term by the Board of Trustees by appointment, in writing, to be filed by the Clerk-Treasurer and preserved.

E. A majority of the Board of Trustees shall constitute a quorum.⁶

§ C-3. Composition of Board of Trustees. [Amended 1-25-1977 by L.L. No. 1-1977]

The Mayor and the Trustees of the village shall comprise the Trustees of the Village of Mohawk and as a body they shall constitute the Board of Trustees of the Village of Mohawk.

§ C-4. Clerk-Treasurer. [Amended L. 1894, c. 99; L. 1895, c. 60; L. 1904, c. 301; L. 1946, c. 820; 1-25-1977 by L.L. No. 1-1977]

The Board of Trustees shall have powers and it shall be their duty to appoint, from the electors residing within the village, a Clerk-Treasurer, and to remove such Clerk-Treasurer for cause. The Clerk-Treasurer so appointed shall assume and perform the duties of the Clerk of the village, the Treasurer of the village and the Collector of the village, those duties set forth in § C-5 below and duties otherwise required by law of such offices. All reference to "Clerk," "Treasurer" and "Collector" herein shall hereafter refer to "Clerk-Treasurer" and that office.

§ C-5. Duties of Clerk-Treasurer. [Amended 1-25-1977 by L.L. No. 1-1977]

The Clerk-Treasurer, subject to the direction and control of the Board of Trustees, shall have the custody of the corporate seal and of the books, records and papers of the village, all official reports and communications to the Board and the correspondence of the Board. He or she shall attend all regular and special meetings of the Board and will take and keep minutes of such meetings and of meetings of the inhabitants of the village called by the Board. He or she shall keep an index record, in a separate book, of all of the village ordinances and of all local laws, and he or she shall keep a record of established village practices. He or she shall serve as the Village of Mohawk Village Office Manager; he or she shall keep and maintain the personnel records of the employees of the village and he or she shall be in immediate charge of the Municipal Building. The Clerk-Treasurer shall be the chief fiscal officer of the village; he or she will serve as Assistant Budget Officer to the Mayor and as such will prepare the annual estimate and compute the tax rate; and he or she will submit monthly budget status reports to the Board of Trustees. He or she shall receive all moneys belonging to the village and keep an accurate account of all receipts and expenditures. He or she shall keep all fiscal records of the village required by law, and he or she shall reconcile all account balances and bank balances. Further, subject to the direction and control of the Board, the Clerk-Treasurer shall collect all village taxes and assessments and shall deposit the proceeds of such collections in such bank or banks as the Board of Trustees may, from time to time, prescribe. The Clerk-Treasurer shall also perform such other duties, not consistent with the foregoing, as shall be determined by the Board of Trustees.

⁶ Editor's Note: Former §§ 3 and 4, which dealt with penalties for refusal of village officers to serve and oaths of office, respectively, were deleted 7-14-1997 by Ord. No. 4-1997.

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§ C-6. Clerk-Treasurer to give bond. [Amended 1-25-1977 by L.L. No. 1-1977]

The Clerk-Treasurer shall, before entering upon the duties in his or her office, give bond to the Village of Mohawk, the same to be delivered to the Mayor, the conditions of such bond being that the Clerk-Treasurer will account and pay over for all moneys that shall come into his or her hands as Clerk-Treasurer, and that he or she will faithfully perform the trust reposed in him or her as Clerk-Treasurer and further, as the Board of Trustees may require, that such bond shall be in an amount that the Board of Trustees shall deem sufficient or is by law required.

§ C-7. Municipal Commission. [Amended L. 1984, c. 301]

- A. Municipal Commission constituted; members; their powers and duties. The Board of Trustees shall have the power and it shall be its duty to appoint five (5) Commissioners who shall constitute a separate Board of Commissioners, vested with the powers and duties and responsibilities of separate Boards of Light, Water and Sewer Commissioners, which Board so created shall be hereafter styled the "Municipal Commission of the Village of Mohawk." Each of the Commissioners so appointed shall be at the time of his or her appointment and during his or her term of office a resident of said village and a taxpayer and qualified elector therein and shall not be the incumbent of any other village office. They shall hold office from the date of their appointment, or as soon thereafter as they shall have qualified, respectively, until the 30th day of June next ensuing; provided, however, that if the Board of Trustees fails to so appoint before the 30th day of June, the existing Commissioners shall continue to hold office until their successors are appointed and have qualified, but their offices shall be deemed vacant for the purpose of appointing their successors, and such appointments may be made at any time thereafter for the balance of the unexpired terms. **[Amended 12-18-1995 by L.L. No. 2-1995; 10-14-1996 by L.L. No. 5-1996; 7-14-1997 by L.L. No. 4-1997; 3-27-2000 by L.L. No. 3-2000; 8-08-2005 by L.L. No. 1-2005]**
- B. Oath of office. Every Commissioner, before entering upon the duties of his or her office, shall take and file with the Village Clerk-Treasurer the oath of office prescribed by the Constitution of the state.
- C. Officers of Commission; meetings; quorum. Within thirty (30) days after their appointment as hereinbefore provided, such Commissioners shall meet at the office of the Board of Trustees in said village and proceed to organize as a Municipal Commission. They shall, at such meeting, designate one (1) of their number to be President of the Commission, whose duty it shall be to preside at the meetings at which he or she is present and to call special meetings of the Commission upon the request of any two (2) other Commissioners, or of his or her own motion whenever, in his or her discretion, he or she may deem it necessary. In the absence of the President, the Commissioner having the shortest term to serve shall preside. Any three (3) of said Commissioners shall constitute a quorum for the transaction of business, except that the concurrence of three (3) Commissioners shall be necessary for a majority at any meeting, and no action shall be taken nor resolution adopted unless at least three (3) Commissioners present and voting shall vote in the affirmative therefor; but two (2) Commissioners may adjourn a meeting to a day certain or otherwise. The vote upon any proposed action or resolution shall be by roll call, and the Clerk-Treasurer shall in every case record the number of votes cast for and against.
- D. Powers and duties of Commissioners. The Commissioners hereby appointed, when they shall

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have organized as a Municipal Commission, shall be vested with the control and supervision of the village lighting system, the water system and the sanitary sewer system as said systems now exist or may hereafter be established, extended, enlarged or improved and shall possess all the powers generally which are now by law vested in the Board of Trustees or in separate Boards of Commissioners, with reference to the light, water and sanitary sewer systems of the village, not inconsistent with the express provisions or limitations of this Charter. They shall be charged with the duty of maintaining and operating the village lighting system, the waterworks and all village sanitary sewers, shall keep in repair and in good working order all buildings, sanitary sewers, lines, piping, reservoirs, galleries and tools, machines and apparatus and may, from time to time, improve and extend the same or any of them. The Commission, subject to final approval by the Village Board, shall have power to appoint, employ and discharge agents or subordinates and other employees and to fix their compensation. **[Amended L. 1911, c. 412; 10-14-1996 by L.L. No. 5-1996; 7-14-1997 by L.L. No. 4-1997; 10-13-1998 by L.L. No. 4-1998]**⁷

- E. (Reserved)⁸
- F. Ordinances of Commission. The Municipal Commission may adopt ordinances, not inconsistent with law, for enforcing the collection of water and light rents and relating generally to the use of water and light and the village sanitary sewers, and may enforce the observance thereof by summarily cutting off the supply of water or light or any sanitary sewer connection. Such ordinances and bylaws as are now in force and effect shall inure to the benefit of said Commission and may be enforced by them in all respects, as they may now be by the Board of Trustees, and additions or amendments thereto not inconsistent with law may be adopted by said Municipal Commission in the same manner and with the same formalities as, by this Charter, provided for the adoption or amendment of village ordinances generally before they shall take effect, except that the personal service of a certified copy of any ordinance shall become at once binding and in full force and effect as to the particular person or party upon whom it is so personally served. And said Commission shall also have the power to sue for, in the name of the village, and collect all penalties by said bylaws and ordinances imposed. **[Amended L. 1911, c. 412; 10-14-1996 by L.L. No. 5-1996]**
- G. Rates for water and light. Said Commissioners may establish a scale of rates for the use of water and light and direct the time and manner in which they shall be paid, and until the Commission sees fit to alter and amend the existing schedule of rates, rents shall be charged and collected at the rates therein specified.
- H. Statement of revenues and expenses. The Commissioners shall make and file with the Commission a statement of the estimated revenues and expenditures for the then current fiscal year on account of each of the several -separate departments under their control, setting out briefly and separately for each department the items for which such funds are to be expended and the revenues estimated to be derived and their particular sources on account of its operation and maintenance, and if the estimated amount of expenditures shall exceed in seen statement the estimated amount of revenues, it shall be the duty of the Board of Trustees to incorporate in their

⁷ Former Subdivisions 5 and 6, as amended by L. 1919, c. 141, which dealt with the appointment of the Clerk of the Municipal Commission and police constables, respectively, and immediately followed this subsection, were deleted 7-14-1997 by I-L. No. 4-1997.

⁸ Editor's Note: Former Subsection E, Fire Department; control of, was repealed 10-14-1996 by L.L. No. 5-1996. Section 2 of this local law also provided as follows: "Authority and control over the Police and Fire Departments and all matters pertaining to police and fire protection shall be vested in the Board of Trustees to the extent permitted by law."

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annual tax budget and raise by tax and appropriate for the purpose of meeting the deficiency the sum estimated in such statement to be necessary for that purpose. The Commissioners shall have power and it shall be their duty to audit all proper bills or claims for disbursements on account of the several departments in their charge in all respects, as the Board of Trustees did or could do before the passage of this Charter. And it shall be the duty of the Commission to pay all accounts and claims so audited and allowed by them to the extent of the moneys in his or her hands to the credit of the department or fund against which the audit is charged. All expenses legally incurred by said Commission in the maintenance and operation of any of the departments under their control shall be a valid charge against the village and may be raised by tax upon the taxable property therein. [Amended 4-9-1986 by L.L. No. 4-1986⁹]

- I. Compensation of Commissioners. No Commissioner appointed hereunder shall be interested, either directly or indirectly, in any contract, claim or account for or relating to any work done or material furnished for any of the departments under the control of said Municipal Commission. Each of the Commissioners shall, if the Board of Trustees so authorize, receive an annual salary in an amount to be fixed by the Board of Trustees, to be paid from the operating funds of the Commission. [Amended L. 1949, c. 766¹⁰]
- J. Trustees to deliver records and property to Commission. Upon the appointment, qualification and organization of said Commissioners as the Municipal Commission of the Village of Mohawk, it shall be the duty of the Board of Trustees immediately to turn over to them all books, papers, records and property of every description appertaining and relating to the operation, maintenance, business and affairs generally of the several departments under the control of said Commission and to furnish a statement of the indebtedness of each of said departments, whether bonded or otherwise, the receipts standing to its credit and any claims, demands and assets outstanding which are due or to fall due either to or against the Village of Mohawk on account of said department. And they shall also render to such Commission an account of the progress and condition of any work begun by the Board of Trustees in any of said departments, together with such information in regard thereto and in regard to the operation and maintenance of said systems and departments as said Municipal Commission shall desire and demand.

§ C-8. Tenure of office. [Amended L. 1894, c. 99; L. 1904, c. 301; L. 1906, c. 310; L. 1906, c. 310; L. 194, c. 441¹¹]

Except as otherwise in this Charter provided, or as may be otherwise provided by local law, all officers elected or appointed by shall respectively hold office for one (1) year, unless sooner removed.

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

¹⁰ Editor's Note: Effective 4.23-1949.

¹¹ Editor's Note: Effective 4-15-1941. Amended at time of adoption of Code; see Ch. 1, General Provisions, Art 1.

§ C-9. Compensation of officers. [Amended L. 1941, c. 441; L. 1946, c. 820¹²]

The Mayor, members of the Board of Trustees, and village officers and employees shall receive the compensation, if any, for their services as the Board of Trustees shall think proper to allow. Any and all fees which the Treasurer is entitled to collect shall be collected and shall hereafter become the property of the village. Nothing contained in this section shall be construed to prevent the Trustees from receiving reimbursement for any expenses necessarily incurred in connection with the performance of their duties. [Amended 2-8-2010 by L.L. No. 1-2010¹³] ¹⁴

§ C-10. Accounts.

The Trustees shall keep an accurate account of their expenses and disbursements and of all moneys received and paid by them during their continuance in office and shall, at every annual meeting, either in person or by the Treasurer, prepare and state the account of the current year, in writing, to be filed with the Clerk; and if a balance remains in their hands or in the hands of the Treasurer, they shall pay the same over to his, her or their successors.

§ C-11. Vacancies. (Amended L. 1866, c. 309¹⁵)

The Board of Trustees are authorized to fill all vacancies that may happen in any office, whether occasioned by the failure of the people to elect at the annual charter election or otherwise, for the remainder of the term during which such vacancies shall occur, and may at any time remove from office or place any person who shall have been appointed by them for sufficient cause, reasonable notice having been first given to the delinquent; and all persons so appointed shall have like powers and be subject to the same duties, restrictions and liabilities and be subject to the same requirements as if elected or originally appointed.

§ C-12. Sidewalks. [Amended L. 1866, c. 309; L. 1894, c. 99; L. 1894, c. 624¹⁶]

The Board of Trustees shall have power to cause the sidewalks within said village to be leveled, raised, lowered, pitched, graveled, repaired or paved, and they shall assess the expense thereof in a just and equitable manner upon the lots and property in front of or along which such improvement shall have been made; but no street shall be required to be paved without the consent, in writing, of a majority of the property owners liable to be assessed therefor. Said Board of Trustees shall have power to compel the owners and occupants of lands and lots in front of or adjoining which a

¹² Editor's Note: Effective 4-17-1946.

¹³ Editor's Note: This local law was approved upon permissive referendum 4-13-2010.

¹⁴ Editor's Note: Former §§ 12 and 13, as amended, which dealt with voter authorization of fund raising and fire engines, respectively, and which immediately followed this section, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

¹⁵ Editor's Note: Effective 3-31-1866.

¹⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

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sidewalk is now laid or hereafter ordered by said Trustees to be laid, or to be made or repaired, to build such sidewalks or make such repairs in such a manner and of such materials as such Trustees shall order and direct. If any such person shall neglect or refuse to build or repair such sidewalk or sidewalks or make such required improvements within such reasonable time as shall be required by the Trustees not less than ten (10) days after receiving a notice, in writing, requiring them to build such sidewalk or make such repairs and specifying the manner the same is required to be done and the materials to be used, the Trustees may cause such sidewalk to be so built or to be so repaired, and the expense thereof may be then assessed against such owner or owners so neglecting or refusing, and the same shall be a lien upon such lot or land until paid; and the same shall be collectible, by a warrant issued by said Trustees and collected as other taxes in said village are collected under this Charter. In case such tax or assessment shall not be paid or collected, the Trustees may cause the owner thereof to be sued for the payment or collection of such tax or assessment and the costs and expenses of such collection. If an action at law shall be commenced for the recovery of such tax or assessment, such action shall be in the name of the Village of Mohawk and shall be commenced and prosecuted in any court having jurisdiction in the same manner as civil actions at law are commenced and prosecuted. If recovery is had, an execution may issue upon such judgment as in civil actions, and the same right to appeal shall be had by either party, as is provided by law in civil actions. The notice by this section required to be served shall be served personally, if the owner resides within said village, and can be found with reasonable diligence; otherwise it may be served by handing the same to any person residing upon the premises of reasonable age and discretion, and leaving the same with such person, or by mailing the same to such owner at his or her last known place of residence, with the postage prepaid, and if such owner is a corporation, such notice may be served on any officer thereof. A person in possession of land under a contract to purchase the same may be deemed an owner for the purposes of this Charter.

§ C-13. Powers of Trustees. [Amended L. 1880, c. 412; L. 1906, c. 310; L. 1917, c. 125]

The Trustees shall have power:

- A. To appoint persons to fill any and all vacancies in any board or commission to serve under the direction and approval of the Village Board of Trustees.¹⁷
- B. To appoint one (1) of their number to preside at any meeting, either of the inhabitants or of themselves, in the absence of the Mayor.
- C. To purchase and hold such real estate as may be necessary for the location and erection of facilities necessary for village operations.¹⁸
- D. To purchase fire engines and other usual apparatus and implements for extinguishing fires and to erect houses for the safekeeping thereof.

¹⁷ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

¹⁸ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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- E. To provide for the equipment, government, duties and exercise of fire companies.¹⁹
- F. To prevent and remove obstructions in the streets and upon the sidewalks; and to regulate the planting of shade trees in the streets.²⁰
- G. To prevent the running at large in said village of cattle, horses, sheep, swine, geese or other animals by impounding and the sale thereof.²¹
- H. To provide for the safekeeping and repairing of the property of said the village and to provide for keeping the parks, squares, commons, streets and open grounds in said village in good order, and to enact and enforce penalties for any injury done to trees or shrubbery standing in any public place in said village.
- I. To restrain exclusively within the bounds of said village in such manner as they may deem proper, the exhibition of any show, caravan, circus, theater or any artificial or natural curiosity, for money; and they shall in no case permit such exhibition, except on the payment to the Treasurer for the use of the corporation a sum as established by resolution of the Village Board of Trustees. [**Amended 7-14-1997 by L.L. No. 4-1997²²**]
- J. To prescribe the manner of drawing moneys from the hands of the Treasurer; and keeping all the accounts respecting the affairs of said village.
- K. To remit all fines, penalties and forfeitures, wholly or in part.
- L. [**Amended 12-18-1995 by L.L. No. 2-1995; 7-14-1997 by L.L. No. 4-1997; 11-9-1998 by L.L. No. 5-1998; 8-8-2005 by L.L.No. 1-2005**] Cemetery Commissioners. To appoint five (5) Commissioners who shall constitute a separate Board of Commissioners vested with the care, management and control of the cemetery of the Village of Mohawk, which Board so created shall be styled the "Cemetery Commission of the Village of Mohawk."
 - (1) Each of the Commissioners so appointed shall be, at the time of his or her appointment and during his or her term of office, a lot owner in said cemetery, a resident taxpayer and qualified elector of said village and not the incumbent of any other village office. They shall hold office at the pleasure of the Village Board from the date of their appointment until the 30th day of June next ensuing. Thereafter it shall be the duty of the Board of Trustees to appoint, during the month of June of each year, five (5) Commissioners to succeed those

¹⁹ Editor's Note: Former Subsections 5 and 6, which dealt with inspections and the storage of ashes and ladders, respectively, and immediately followed this subsection, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

²⁰ Editor's Note: Former Subsection 8 and 9, which dealt with the location of slaughterhouses and hazardous actions, respectively, and immediately followed this subsection, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art I.

²¹ Editor's Note: Former Subsection 11, which dealt with the establishment of a village pound, and immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I

²² Editor's Note: See also Ch. A160, Fees. In addition, former Subsection 14, which dealt with completion of the assessment roll and which immediately followed this subsection, was repealed 4-9-1986 by L.L. No. 4-1986.

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whose terms of office are expiring; if, however, the Board of Trustees shall fail to so appoint during the month of June, the existing Commissioners shall continue to hold office until their successors are appointed and have qualified, but their offices shall be deemed vacant for the purpose of appointing their successors, and such appointments may be made at any time thereafter for the balance of the unexpired terms.

- (2) Each Commissioner, before entering-upon the duty of his or her office, shall take and file with the Village Clerk-Treasurer the oath of office prescribed by the Constitution of the State of New York.
- (3) The Commissioners so appointed shall, as soon after their said appointment as practicable, convene at the office of the Board of Trustees in said village and organize themselves as the Board of Cemetery Commissioners of the Village of Mohawk by designating one (1) of their number to preside at their meetings and act as the President of the Board, who shall be empowered to call special meetings whenever he or she shall deem it necessary or when he or she shall be requested so to do by any two (2) Commissioners. In the absence of the person so designated to be President or, in case of his or her inability to act, the Commissioner having the shortest time to serve shall preside at the meetings of the Board and otherwise perform all the duties of its President. Three (3) of said Commissioners shall constitute a quorum, and the concurrence of at least three (3) Commissioners shall be necessary for the transaction of any business, and no resolution shall be adopted or other action taken unless three (3) Commissioners present at the meeting shall vote affirmatively therefor. They shall also designate at such first meeting one (1) of their number to be the Secretary of said Commission and one (1) of their number to be the Treasurer of said Commission. It shall be the duties of the Secretary to keep accurate and correct minutes of all the proceedings of said Commissioners; to keep in his or her custody and properly preserve all books, records, maps and papers appertaining to said Commission and the cemetery of which they are in charge; and to give reasonable notice to each of said Commissioners of any general or special meeting at the request of the President of said Commission or any other two (2) Commissioners. It shall be the duties of the Treasurer to receive and collect fees for burials; to execute and deliver to the purchaser of each lot a proper deed of conveyance upon receiving notice that the price therefor as fixed and specified by said Commission has been paid; to keep an accurate statement of all the receipts and disbursements of said Commission and to file and preserve without charge all papers delivered to him or her for the foregoing purposes, and upon being paid or tendered a fee at a rate set by resolution of the Commission per folio, to furnish a certified copy of any paper or record duly filed with him or her or in his or her custody, with the exception of death certificates; and to personally supervise and superintend the work and conduct of the cemetery upkeep, maintenance, repair and improvement and supervise the laborers employed in the cemetery, in the manner the Commissioners shall direct, and to do and perform any other duties they may impose. The Village Clerk-Treasurer shall receive and collect all moneys paid or to be paid for lots sold, and shall receive and collect all assessments levied upon lots in said cemetery. The Treasurer and the Secretary may each be paid such compensation as said Cemetery Commissioners deem adequate to the services each performs. The Treasurer shall, if required by the Board of Trustees, execute and file with the Village Clerk-Treasurer, a bond with one (1) or two (2) sureties approved by said Board of Trustees and conditioned upon his or her promptly depositing all village funds collected, and faithfully performing the duties of his or her said office. The offices of Secretary and Treasurer may be

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occupied simultaneously by the same person. **[Amended 3-27-2000 by L.L. No. 2-2000; 1-28-2002 by L.L. 1-2002]**

- (4) The Commissioners so appointed, when they shall have organized as the Cemetery Commissioners of the Village of Mohawk, shall be vested with the control, management and supervision of the village cemetery and all extensions thereof and they shall hold legal title to all such cemetery lands with their appurtenances and all other property belonging thereto in trust for said village. They shall be empowered to acquire, by purchase, gift or devise, additional lands for burial purposes as they may deem necessary, provided that they have sufficient funds for the purpose, and may receive and hold in trust any gift, devise or bequest of money or other property for the purpose of using the avails and earnings thereof in caring for and keeping in repair any lots or portions of said cemetery in the manner provided for and with the view of fulfilling the purpose of said gift, devise or bequest. All moneys so received may be invested by them as they deem best, unless specifically directed by the terms of the grant.- The Commissioners shall make and file with the Village Clerk-Treasurer a statement of the estimated revenues and expenditures for the then current fiscal year on account of said cemetery, setting out briefly the items thereof, and if the amount of expenditures shall exceed the amount of revenues, as so estimated, it shall be the duty of the Board of Trustees to incorporate in their annual tax budget and raise by tax and appropriate for the specific purpose of meeting such deficiency the sum estimated in such statement to be necessary for that purpose.
- (5) All moneys appropriated, raised or in any manner acquired for cemetery purposes shall be deposited by the Cemetery Secretary in such bank or place of deposit as the Commission may direct as a separate cemetery fund and may only be withdrawn or paid out by said Cemetery Secretary upon the audit and order of the Cemetery Commissioners', certified to him or her by a written order signed by the Clerk of such Commission and countersigned by its President, which shall specify the names of the persons to whom and the amount of money to be paid, together with a statement of the purpose for which said payment is made, and it shall be the duty of the Cemetery Secretary upon the audit and order of said Commission to pay to the person as in the order directed the sum of money specified. All checks are to be signed by any two (2) of the following: the President, Treasurer, and Village Clerk-Treasurer. **[Amended 1-28-2002 by L.L. No. 1-2002]**
- (6) It shall be the duty of said Cemetery Commissioners to cause to be made and keep on file a map of the cemetery or cemeteries of the Village of Mohawk, upon which shall be plainly indicated the division of said lands into lots or plats with the avenues, paths, lots, walks and ornamental plats, each lot or plat held for sale being designated by its number upon said map, and there shall be made and filed therewith a schedule of the prices for which each of said lots shall be sold. Said map or maps and schedule of prices shall be publicly displayed in the office of the Board of Trustees and shall, at all reasonable times, be open to the inspection of any person; and it shall be the duty of the Commission to sell and convey to any person desiring to purchase any lot or plat so offered for sale at any time for the price set upon it in said schedule, but said Commission may, at its option, refuse to sell more than one (1) lot or plot to any one (1) person.
- (7) Said Commission may at any time resurvey and lay out any portions of the cemetery not conveyed or sold, but shall not change or resurvey any portion of said cemetery which has been sold and conveyed or in any way change any of the boundary lines of lots or plats so sold without the consent, in writing, of all the persons interested in any of the lots

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affected. The conveyance to any person of a lot in said cemetery shall confer upon the purchaser the right to hold and use the same, for the purpose of burials simply, and shall always remain and be indivisible and inalienable and be held in perpetuity by the grantee and his or her heirs at law or such class as he or she may designate in said conveyance to inherit. An heir may release an heir or a joint owner may release to other heirs or joint owners his or her interest in any such lot by an instrument, in writing, filed with the Clerk of the Commission, but no owner or person entitled to the use of any lot for burial purposes shall convey his or her interest to any other person or person, except to other joint owners or heirs as hereinbefore specified without the consent of said Commission and any instrument of conveyance purporting to transfer or assign the use of any lot without the consent of the Commission shall be null and void and shall not confer upon the grantee therein named any right or interest to the use thereof for burial purposes. Anyone wishing to resell a lot will receive the amount originally paid by returning the deed to the Commission. Each deed of conveyance shall be recorded at length by the Clerk of said Commission in a book to be provided and preserved for that purpose.

- (8) If any cemetery lot shall be owned by more than one (1) person, no body shall be buried therein without the consent of all the owners of said lot, except if it is the body of a person who, at the time of death, was an owner or part owner in said lot or a direct descendant, husband or wife or an owner, and a body once lawfully buried shall not be removed or disinterred, except by consent of the Cemetery Commission, which shall be granted only upon the request of all the persons most nearly related to the person whose body is sought to be removed.
- (9) The Commissioners may make and adopt all necessary or reasonable rules and regulations for the use, care, management and protection of the cemetery and all lots, plats and parts thereof, and regulate the dividing lines and markers between the various lots and plats and the mode, manner and location of structures thereupon; to provide for restraining the erection of unsightly, unhealthful or improper monuments, effigies and structures within the cemetery grounds and to remove or compel the removal thereof, to regulate the introduction and care of plants, trees, shrubs and flowers; to prevent the burial of a body not entitled to burial therein and to regulate all burials and disinterments; to provide for the conduct of persons while within said grounds and the exclusion therefrom of improper persons or assemblages; and jointly to enact all such regulations as may be reasonable and essential to the proper conduct and care of the cemetery. All such rules and regulations shall be plainly printed and posted in conspicuous places throughout said cemetery grounds, and when so posted shall be deemed to be brought to the notice of all persons and to be and become forthwith in full force and effect, and said Commission may prescribe penalties for the violation of any rule or ordinance which the Commission may recover in an action brought by them in the name of the village against the persons who have been guilty of violations.
- (10) A record shall be kept of every burial in the cemetery in which shall appear the date of the burial, the name, age and place of birth of the person buried or as many of these particulars as can be obtained, together with the number of the lot and the particular part or location therein where said burial was made.²³

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

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- (11) For the purpose of keeping the grounds and lots in said cemetery in good order and maintaining or building or keeping in repair the fences, walks and structures therein and beautifying said cemetery, the Cemetery Commissioners may authorize the planting and preservation of trees, shrubs and such ornamental structures as may be deemed desirable by the Cemetery Commissioners.²⁴
- (12) It shall be the duty of said Cemetery Commissioners during the month of June in each year to make a detailed report and statement of all moneys received and paid out by them or by their order, specifying the sources of such receipts and the persons to whom payments were made and the purposes thereof. Said report shall be made as of the first day of June in each year and shall include all transactions comprised within the fiscal year, beginning on the first of June preceding to and including the last day of May succeeding, and said report shall be filed with the Clerk of the Board of Trustees not later than the 15th day of June.²⁵
- M. To provide for the digging of wells and drains and the making of aqueducts, cisterns and reservoirs and to supply such cisterns and reservoirs and the inhabitants of said village with water by means of conduits, pipes and other hydraulic fixtures. **[Amended L. 1894, c. 99²⁶]**
- N. To make, ordain and publish all bylaws and ordinances, not repugnant to the laws and Constitution of this state and the United States, necessary to carry into full effect any of the provisions of this Charter, and to alter, amend or repeal the same.²⁷
- O. To employ one (1) or more attorneys to prosecute or defend any action or proceeding brought against said village or said Trustees for acts done by them as such, and to provide for the payment of such attorneys reasonable charges for such services, to provide for the payment of any final judgment which shall be recovered against said village. To provide for the expense of preparing and printing and publishing bylaws or preparing amendments to the Charter of said village. **[Amended L. 1894, c. 99²⁸]**
- P. Weller Library Commission. **[Added L. 1913, c. 20; amended L. 1913, c. 255; L. 1918, c. 202; L. 1928, c. 570]**
- (1) To appoint five (5) Commissioners, who shall constitute a separate Board Commissioners, vested with the care, management and control of the real and

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

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

²⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1. In addition, former subsections 19 and 20, which dealt with untied horses and riots, respectively, and immediately followed this subsection were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

²⁷ Editor's Note: Former Subsection 22, which dealt with extinguishment of fires and immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

²⁸ Editor's Note: Effective 3-6-1894; former Subsection 24, which gave the Village Board of Trustees the power to make, amend and repeal regulations, ordinances and bylaws and immediately followed this Subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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personal property devised and bequeathed to the Village of Mohawk by the last Will and Testament of Frederick U. Weller and Helen Weller, both deceased, late of Mohawk, New York, which Board so created shall be hereafter styled "Weller Library Commission." Each of the Commissioners so appointed shall be at the time of his or her appointment and during his or her terms of office a resident of the Village of Mohawk, and no person shall be eligible to such office who is the incumbent of any Village office. They shall hold office at the pleasure of the Village Board from the date of their appointment or as soon thereafter as they shall have qualified, respectively, until the 30th day of June next ensuing. Thereafter it shall be the duty of the Board of Trustees of the Village of Mohawk to appoint, during the month of June of each year, five (5) Commissioners to succeed those whose terms of office are expiring; provided, however, that if such Board fails to so appoint before the 30th day of June, the Commissioners whose terms of office then expire shall continue to hold office until their successors are appointed and have qualified, but their offices shall be deemed vacant for the purpose of appointing their successors, and such appointments may be made at any time thereafter for the balance of the unexpired terms. **[Amended 5-23-1994 by L.L. No. 3-1994²⁹; 8-8-2005 by L.L. No. 1-2005; 12-8-2008 by L.L. No. 3-2008]**

- (2) Every Commissioner, before entering upon the duties of his or her office, shall take and file with the Village Clerk-Treasurer the oath of office prescribed by the Constitution of the state.
- (3) Within thirty (30) days after their appointment as hereinbefore provided, such Commissioners shall meet at the Weller Library in said village and proceed to organize as the Weller Library Commission. They shall, at such meeting, designate one (1) of their number to be President of the Commission whose duty it shall be to preside at the meetings at which he or she is present, to call special meetings of the Commission upon the request of any two (2) other Commissioners, or of his or her own motion whenever, in his or her discretion, it may be deemed necessary. In the absence of the President, the Commissioner having the shortest term to serve shall preside. Any three (3) of said Commissioners shall constitute a quorum for the transaction of business, and the concurrence of at least two (2) Commissioners shall be necessary for the transaction of any business, and no resolution shall be adopted or other action taken unless three (3) Commissioners present at the meeting shall vote affirmatively therefor. They shall also designate at such first meeting one (1) of their number to be Secretary of the Commission whose duty it shall be to keep accurate and correct minutes of all the proceedings of the Commission and to keep in his or her custody and properly preserve all books, records, maps and papers appertaining to the business and proceedings of the Commission. They shall also designate at said first meeting one (1) of their number to be the Treasurer of the Commission to receive and collect all moneys paid, turned over or to be paid or turned over to said Commission and to keep an accurate statement of all receipts and disbursements of the Commission. Said Weller Library Commission shall on May 31 of each year make and file with the Village Clerk-Treasurer of Mohawk a report of its receipts and disbursements, which shall be published in the official newspaper in conjunction with the annual village report. The Commissioners so appointed when they shall have organized as the Weller Library Commission shall be vested with the control,

²⁹ Editor's Note: Amended at time of adoption of Code; see Ch 1, General Provisions, Art. I.

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management and supervision of the property, real and personal devised and bequeathed to the Village of Mohawk by the last Will and Testament of Frederick U. Weller and Helen Weller. **[Amended 5-23-1994 by L.L. No. 3-1994; 12-8-2008 by L.L. No. 3-2008]**

- (4) The Weller Library Commission shall accept, receive and maintain in trust as aforesaid, the house and grounds surrounding and connected with said house situate in the Village of Mohawk, which was occupied by Frederick U. Weller at the time of his or her death, for the sole purposes and to be used solely for a free public library for said village, to be named and known as the "Weller Library." Said library shall be open at least two (2) days in each week and more if deemed necessary or beneficial and shall be free to all of the inhabitants of said village, all as prescribed in the fourth clause of said will. The Weller Library Commission shall accept and receive in trust all the rest and residue of the property which passed to said village under the sixth clause of said will of Frederick U. Weller, to be collected and sold and converted into money, and the proceeds thereof to be invested in United States government bonds and the interest and income therefrom to be used and devoted as follows: to keep and maintain in good repair and order the burial lot and vault of Weller and Morgan in the cemetery at Mohawk; to keep in order the grounds devised for the use of the library and to rebuild and remodel the buildings on said grounds making them suitable for a library and to keep the same in proper repair; and to purchase books for and to care for, support and maintain the library in a proper manner. If, at any time, it shall be deemed necessary by the Weller Library Commission for the benefit and the proper support and maintenance of said library to have more income than above provided, the Commission is hereby authorized and directed, as provided in the seventh clause of said will, to dispose of, sell and convey so much of the grounds devised for the purposes of a library as shall not be necessary for the proper use and convenience of such library; provided, however, that such sale shall first be authorized by the adoption of a proposition therefor submitted in the manner provided in the Village Law to the resident electors entitled to vote upon a proposition to raise money by tax or assessment, and in case of such sale of any of said grounds, the proceeds thereof shall be invested in United States government bonds, the income therefrom to be used and devoted the same as the interest and income from the other property devised and bequeathed to said village as provided in said will. The Weller Library Commission shall accept and receive in trust for said village all the property, bequeathed and devised to the Village of Mohawk by the third clause of the will of Helen Weller, to be invested in United States government bonds and the interest and income therefrom to be used and devoted as follows: to keep and maintain in good repair and order the burial lot and vault of Weller and Morgan in the cemetery at Mohawk; pursuant to the second subdivision of the third clause of said will, to rebuild and remodel the buildings suitable for a library and keep the same in repair; to purchase books and support and maintain the public library for the Village of Mohawk as provided for in the last will and testament of her husband, Frederick U. Weller. The Commission may receive and hold in trust for said village any gift, devise or bequest of money or other property for the purpose of using the avails and earnings thereof in caring for and maintaining said Weller Library and grounds or fulfilling the purpose of said gift, devise or bequest.
- (5) Any vacancy which may at any time occur in said Board of Commissioners through death, resignation or any other cause shall be filled by the Board of Trustees of the village.
- (6) The Commissioners may make and adopt all necessary and reasonable rules and regulations for the use, care, management and protection of said Weller Library, and to

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provide for the conduct of persons while within said library building and grounds and the exclusion therefrom of improper persons or assemblages, and jointly to enact all such rules, bylaws and regulations and to alter the same as may be reasonable and essential to the proper conduct and care of said Weller Library and grounds. All such rules and regulations shall be plainly printed and posted in conspicuous places throughout the library building and grounds, and when so posted shall be deemed to be brought to the notice of all persons and to become forthwith in full force and effect, and the Commission may prescribe penalties for the violation of any rule, regulation or ordinance for each violation to be recovered in an action brought by them in the name of the village against the persons who have been guilty of such violations.³⁰

- (7) No Commission appointed hereunder shall be interested directly or indirectly in any contract, claim or account for or relating to any work done or material furnished for or on account of any matter under the control of the Commission; nor shall any Commissioner receive any compensation for his or her services, except for actual disbursements made or expenses incurred by him or her by the express direction of the Commission.
- (8) It shall be the duty of the Board of Trustees of the Village of Mohawk to appoint said Commissioners within thirty (30) days after this Charter, as hereby amended, goes into effect. Upon the organization of the Weller Library Commission, it shall be the duty of the Board of Village Trustees to immediately turn over to said Commissioners all property of every description pertaining and relating to the Weller Library.
- (9) All funds received by the Treasurer of said Commission shall be kept and set aside as a separate and distinct Weller Library fund which shall thereafter be withdrawn and paid out only by said Treasurer upon the audit and order of said Commissioners, certified by him or her by a written order signed by the Secretary of the Commission and countersigned by its President, which shall specify the names of the persons to whom and the amount of money to be paid, together with a statement of the purpose for which such payment is made, and it shall be the duty of said Treasurer upon the audit and order of said Commissioners to pay to the persons as in the order directed the sum of money specified. All moneys in any way acquired by said Commission for the purposes of said Weller Library shall be deposited by the Treasurer of the Commission in such bank or place of deposit as the Weller Library Commissioners shall direct. The Commission shall provide suitable books for the Secretary and Treasurer for the entry of all items of receipts and disbursements and for the recording of all transactions affecting the powers and duties of the Commission.
- (10) The Commission, subject to final approval by the Village Board, shall have power to appoint, employ and discharge agents or subordinates and other employees and to fix their compensation. The bylaws shall prescribe regular meetings for the Commission, and the bylaws, rules and regulations shall be subject to alteration, revision or amendment only at regular meetings or at a meeting called for such purpose, provided that ten (10) days' written notice is given, either personally or by mail, of the proposed change. A husband and wife shall not hold office on the Commission.³¹

³⁰ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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- (11) Notwithstanding the provision of Subsection P(4) through (10) of this section requiring the original investment of the Weller Library Commission to be in United States government bonds, such Commission may hereafter invest and reinvest the principal of the trust fund in the securities in which savings banks of this state are or hereafter shall be authorized to invest.³²

§ C-14. Publication of bylaws; recovery of penalties. [Amended L. 1894, C. 99³³]

It shall be the duty of said Board of Trustees to publish the bylaws, rules and regulations they shall, from time to time, make and ordain for at least two (2) weeks in any newspaper published in said village or by posting the same in three (3) public and conspicuous places within said village for two (2) weeks before the same shall take effect; to sue for and recover all penalties under this Charter or the bylaws of said village; and generally to exercise and carry into effect, for the good order and well regulating of said village, all the powers with which they are invested by this Charter.

§ C-15. Fines and forfeitures, etc. [Amended L. 1894, C. 99³⁴]

The Trustees may ordain and impose such reasonable fines, forfeitures and penalties upon the offenders of any of their bylaws, ordinances, rules and regulations as they shall think proper, not exceeding two hundred fifty dollars (\$250.) or imprisonment not exceeding fifteen (15) days, or both such fine and imprisonment for any one (1) offense, to be prosecuted before any Justice of the Peace of the Town of German Flatts or any adjoining town on the County of Herkimer, by the Trustees, in the corporate name of the corporation, to and for the use thereof, and on judgment being recovered for any such penalty, execution shall issue against the body of the defendant, as well as his or her property, in the same manner as in actions for torts; and in all cases it shall be deemed sufficient for said Trustees, in any suit or action to be brought for any such fines, penalties or forfeitures, to declare generally that the defendant is indebted to the Village of Mohawk in the amount of such fine, penalty or forfeiture, specifying therein, by general reference thereto, or otherwise, the bylaw, rule, regulation or ordinance for the violation of which the suit is brought, and under such declaration to give the specific matter in evidence.³⁵

§ C-16. Highways. [Amended L. 1894, c. 99]

- A.³⁶ Said Village of Mohawk is hereby constituted a road district and shall be exempt (except

³² Editor's Note: Former Subsection 26, which dealt with Playground Commissioners and immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³³ Editor's Note: Former § 18, which dealt with Commissioners of Excise and immediately preceded this section, was repealed 2-14-1994 by LI- No. 1-1994. Former § 19, regulating groceries, which also preceded this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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

³⁵ Editor's Note: Former I 22, which immediately followed this section, was repealed 4-13-1904 by L. 1904, c. 301.

³⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art I.

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the bridges thereof) from the superintendence of the Superintendent of Highways of the Town of German Flatts. The Trustees of the village shall have the same powers over said road district and discharge all the duties which, by law, are given to or enjoined upon Commissioners of Highways in towns, and be subject to the like restrictions and appeals, except as hereinafter provided. Said Trustees, as such Commissioners, shall have power to:

- (1) Appoint by contract one (1) or more Street Commissioners, and to remove the same at their pleasure, and to appoint one (1) or more persons in the same manner in their stead.
 - (2) Require from such Commissioners a bond with one (1) or more sureties for the faithful performance of his or her duties and for the faithful expenditure of and accounting for all moneys collected by such Commissioner.
 - (3) Pay such Commissioner such compensation as they may think proper.
- B. Said Trustees shall direct how said streets and highways in said village shall be worked and improved and with what materials such streets shall be improved and in what manner they shall be drained, by gutters, and to include in the general budget for the collection of the general taxes for such village the expenses thereof, to be collected in such general tax; nothing in this section contained shall conflict with or limit any of the provisions of § C-12 of this Charter, as hereby amended.³⁷

§ C-17. Exemption from taxation. [Amended L. 1894, c. 99]

All property exempted from taxation by the Constitution of the United States or the Constitution of the State of New York shall be exempted from taxation under this Charter.

§ C-18. Tax liens, sale and redemption. [Amended L. 1894, c. 99; L. 1940, c. 317³⁸]

All taxes and assessments upon any real estate in said village shall be a lien thereon and shall be preferred in payment to all other charges, except town, county and state taxes, and if the same cannot be collected by the Collector of said village by the time specified in his or her warrant, he or she shall make return thereof to the Trustees, who may give notice for three (3) weeks in any newspaper printed in the County of Herkimer, informing the owner or owners to pay the sum assessed thereon and ten percent (10%) interest thereon from the time the same was returned to the Trustees and all costs and charges in relation thereto to the Treasurer of the corporation; and in case default shall be made in such payment, at a day and place therein prescribed, that all such lands will be sold at public auction to the person who will advance the amount of such assessment, interest, costs and charges for the shortest term of time. If such tax and the expenses, costs and interests are not paid as in said notice required, it shall be lawful for said Trustees, or a majority of them, to cause such land to be sold at public auction, as expressed in such notice, and to give a certificate of such sale under their

³⁷ Editor's Note: Former §124 through 26, as amended, which dealt with openings of streets, settlement of damages or benefits and tax lists, respectively, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art I.

³⁸ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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corporate seal to the purchaser thereof, and such purchaser, his or her executor, administrator and assigns shall, by virtue thereof and of this Charter, lawfully hold and enjoy the same for his or her and their own use against the owner thereof and all persons claiming under him and for the expiration of the term for which such sale was made, subject to the payment of the taxes and assessment during said terms, and shall be entitled to move from such land any buildings or material erected or put thereon after such purchase. But any lands sold by virtue of this section may be redeemed at any time within two (2) years from the sale thereof by any person, by the payment to the purchaser of the amount bid by him or her and interest thereon at the rate of fourteen per centum (14%) per annum.

§ C-19. Tax collection. [Amended 1-25-1977 by L.L. No. 1-1977]

The Clerk-Treasurer, within such time as shall be specified therein next after the receipt of his or her warrant for the collection of any tax or assessment, shall collect the same and file receipt therefor, together with his or her warrant and the tax list annexed thereto, in the office of the Clerk-Treasurer. All moneys thus coming into the hands and control of the Clerk-Treasurer shall be liable to be drawn out by the Trustees, or upon their direction and applied to and disposed of by them for the benefit of the village, in accordance with law. It shall be lawful for the Trustees to issue any warrants or to renew those that may have been issued by them or their predecessors for the collection of any tax or assessment from time to time, so often as such warrant shall be returned uncollected.

§ C-20. Collection fees. [Amended 1-25-1977 by L.L. No. 1-1977]

The Trustees are hereby authorized to add lawful collection fees to any sum of money authorized or directed to be collected by the Clerk-Treasurer in the village and to apportion the same with tax moneys so collected.

§ C-21. Competency of inhabitants.³⁹

No person shall be an incompetent justice, witness or juror by reason of his or her being an inhabitant of the Village of Mohawk in any action or proceeding in which said village may be a party or have any interest.

§ C-22. General powers.⁴⁰

Said corporation shall enjoy the powers and privileges and be subject to the restrictions contained in the Village Law.

³⁹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁴⁰ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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§ C-23. Right to repeal.⁴¹

The Village Board of Trustees may, at any time, alter or repeal this Charter.

⁴¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

PART I

**ADMINISTRATIVE
LEGISLATION**

Chapter 1 GENERAL PROVISIONS

ARTICLE 1 Adoption of Code

- § 1-1. Legislative intent.
- § 1-2. Continuation of existing provisions.
- § 1-3. Repeal of enactments not included in Code
- § 1-4. Enactments saved from repeal; matters not affected.
- § 1-5. Severability.
- § 1-6. Copy of Code on file.
- § 1-7. Amendments to Code

- § 1-8. Code book to be kept up-to-date.
- § 1-9. Sale of Code book; supplementation.
- § 1-10. Penalties for tampering with Code.
- § 1-11. Changes in previously adopted legislation; new provisions.
- § 1-12. Incorporation of provisions into Code.
- § 1-13. When effective.

ARTICLE II

Legislation Enacted During Codification

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

ARTICLE I Adoption of Code

[Adopted 7-14-1997 by L.L. No. 4-1997]

§ 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 Mohawk, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 155, together with an Appendix, shall be known collectively as the “Code of the Village of Mohawk,” hereafter termed the “Code.” Wherever reference is made in any of the local laws, ordinances and resolutions contained in the “Code of the Village of Mohawk” to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

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

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are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

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

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

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

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

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

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- K. Any local law or ordinance amending the Zoning Map.
- L. Any legislation adopted subsequent to July 15, 1996.
- M. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- N. All provisions relating to the tax exemption for senior citizens.

§ 1-5. Severability.

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

§ 1-6. Copy of Code on file.

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

§ 1-7. Amendments to Code.

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

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

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

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

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

§ 1-10. 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 Mohawk or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Village of Mohawk to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

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

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Village of Mohawk, 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 amendments and/or additions are made herewith, to become effective upon the effective date of this local law as set forth in Schedule A¹ attached hereto and made a part hereof (chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code).

¹ Editor's Note: In accordance with § 1-11B, the chapters, articles and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Ch. 1, General Provisions, Art. 1. During routine supplementation, footnotes indicating amendments or additions will be replaced with the following wording: "amended (added) 7-14-1997 by L.L. No. 4-1997." A complete description of all changes, is on file in the village offices.

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§ 1-12. Incorporation of provisions into Code.

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

§ 1-13. When effective.

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

**ARTICLE II
Legislation Enacted During Codification**

[During the process of codification, certain new pieces of legislation or changes and/or additions to various existing pieces of legislation were approved by the Board of Trustees for inclusion in the Code of the Village of Mohawk. Such amendments and new enactments are noted in the histories of individual chapters as “... amended (adopted) during codification; see Ch. 1, General Provisions, Art. II.” Upon final enactment, a complete enumeration of all chapters and sections in the Code involved in such enactments will be included in this article, along with specific dates of adoption.]

Chapter/Section	Adoption Date	Legislation
Ch. A 160, Fees	6-8-1998	Resolution

Chapter 3 ASSESSMENT

ARTICLE 1 Termination of Assessing Unit

- § 3-1. Intent.
- § 3-2. Termination.

- § 3-3. Abolishment of assessors;
amendment of Charter
- § 3-4. Abolishment of Board.
- § 3-5. Assessment roll.
- § 3-6. Filing.
- § 3-7. Referendum.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk: Art. 1, 4-9-1986 as L.L. No. 3-1986. Amendments noted where applicable.]

GENERAL REFERENCES

Taxation - See Ch. 142.

ARTICLE I Termination of Assessing Unit [Adopted 4-9-1986 as L.L. No. 3-1986]

§ 3-1. Intent.

The intent of the Board of Trustees of the Village of Mohawk is to implement § 1402, Subdivision 3, of the Real Property Tax Law providing for the voluntary termination of the Village of Mohawk's status as an assessing unit, as now provided in the Charter of the Village of Mohawk, the Village Law and the Real Property Tax Law. It is also the intent of this Article to abolish the position of Assessor and terminate any and all of the responsibility provided by law for the review of the assessment of real property located within the Village of Mohawk.

§ 3-2. Termination.

On or after the effective date of this Article, the Village of Mohawk shall cease as an assessing unit.

§ 3-3. Abolishment of assessors; amendment of Charter.

The positions of Assessors in the Village of Mohawk are hereby abolished.

§ 3-4. Abolishment of Board.

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

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§ 3-5. Assessment roll.

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

§ 3-6. Filing.¹

Within five (5) days of the effective date of this Article, the Board of Trustees of the Village of Mohawk shall file a copy of such local law with the Clerk-Treasurer and Assessor of the Village of Mohawk and with the State Board of Real Property Services.

§ 3-7. Referendum.²

This Article shall take effect immediately upon filing with the Secretary of State; provided, however, that such local law is subject to permissive referendum and the Village Clerk-Treasurer shall forthwith proceed to publish and post the required notice of adoption and conduct such referendum if required by petition.

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

² Editor's Note: No valid petition for such referendum was filed.

Chapter 6 ETHICS, CODE OF

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| <p>§ 6-1. Purpose.</p> <p>§ 6-2. Definitions.</p> <p>§ 6-3. Standards of Conduct.</p> <p>§ 6-4. Filing of suits or claims unaffected.</p> | <p>§ 6-5. Distribution.</p> <p>§ 6-6. Additional penalties; suspension or removal from office.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 12-22-1970. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees - See Ch. 15.

Records - See Ch. 120.

§ 6-1. Purpose.

- A. In keeping with the provisions of § 806 of the General Municipal Law, the Board of Trustees of the Village of Mohawk 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 the government and administration of the Village of Mohawk.
- B. To this end, it is the purpose of this chapter to promulgate rules of ethical conduct to serve as a guide for official conduct of the officers and employees of the Village of Mohawk, its commissions, administrative boards and its agencies, such rules to be in addition to, and not to be in any way construed in conflict with, any provision 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.

§ 6-2. Definitions.

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

OFFICER or EMPLOYEE - An officer or employee, male or female of the Village of Mohawk, elected or appointed, whether paid or unpaid, including, but not limited to, the members of the Board of Trustees of the Village of Mohawk, the members of its various commissions, administrative boards or its agencies and all employees of same. No person shall be deemed to be an "officer or employee," however, solely by reason of being a volunteer fire fighter or civil defense volunteer, except the chief or senior administrative officer of the volunteer fire company or civil defense organization.

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§ 6-3. Standards of conduct.

Every officer or employee, as defined in § 6-2 above, of the Village of Mohawk, its commissions, administrative boards and agencies shall be subject to and abide by the following standards of conduct:

- A. Gifts. He shall not, directly or indirectly, solicit any gift having a value greater than that set forth in § 805-a, Subdivision 1a, of the General Municipal Law, 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.¹
- 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 the Board of Trustees of the Village of Mohawk or any of its commissions, administrative boards or agencies of which he is an officer, member or employee or pertaining to any matter before any board, commission or agency of the Village of Mohawk 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 the Board of Trustees of the Village of Mohawk, its commissions, administrative boards or agencies whereby his compensation is to be dependent or contingent upon any action by such unit with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Board of Trustees of the Village of Mohawk, its commissions, administrative boards or agencies or any officer or employee thereof, whether paid or unpaid, who participates in the discussion of or gives official opinion to such unit, its members or employees on the subject matter of any local law, ordinance, regulation, rule or ruling before such unit shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest, direct or indirect, that he has or may have in such local law, ordinance, regulation, rule or ruling or the subject matter thereof.
- 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.

¹ Editors Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

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H. Future employment. He shall not, after the termination of his service or employment with the Village of Mohawk, its boards, commissions or agencies, appear before the Board of Trustees of the Village of Mohawk nor before any of its commissions, administrative boards or agencies in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

§ 6-4. Filing of suits or claims unaffected.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former officer or employee of the Village of Mohawk of any claim, account, demand or suit against the Village of Mohawk, its commissions, administrative boards or agencies 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.

§ 6-5. Distribution.

The Mayor of the Village of Mohawk, as its chief executive officer, and the several administrative heads of its various commissions, boards and agencies shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Village of Mohawk, its commissions, boards and agencies within ten (10) days following the adoption of this chapter. Each officer and employee elected or appointed hereafter shall be furnished a copy before entering upon the duties of his office or employment.

§ 6-6. Additional penalties; suspension or removal from office.

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

Chapter 11

INVESTMENT POLICY

§ 11-1. Applicability.	§ 11-9. Collateralization of deposits.
§ 11-2. Objectives.	§ 11-10. Safekeeping and collateralization.
§ 11-3. Delegation of authority; written procedures.	§ 11-11. Permitted investments.
§ 11-4. Prudence.	§ 11-12. Authorized financial institutions and dealers.
§ 11-5. Conflict of interest.	§ 11-13. Purchase of investments.
§ 11-6. Diversification.	§ 11-14. Repurchase agreements.
§ 11-7. Internal controls.	Appendix A: Schedule of Eligible Securities
§ 11-8. Designation of depositories.	

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 4-27-1993. Amendments noted where applicable.]

§ 11-1. Applicability.

This investment policy applies to all moneys and other financial resources available for investment on its own behalf or on behalf of any other entity or individual.

§ 11-2. Objectives.

The primary objectives of the local government's investment activities are, in priority order:

- A. To conform to all applicable federal, state and other legal requirements (legal);
- B. To adequately safeguard the principal (safety);
- C. To provide sufficient liquidity to meet all operating requirements (liquidity); and
- D. To obtain a reasonable rate of return (yield).

§ 11-3. Delegation of authority; written procedures.

The governing board's responsibility for administration of the investment program is delegated to the Village Clerk-Treasurer, who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability based on a data base or records incorporating descriptions and amounts of investments, transaction dates and other relevant information and regulate the activities of subordinate employees.

§ 11-4. Prudence.

- A. All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the Village

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Board to govern effectively.

- B. Investments shall be made with judgment and care under circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.

§ 11-5. Conflict of interest.

All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions.

§ 11-6. Diversification.

It is the policy of the Village Board to diversify its deposits and investments by financial institution, by investment instrument and by maturity scheduling.

§ 11-7. Internal controls.

- A. It is the policy of the Village Board for all moneys collected by any officer or employee of the government to transfer those funds to the Village Clerk-Treasurer within three (3) days of deposit or within the time period specified in law, whichever is shorter.
- B. The Village Clerk-Treasurer is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition; that transactions are executed in accordance with management's authorization and recorded properly; and are managed in compliance with applicable laws and regulations.

§ 11-8. Designation of depositories.

The banks and trust companies authorized for the deposit of moneys up to the maximum amounts are:

Depository Name
Fleet Bank
Herkimer County Trust

§ 11-9. Collateralizing of deposits.

In accordance with the provisions of General Municipal Law § 10, all deposits of the Village of Mohawk, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

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- A. By a pledge of eligible securities with an aggregate market value as provided by General Municipal Law § 10 equal to the aggregate amount of deposits from the categories designated in Appendix A to the policy.¹
- B. By an eligible irrevocable letter of credit issued by a qualified bank, other than the bank with the deposits in favor of the government, for a term not to exceed ninety (90) days with an aggregate value equal to one hundred forty percent (140%) of the aggregate amount of deposits and the agreed upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one (1) of the three (3) highest rating categories by at least one (1) nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk based capital requirements.
- C. By an eligible surety bond payable to the government for an amount at least equal to one hundred percent (100%) of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State whose claims-paying ability is rated in the highest rating category by at least two (2) nationally recognized statistical rating organizations.

§ 11-10. Safekeeping and collateralization.

- A. Eligible securities used for collateralizing deposits shall be held by the depository bank or trust company subject to security and custodial agreements. The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment blank to the Village of Mohawk or its custodial bank.
- B. The custodial agreement shall provide that securities held by the bank or trust company or agent of and custodian for the local government will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

§ 11-11. Permitted investments.

- A. As authorized by General Municipal Law § 11, the Village Board authorizes the Village Clerk-Treasurer to invest moneys not required for immediate expenditure for terms not to exceed its

¹ Editor's Note: Said Appendix A is located at the end of this chapter.

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projected cash flow needs in the following types of investments:

- (1) Special time deposit accounts.
 - (2) Certificates of deposit.
 - (3) Obligations of the United States of America.
 - (4) Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America.
 - (5) Obligations of the State of New York.
 - (6) Obligations issued pursuant to Local Finance Law §§ 24.00 or 25.00 (with approval of the State Comptroller) by any municipality, school district or district corporation other than the Village of Mohawk.
 - (7) Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general state statutes governing such entities or whose specific enabling legislation authorizes such investments.
 - (8) Certificates of participation (COP) issued pursuant to General Municipal Law § 109-b
 - (9) Obligations of this local government, but only with any moneys in a reserve fund pursuant to General Municipal Law §§ 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m or 6-n.
- B. All investment obligations shall be payable or redeemable at the option of the Village Board within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Village Board within two (2) years of the date of purchase.

§ 11-12. Authorized financial institutions and dealers.

The Village of Mohawk shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the local government conducts business must be credit worthy. Banks shall provide their most recent consolidated report of condition (call report) at the request of the Village Board. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers. The Village Clerk-Treasurer is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated at least annually.

§ 11-13. Purchase of investments.

A. The Village Clerk-Treasurer is authorized to contract for the purchase of investments:

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- (1) Directly, including through a repurchase agreement, from an authorized trading partner.
 - (2) By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5G of the General Municipal Law where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46, and the specific program has been authorized by the governing board.
 - (3) By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.
- B. All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed, in writing, to the Village Board by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law § 10.
- C. The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

§ 11-14. Repurchase agreements.

Repurchase agreements are authorized, subject to, the following restrictions:

- A. All repurchase agreements must be entered in subject to a master repurchase agreement.
- B. Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
- C. Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.
- D. No substitution of securities will be allowed.
- E. The custodian shall be a party other than the trading partner.

APPENDIX A

Schedule of Eligible Securities

Eligible securities shall be as follows:

- A. Obligations issued or fully insured or guaranteed as to the payment of principal and interest by the United States of America, an agency thereof or a United States government sponsored corporation.
- B. Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank and the African Development Bank.
- C. Obligations partially insured or guaranteed by any agency of the United States of America at a proportion of the market value of the obligation that represents the amount of the insurance or guaranty.
- D. Obligations issued or fully insured or guaranteed by the State of New York; obligations issued by a municipal corporation, school district or district corporation of such state; or obligations of any public benefit corporation which, under a specific state statute, may be accepted as security for deposit of public moneys.
- E. Obligations issued by states (other than the State of New York) of the United States rated in one (1) of the three (3) highest rating categories by at least one (1) nationally recognized statistical rating organization.
- F. Obligations of Puerto Rico rated in one (1) of the three (3) highest rating categories by at least one (1) nationally recognized statistical rating organization.
- G. Obligations of counties, cities and other governmental entities of a state other than the State of New York having the power to levy taxes that are backed by the full faith and credit of such governmental entity and rated in one (1) of the three (3) highest rating categories by at least one (1) nationally recognized statistical rating organization.
- H. Obligations of domestic corporations rated in one (1) of the two (2) highest rating categories by at least one (1) nationally recognized statistical rating organization.
- I. Any mortgage related securities, as defined in the Securities Exchange Act of 1934, as amended, which may be purchased by banks under the limitations established by bank regulatory agencies.
- J. Commercial paper and bankers' acceptances issued by a bank, other than the bank, rated in the highest short-term category by at least one (1) nationally recognized statistical rating organization and having maturities of not longer than sixty (60) days from the date they are pledged.
- K. Zero-coupon obligations of the United States government marketed as treasury strips.

Chapter 15

OFFICERS AND EMPLOYEES

ARTICLE I

Multiple Office Holding

§ 15-1. Suspension of statute.

ARTICLE II

Defense and Indemnification

§ 15-2. Conferral of benefits.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk: Art. 1, 12-9-1985 as L.L. No. 1-1985; Art. II, 2-24-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics - See Ch. 6.

ARTICLE I

Multiple Office Holding

[Adopted 12-9-1985 as L.L. No. 1-1985]

§ 15-1. Suspension of statute.

The provisions of § 10-1012 of the Village Law, wherein it is stated "a person shall not hold the office of Village Mayor or Village Trustee and the Office of Fire Chief or Assistant Fire Chief of a Village Fire Department at the same time," is hereby, pursuant to § 10, Subdivision (3), of the Municipal Home Rule Law, suspended in its operation as such statute may apply to said Village of Mohawk, and it is hereby enacted that the Mayor of the Village of Mohawk or a Trustee of the Village of Mohawk may serve as Chief or Assistant Chief of the Village Fire Department of the village at the same time.

ARTICLE II

Defense and Indemnification

[Adopted 2-24-1988]

§ 15-2. Conferral of benefits.

The Village of Mohawk hereby confers the benefits outlined in § 18 of the New York State Public Officers Law upon its officers and employees and agrees to be held liable for the cost incurred under those provisions.

Chapter 16

OUTSIDE SERVICE BY LOCAL POLICE

§ 16-1. Purpose.

§ 16-3. When effective.

§ 16-2. Content.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 7-26-1999 by L.L. No. 1-1999. This local law was adopted as Ch. 156, but was renumbered to fit into the organizational style of the Code. Amendments noted where applicable.]

§ 16-1. Purpose.

The purpose of this chapter is to delegate to the Chief of Police the powers granted to the Mayor under § 209-m of the General Municipal Law of New York State to request and grant police assistance.

§ 16-2. Content.

In accord with § 209-m of the General Municipal Law of New York State there is delegated to the Chief of Police the powers granted to the Mayor under § 209-m of the General Municipal Law of New York State to request and grant police assistance.

§ 16-3. When effective.

This chapter shall take effect immediately upon filing in the office of the Secretary of State in accordance with § 27 of the General Municipal Home Rule Law.

Chapter 19 PLANNING BOARD

- § 19-1. Creation; membership; terms of office. § 16-3. When effective.
- § 19-2. Approval of plats of undeveloped land.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 10-23-1962. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction - See Ch. 55. Zoning - See Ch. 155.

§ 19-1. Creation; membership; terms of office.

- A. There shall be a Village Planning Board for the Village of Mohawk consisting of five (5) members appointed according to the requirements of the Village Law, the initial members and their respective terms of office and the first Chairperson to be as designated by the Board of Trustees. Said members shall serve at the pleasure of the Village Board of Trustees.¹
- B. The terms of newly appointed or reappointed members succeeding present members on termination of their terms shall be set at five (5) years. **[Added 12-29-1964]**
- C. Any member failing to finish his term for any reason shall be replaced by a new member to serve the remainder of the term. **[Added 12-29-1964]**

§ 19-2. Approval of plats of undeveloped land.²

The Planning Board of the Village of Mohawk is hereby authorized and empowered to review and approve previously filed plats covering land in the Village of Mohawk which are wholly or partially undeveloped, as provided in Article 7 of the Village Law.

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

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

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§ 19-3. Confirmation or modification of zoning regulations regarding subdivisions.³

Said Planning Board is hereby authorized and empowered to confirm or modify the zoning regulations⁴ of the land shown on a subdivision plat under its review (as more particularly specified in § 7-738 of the Village Law).

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

⁴ Editor's Note: See Ch. 155, Zoning.

Chapter 23

PROCUREMENT POLICY

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| <p>§ 23-1. Purpose.</p> <p>§ 23-2. Applicability.</p> <p>§ 23-3. Purchases subject to competitive bidding.</p> | <p>§ 23-4. Method of procurement.</p> <p>§ 23-5. Exceptions.</p> <p>§ 23-6. Annual review.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 3-23-1992. Amendments noted where applicable.]

§ 23-1. Purpose.

The purpose of this policy is to assure the prudent and economical use of public moneys in the best interests of the taxpayers of the Village of Mohawk, to facilitate acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances and to guard against favoritism, improvidence, extravagance, fraud and corruption and to otherwise comply with General Municipal Law § 104-b.

§ 23-2. Applicability.

This policy shall apply to all purchases of goods and services which are not required to be made pursuant to the competitive bidding requirements of General Municipal Law § 103 or of any other general or local law.

§ 23-3. Purchases subject to competitive bidding.

- A. Every prospective purchase of goods and 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 (hereafter "purchaser") shall make a determination whether such procurement is subject to competitive bidding. In making his or her determination, the purchaser shall estimate the cumulative number or amount of items of supply or equipment required in a given fiscal year.
- B. If the purchaser shall determine that a procurement is not subject to competitive bidding, the purchaser shall document the basis for such determination.

§ 23-4. Method of procurement.

- A. Except for procurements made through county or state contract from agencies for the blind or severely handicapped from correctional institutions or from sources set forth in § 23-5 below, all goods and services will be procured by use of written quotations, verbal quotations or any other method that assures that goods will be bought at the lowest price and that favoritism will be avoided. To that end, the following guidelines are adopted:

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Estimated Amount of Purchase Contract	Method
\$1,001.00 to \$2,999-99	3 verbal quotes
\$3,000.00 to \$9,999-99	3 written/fax quotes or written request for proposals

Estimated Amount of Public Works Contract	Method
\$1,001.00 to \$2,999.99	3 verbal quotes
\$3,000.00 to \$19,999-99	3 written/fax quotes or written request for proposals

- B. All information gathered in complying with the procedures hereinabove set forth shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.
- C. In the event that the purchaser does not accept the lowest proposal or quote, the reason(s) therefore shall be documented and filed with the record supporting the procurement.
- D. A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.

§ 23-5. Exceptions.

Except when directed by the Village Board, solicitations of proposals or quotations shall not be required to be in accordance with the methods hereinabove set forth under the following circumstances:

- A. Acquisition of professional services.
- B. Emergencies.
- C. Sole source situations.
- D. Goods purchased from agencies for the blind or severely handicapped.
- E. Goods purchased from correctional facilities.
- F. Goods purchased from another governmental agency.
- G. Goods purchased for one thousand dollars (\$1,000.) or less.
- H. Public works contracts for one thousand dollars (\$1,000.) or less.

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§ 23-6. Annual review.

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

Chapter 27

RECREATION COMMISSION

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| <p>§ 27-1. Establishment.</p> <p>§ 27-2. Membership; appointment; terms of office.</p> <p>§ 27-3. Uncompensated service; vacancies.</p> <p>§ 27-4. Organization and procedure.</p> <p>§ 27-5. Duties; powers; purposes.</p> | <p>§ 27-6. Annual submission of proposed program and tentative budget; procedure for expenditures.</p> <p>§ 27-7. Solicitation of contributions and gifts.</p> <p>§ 27-8. Employees.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 6-19-1962; amended in its entirety 2-14-1994 by LL. No. 1-1994. Subsequent amendments noted where applicable.]

§ 27-1. Establishment.

There is hereby established a Recreation Commission for the Village of Mohawk.

§ 27-2. Membership; appointment; terms of office. [Amended 12-18-1995 by L.L. No. 2-1995; 12-8-2008 by L.L. Law No. 3-2008]

The Recreation Commission shall consist of five (5) persons, residents of the Village of Mohawk, to be appointed by the Board of Trustees of the Village to serve for terms of one (1) year or until their successors are appointed. The terms of service of such members shall commence on July 1.

§ 27-3. Uncompensated service; vacancies.

The members of such Commission shall serve without pay. Vacancies in such Commission occurring otherwise than by expiration of term shall be filled in the same manner as original appointments for the unexpired term of such vacancy.

§ 27-4. Organization and procedure. [Amended 12-8-2008 by L.L. Law No. 3-2008]

Members of the Commission shall elect from their own number a Chairperson and a Secretary, and other necessary officers, to serve for one (1) year. The Commission shall have power to adopt rules of procedure for the conduct of all of its business. Three (3) members of the Commission shall constitute a quorum and no action shall be taken, except by the concurring vote of two (2) members.

§ 27-5. Duties; powers; purposes.

Duties, powers and purposes of the Recreation Commission shall be to establish, supervise and maintain recreational programs for the maximum public use and benefit of village residents, with particular emphasis on youth programs.

§ 27-6. Annual submission of proposed program and tentative budget; procedure for expenditures.

For the purpose of carrying out the foregoing duties, the Commission may submit and recommend annually to the Board of Trustees a proposed program of activities and a tentative budget showing anticipated and recommended expenditures for the fiscal year for the carrying out of the Commission's proposed program, and the Board of Trustees may include in the annual budget of the Village of Mohawk such sum as the Board of Trustees shall deem necessary to defray expenditures for all or any part of the program approved by the Board of Trustees. No expenditures of village budget allocated moneys, however, shall be contracted for by the Commission without the prior approval and consent of the Board of Trustees, and all such expenditures shall be incurred, transacted, presented, audited and paid in the same manner as other expenditures of the Village of Mohawk and subject to the restrictions and conditions governing payment of claims against the village. The Commission shall furnish the Board of Trustees with such reports as may be required from time to time.

§ 27-7. Solicitation of contributions and gifts.

The Commission may solicit contributions, gifts and bequests for the carrying out of its purposes.

§ 27-8. Employees.

Subject to § 27-6 above, the Commission may engage such employees as it deems proper and may otherwise arrange for voluntary work and for receipt and use of materials and equipment voluntarily offered from any source in connection with and to the furtherance of the purposes for which the Commission is established.

Chapter 31 SMOKING

§ 31-1. Prohibited in Municipal Building.

§ 31-3. Penalties for offenses.

§ 31-2. Designated areas.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 12-9-1985. Amendments noted where applicable.]

§ 31-1. Prohibited in Municipal Building.

The Village Board of Trustees, as of January 1, 1990, prohibits smoking in the Municipal Building, 28 Columbia Street, Mohawk, New York, except for designated employee smoking areas.

§ 31-2. Designated areas.

The designated employee smoking areas will be the office of the Police Chief, the office of the Utilities Supervisor and the Firemen's Lounge. All areas will be clearly posted and may be added or deleted by resolution of the Village Board.

§ 31-3. Penalties for offenses.

Violations of this chapter shall be punishable pursuant to the penalties established in Article 13E of the Public Health Law.

Chapter 34
TRAFFIC VIOLATIONS BUREAU

- | | |
|-----------------------------|-------------------------------|
| § 34-1. Title. | § 34-7. Failure to answer. |
| § 34-2. Legislative intent. | § 34-8. Persons not eligible. |
| § 34-3. Director. | § 34-9. Restrictions. |
| § 34-4. Hours. | § 34-10. Fines. |
| § 34-5. Jurisdiction. | § 34-11. Records. |
| § 34-6. Procedure. | § 34-12. Effective date. |

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 9-16-1980 as L.L. No. 1-1980. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic - See Ch. 150.

§ 34-1. Title.

This chapter shall be known as the "Local Law Establishing a Traffic Violations Bureau for the Village of Mohawk."

§ 34-2. Legislative intent.

The Village Board of the Village of Mohawk wishing to assist the residents of the Village of Mohawk and the Village Court in the disposition of offenses relating to traffic and parking violations does hereby, pursuant to Article 14B of the General Municipal Law, § 370 et seq., create a Traffic Violations Bureau.

§ 34-3. Director.

The Utilities Supervisor of the village is hereby designated as the Director of the Traffic Violations Bureau.

§ 34-4. Hours.

Said Bureau shall maintain such hours as may be designated by the Village Court.

§ 34-5. Jurisdiction.

The Traffic Violations Bureau shall be authorized to dispose of any violations of the traffic laws, ordinances, rules and regulations when such offenses shall not constitute the traffic infraction known as "speeding" or a misdemeanor or felony.

§ 34-6. Procedure.

- A. Any individual may plead guilty to an offense within the jurisdiction of the Traffic Violations Bureau by written document in such form as prescribed by the Traffic Violations Bureau; waiving the right to trial and inclusion with said document of the payment of such fine as shall be designated by the Village Court for said offense, provided that such fines are within the limits established as penalties for such offense.
- B. Within the time specified on the summons, a person may appear personally or by designated person or by written power of attorney, in such form as prescribed by the Traffic Violations Bureau, before the Traffic Violations Bureau to answer the violation alleged. Said violation may be satisfied by payment of the prescribed fine and a writing waiving a court hearing. Fulfillment of said conditions shall presumptively be considered a plea of guilty, which plea the Bureau Director shall be authorized to enter.
- C. Fulfillment of said conditions shall be deemed complete satisfaction for the violation, and the violator shall be given a receipt which so states.

§ 34-7. Failure to answer.

If a person charged with a traffic violation does not answer the violation, as prescribed in § 34-6, within a time specified on the notice of violation, the Bureau shall cause a complaint to be entered against said person, and the procedures established in the Criminal Procedure Law of the State of New York duly followed to secure said person's appearance before the Village Court.

§ 34-8. Persons not eligible.

Any person who shall have been, within the preceding twelve (12) months, guilty of a number of parking violations in excess of a maximum number to be established by the Village Court or of three (3) or more violations other than parking violations shall not be permitted to appear and answer to a subsequent violation before the Traffic Violations Bureau, but must appear in the Village Court at a time specified by the Bureau.

§ 34-9. Restrictions.

The Traffic Violations Bureau shall not be authorized to deprive a person to his right to counsel or to prevent him from exercising his right to appear in Village Court to answer to, explain or defend any charge of a violation of any traffic law, ordinance, rule or regulation.

§ 34-10. Fines.

The Village Court shall designate the fines to be paid for offenses which may be satisfied at the Bureau as provided in this chapter, provided that such fines are within the limits established as penalties for such offenses.

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§ 34-11. Records.

- A. The Traffic Violations Bureau shall keep a record of all violations of which each person has been guilty, whether said guilt was established in court or in the Bureau, and also a record of all fines collected and the disposition thereof
- B. The Bureau shall also perform such other or additional duties and keep such other or additional records as shall be prescribed by the Village Court and/or the Village Board.

§ 34-12. Effective date.

A Traffic Violations Bureau shall be established within ten (10) days after adoption of this chapter by the Village Board.

PART II

**GENERAL
LEGISLATION**

Chapter 42

ADULT ENTERTAINMENT

§ 42-1. Purpose.

§ 42-3. Permitted locations.

§ 42-2. Definitions.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 4-22-1996 as L.L. No. 2-1996. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning - See Ch. 155.

§ 42-1. Purpose.

The purpose of this chapter is to regulate the location and concentration of adult entertainment establishments in the Village of Mohawk so that adverse effects upon village youth and surrounding neighborhoods can be minimized.

§ 42-2. Definitions.

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

ADULT BOOKSTORE - An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides and videotapes and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

ADULT ENTERTAINMENT CABARET - A public or private establishment which presents topless dancers, strippers, male or female impersonators or exotic dancers or other similar entertainments, and which establishment is customarily not open to the public generally but excludes any minor by reason of age.

ADULT MOTEL - A motel which is not open to the public generally but excludes minors by reason of age or which makes available to its patrons in their rooms films, slide shows or videotapes which, if presented in a public movie theater, would not be open to the public generally but would exclude any minor by reason of age.

ADULT THEATER - A theater that customarily presents motion pictures, films, videotapes or slide shows that are not open to the public generally but exclude any minor by reason of age.

MASSAGE ESTABLISHMENT - Any establishment having a fixed place of business where massages are administered for pay, including, but not limited to, massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition also shall exclude health clubs which have

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facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

PEEP SHOWS - A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally but excludes any minor by reason of age.

§ 42-3. Permitted locations.

- A. Adult entertainment establishments shall be permitted in areas zoned as industrial, as provided for in § 155-10 of the Village Code, which are located northerly of the northerly boundary line of the abandoned Erie Canal Lands, and subject to restrictions and regulations as hereinafter set forth.
- B. The adult uses, as defined in § 42-2 above, are to be restricted as to location in the following manner, in addition to any other requirements of this Code:
 - (1) Any of the above uses shall not be located within a five-hundred-foot radius of any district zoned residential or business.
 - (2) Any of the above uses shall not be located within a one-thousand-foot radius of another such use.
 - (3) Any of the above uses shall not be located within a five-hundred-foot radius of any school, church or other place of religious worship, park, playground or playing field.
- C. No more than one (1) of the adult uses as defined above shall be located on any lot.

Chapter 45 ANIMALS

ARTICLE I Control of Dogs

- § 45-1. Definitions.
- § 45-2. Leash and control required.
- § 45-3. Nuisances and disturbing noise prohibited.
- § 45-4. Procedure concerning dog bites.
- § 45-5. Impounding and seizure of dogs.
- § 45-6. Pooper scooper.
- § 45-7. Training.
- § 45-8. Enforcement.
- § 45-9. Penalties for offenses.

ARTICLE II Control of Cats

- § 45-10. Purpose.
- § 45-11. Definitions.
- § 45-12. Prohibited acts.
- § 45-13. Enforcement.
- § 45-14. License required.
- § 45-15. License fee; term of license.
- § 45-16. Non-transfer of license.
- § 45-17. Disposition of unlicensed cats.
- § 45-18. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 4-23-2001 by L.L. No. 3-2001. This local law repealed former Ch. 45, Animals, adopted 7-24-2000 by L.L. No. 6-2000. Amendments noted where applicable.]

ARTICLE I Control of Dogs

§ 45-1. Definitions.

When used in this article, unless otherwise expressly stated, the following terms shall have the meanings indicated:

ANIMAL CONTROL OFFICER - Any individual or organization appointed by the Village Board of Trustees who is empowered to enforce the provisions of this chapter.

DOG - Any animal of the genus/species *Canis familiaris*, including any breed either pure or mixed, of any age or of either sex, neutered or non-neutered, whether licensed or unlicensed, unless otherwise indicated herein.

OWNER - Any person owning, harboring, keeping or having the care, custody or control of any dog within the limits of the village and, when such owner shall be a child under the age of 16 years, the parent, guardian or other adult person with whom such child resides.

§ 45-2. Leash and control required.

The owner of any dog shall restrain such dog by a leash, not exceeding six feet in length, while off the owner's premises, whether or not said dog is tagged or licensed. The owner of a dog shall not

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suffer, permit or allow his dog off the owner's premises unless restrained by a leash as set forth above and unless accompanied by a person of suitable age and discretion who can physically control the acts of such dog.

§ 45-3. Nuisances and disturbing noise prohibited.

- A. No person owning, harboring, keeping or having custody and control of a dog shall suffer, permit or allow such dog to commit any nuisance, urinate or defecate on or otherwise damage property of the public or of another. The upsetting of a garbage can, chasing of vehicles or attacking, snapping at or biting of a person by a dog while off the owner's premises shall be deemed to be a nuisance.
- B. No person shall have or keep or permit to be kept on any premises owned or occupied, in whole or in part, by him-within the corporate limits of the village any dog or another animal which, by habitually barking, howling or whining, disturbs the neighborhood.
- C. No owner shall suffer, permit or keep a female dog unless such dog is confined and restrained during breeding periods so as to be unaccessible by other dogs, except for arranged breeding purposes.

§ 45-4. Procedure concerning dog bites.

- A. Notification of dog bites. Any person who is bitten by a dog in the village, or the parent, guardian or person with whom a minor child who has been bitten resides, shall forthwith notify the Village Clerk, in writing, of such fact, together with the following attendant circumstances: the time and place of the biting; the name, age and address of the person bitten; the name, breed and license number of the dog, if available; a thorough description of said dog; the name and address of the owner, if known; and the names and addresses of witnesses, if known.
- B. Quarantine test required. The Village Clerk shall forthwith notify the Animal Control Officer or any police officer or any officer authorized by law to seize and impound such dog pursuant to the provisions of the Agriculture and Markets Law of such dog biting, and such officer shall have the authority to seize and impound such dog and to isolate and quarantine said dog in the designated humane facility for a period of 10 days. Said officer shall have the authority to subject such quarantined dog to all the proper tests by a licensed veterinarian for the purpose of determining the presence of rabies, if he determines that such tests should be given.
- C. Expense. The expense of such quarantine, report and veterinarian's fees for the examination and rabies tests, if any, shall be borne entirely by such owner, person possessing or person harboring such dog.
- D. Private agreements prohibited. No agreement, express or implied, between such owner, person possessing or person harboring such dog and any person bitten or his or her parents or guardian purporting to waive the necessity for such compliance with the provisions of this article shall be a defense to prosecution hereunder, as hereinafter provided.

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§ 45-5. Impounding and seizure of dogs.

- A. Any dog running at large contrary to the provisions of this article within the limits of the village shall also be subject to seizure and impound by any police officer or by any person or agency designated by the village or authorized by law to seize and impound such dog pursuant to the provisions of Article 7 of the Agriculture and Markets Law.
- B. Every dog seized shall be properly fed and cared for at the expense of the municipality until disposition thereof shall be made as herein provided.
- C. Notice of impound. The officer seizing any such dog shall ascertain, wherever possible, the owner of the dog and shall give reasonable notice by personally serving such owner or an adult member of his family with a notice, in writing, stating the dog has been seized and will be destroyed unless redeemed within the period herein provided.
- D. Redemption fees. Any dog seized in accordance with the provisions of this article may be redeemed by the owner or harbinger of the same upon payment to the designated humane facility as provided in Agriculture and Markets Law § 118.
- E. Disposal of unredeemed dogs. If not so redeemed, the owner or harbinger of the dog shall forfeit all title to the dog, and the dog shall be sold or destroyed by the peace officer or other designated person.

§ 45-6. Pooper scooper.

- A. The owner of any dog or cat shall be responsible for cleaning up excrement of their animal when elsewhere other than owner's premises.
- B. No person who owns a dog or cat shall permit the premises, structure or enclosure in which such dog or cat is kept to be in an unclean or unsanitary condition. Each day owner fails to comply with this provision shall be deemed a separate offense.

§ 45-7. Training.

No training of any dogs or cats on a frequent or regularly scheduled basis by a firm or business established for such purpose will be allowed on any properties owned by the village.

§ 45-8. Enforcement.

Any police officer of the village, the Animal Control Officer of the village or any other person or agency designated by the village or authorized by law to seize and impound a dog pursuant to the provisions of Article 7 of the Agriculture and Markets Law shall have the authority to enforce the provisions of this article and shall have the power to seize and impound any dog in violation of any provision of this article.

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§ 45-9. Penalties for offenses.

Penalties for violations of this article shall be as follows:

- A. For a first offense, a mandatory civil penalty of \$100.
- B. For a second offense, a mandatory civil penalty of \$150.
- C. For a third offense, a mandatory civil penalty of \$250.

**ARTICLE 11
Control of Cats**

§ 45-10. Purpose.

The purpose of this article is to control and set forth licensing rules and regulations regarding cats in the village.

§ 45-11. Definitions.

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

CAT - Any animal of the genus/species *Felis catus*, including any breed either pure or mixed, of any age or of either sex, neutered or non-neutered, whether licensed or unlicensed, unless otherwise indicated herein.

OWNER - Any person who is the owner of a cat or any person who keeps, feeds or harbors a cat. The owner need not be a resident of the village, but, for violation to occur, the cat must be in the village.

§ 45-12. Prohibited acts.

- A. It shall be unlawful for any owner or any person harboring any cat to permit or allow such cat while in the village to:
 - (1) Be vicious or to stray or to defecate in such a way as to cause annoyance to any person other than the owner or person harboring such cat.
 - (2) Cause damage or destruction to property or commit a nuisance upon the premises of a person other than the owner or person harboring such cat.
- B. The owner of any cat shall be responsible for cleaning up excrement of their animal when elsewhere other than owner's premises.
- C. No person who owns a cat shall permit the premises, structure or enclosure in which such cat is kept to be in an unclean or unsanitary condition. Each day owner fails to comply with this provision shall be deemed a separate offense.

§ 45-13. Enforcement.

Any police officer of the village, or any other person or agency designated by the village or authorized by law to seize or impound a cat, and the Animal Control Officer of the village, shall have the authority to enforce the provisions of this article, including service of a summons or an appearance ticket and the service and execution of any other court process.

§ 45-14. License required.

All cats harbored in the incorporated Village of Mohawk shall be licensed through the Village Clerk. Applicants shall submit a completed application form, and shall pay the applicable fee to the Village Clerk. The license fee chargeable to the owner will be as set by resolution of the Village Board of Trustees from time to time.¹ The cat license must be attached to a collar at the neck of the cat being licensed and remain there.

§ 45-15. License fee; term of license.

The license fee will be a one-time charge to the owner for that cat,² and the license will remain valid so long as the cat ownership shall remain the same.

§ 45-16. Non-transfer of license.

In the event ownership of the cat is transferred, then the current license will be deemed to have expired, and the new owner shall have to secure a new license for the cat. No license is transferable from one cat to another.

§ 45-17. Disposition of unlicensed cats.

The Animal Control Officer is authorized to apprehend unlicensed cats within the village and deliver such cats to the designated humane facility or such other organization as may be designated by the Board of Trustees of said village for such purpose.

§ 45-18. Penalties for offenses.

Penalties for violations of this article shall be as follows:

- A. For a first offense, a mandatory civil penalty of \$100.
- B. For a second offense, a mandatory civil penalty of \$150.
- C. For a- third offense, a mandatory civil penalty of \$250.

¹ Editor's Note: See Ch. A160, Fees.

² Editor's Note: See Ch. A160, Fees.

Chapter 50

BINGO

§ 50-1. Authorization for the conduct of games.

§ 50-2. Administration and enforcement.

§ 50-3. Restrictions.

§ 50-4. Sunday games authorized.

§ 50-5. Frequency of games.

§ 50-6. Award of prizes; restriction.

§ 50-7. Penalties for offenses.

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

GENERAL REFERENCES

Games of chance - See Ch. 90.

§ 50-1. Authorization for conduct of games.

It shall be lawful for any authorized organization, as defined in § 476 of Article 14-H of the General Municipal Law, upon retaining the required license, to conduct bingo games in the Village of Mohawk, subject to the provisions of this chapter, Article 14-H of the General Municipal Law, Article 19-B of the Executive Law and the rules and regulations of the State Racing and Wagering Board.

§ 50-2. Administration and enforcement.

- A. Licenses. The Village Clerk-Treasurer shall accept applications for and issue licenses for the conduct of bingo games in accordance with Article 14-H of the General Municipal Law.
- B. Supervision of games. The Village Clerk-Treasurer, with the aid and cooperation of police officers, shall have and exercise control and supervision over all bingo games held, operated or conducted under any license issued pursuant to this chapter.
- C. Inspection of premises. The Village Clerk-Treasurer or any officer designated by the Village Clerk-Treasurer shall have the right of entry at all times into any premises where any bingo game is being held, operated or conducted or where it is intended that any such bingo game is being held, operated or conducted or any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same.

§ 50-3. Restrictions.

The restrictions imposed by § 479 of the General Municipal Law shall apply to bingo games in the village, in addition to any further restrictions imposed by this chapter.

§ 50-4. Sunday games authorized.

As authorized by General Municipal Law § 485, bingo games may be held on any day of the week provided for in the license issued pursuant to this chapter.

§ 50-5. Frequency of games.

In addition to the provisions of General Municipal Law § 487, no bingo games shall be held, operated or conducted under any license issued pursuant to this chapter more often than on six (6) days in any one (1) calendar month.

§ 50-6. Award of prizes; restriction.

- A. All winners shall be determined and all prizes shall be awarded in any game played on any occasion within the same calendar day as that upon which the game was played.
- B. No alcoholic beverage shall be offered or given as a prize in any such game.

§ 50-7. Penalties for offenses.

Violations of the provisions of this chapter, Article 14-H of the General Municipal Law, Article 19-B of the Executive Law and the rules and regulations of the State Racing and Wagering Board shall be prosecuted as misdemeanors, punishable by a maximum fine of one thousand dollars (\$1,000.) or one (1) years' imprisonment, or both.

Chapter 53 (Reserved)¹

¹ **Editor's Note: Former Ch. 53, Brush, Grass and Weeds, adopted 9-2-1958, as amended, was repealed 9-25-2000 by L.L. No. 8-2000. See now Ch. 11-7, Property Maintenance.**

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§ 55-3. Acting Code Enforcement Officer.

In the absence of the Code Enforcement Officer, or in the case of the officer's inability to perform for any reason, the Mayor shall have the power, with the consent of the Village Board, to designate a person to act in behalf of the Code Enforcement Officer and to exercise all powers conferred upon such officer by this chapter.

§ 55-4. Appointment of Building Inspectors.

The Mayor, with the approval of the Village Board, may appoint one or more Building Inspectors, as the need may appear, to act under the supervision of the Code Enforcement Officer and to exercise any portion of the powers and duties of the Code Enforcement Officer as directed by him. The compensation of such Building Inspectors shall be fixed by the Board of Trustees.

§ 55-5. Restrictions on employees.

The Code Enforcement Officer or any Building Inspector shall not engage in any activity inconsistent with their duties or with the interests of the village; nor shall they, during the term of their employment, be engaged directly or indirectly in any building business, in the furnishing of labor, materials, supplies or appliances for or in the supervision of the construction, razing, alteration or maintenance of a building or the preparation of plans or specification thereof within the Village of Mohawk, except that this provision shall not prohibit any employee from engaging in any such activities in connection with the construction of a building or structure owned by him or her for his or her own personal use and occupancy of members of his or her immediate family and not constructed for sale; and further that this provision shall not prohibit any employee from engaging in specification review or inspection of premises related to federal programs for building and housing improvements.

§ 55-6. Duties and powers of Code Enforcement Officer.

- A. Except as otherwise specifically provided by law, ordinance, rule or regulation or except as herein otherwise provided, the Code Enforcement Officer shall administer and enforce the New York State Uniform Fire Prevention and Building Code, hereinafter called "Uniform Code," and all of the provisions of the law, ordinances, rules and regulations applicable to the Plans, specifications or permits for the construction, alteration and repair of buildings and structures and the installation and use of materials and equipment therein and the location, use and occupancy thereof.
- B. The Code Enforcement Officer may promulgate rules and regulations, subject to the approval of the Village Board, to secure the intent and purpose of this Article and a proper enforcement of the Uniform Code and laws, ordinances, rules and regulations governing building plans, specification, construction alterations and repairs. **[Amended 7-14-1997 by L.L. No. 4-1997]**
- C. The Code Enforcement Officer shall receive applications, approve plans and specifications and issue permits for the erection and alterations of buildings or structures or parts thereof and shall examine the premises for which such applications have been received, plans have been approved or such permits have been issued for the purpose of ensuring compliance with laws, ordinance,

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rules and regulations governing building construction and alteration.

- D. The Code Enforcement Officer shall issue, in writing, all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such law, ordinance, rules and regulations, and such notices or orders may be served upon the property owner or his or her agent personally or by sending a copy of such order to the owner or his or her agent, by registered mail, at the address set forth in the application for permission for the construction or alteration of such building, and/or by posting the same upon a conspicuous portion of the premises to which the notice applies. He or she shall make all inspections which are necessary or proper for the carrying out of his or her duties, except that he or she may accept written reports of inspection from Building Inspectors and other employees of the village or from generally recognized and authoritative inspection services or inspection bureaus or agencies, provided that the same are certified by a responsible official thereof. **[Amended 7-14-1997 by L.L. No. 41997]**
- E. Whenever the same may be appropriate to determine compliance with the provisions of applicable laws, ordinances, rules and regulations covering building construction and alteration, he or she may, in his or her discretion, accept and rely upon written reports of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories or inspection services and inspection bureaus or agencies.
- F. He shall issue a certificate of occupancy, where appropriate, for a building constructed or altered in accordance with the provisions of the Uniform Code, which such certificate shall certify that the building conforms to the requirements of the Uniform Code.

§ 55-7. Department records and reports.

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by him, including all applications received; plans approved; permits and certificates issued; fees charged and collected by the Village Clerk; inspection reports made; all rules and regulations promulgated by him or her, with the consent of the Village Board; and notices and orders issued. All such records shall be public records open to public inspection during normal business hours.
- B. The Code Enforcement Officer shall annually submit to the Village Board a written report and summary of all business conducted by the Building Department, including approvals, permits and certificates issued, fees collected by the Village Clerk, orders and notices promulgated, inspections and tests made and appeals or litigation pending or concluded.

§ 55-8. Penalties for offenses.

In accordance with § 382 of Article 18 of the Executive Law of the State of New York:

- A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provision of the law or ordinance, as well as any rule or regulation as promulgated by the Code Enforcement Officer in accordance with applicable laws or to fail in any manner to comply with a notice, directive

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or order of the Code Enforcement Officer or to construct, alter, use or occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

- B. Any person who shall fail to comply with a written order of the Code Enforcement Officer within the time fixed for compliance there-With and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of law or any lawful order, notice, directive, permit or certificate of the- Code Enforcement Officer made thereunder shall be punishable by penalties as. stated in § 382 of the Executive Law. Each day that a violation continues shall be deemed a separate offense.¹ [Amended 7-14-1997 by L.L. No. 41997]

§ 55-9. Abatement of violation.

Appropriate action and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to prevent illegal acts, conduct or business in or about any premises, and these remedies shall be in addition to penalties otherwise prescribed by law.

ARTICLE 11

Permit Procedures

[Adopted 7-14-1997 by L.L. No. 4-1997]

§55-10. Application.

- A. No person, firm or corporation shall commence the erection, construction, enlargement, alteration, improvement, conversion or change in the nature of the occupancy of any building or structure or cause the same to be done without first obtaining a separate building permit from the Code Enforcement Officer for each such building or structure, except that no building permit may be required as follows:
- (1) For necessary repairs which do not materially affect structural features.
 - (2) For alterations to existing buildings, provided that the alterations:
 - (a) Cost less than \$10,000;
 - (b) Do not materially affect structural features;
 - (c) Do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits;
 - (d) Do not involve the installation or extension of electrical systems; and

¹ Editor's Note: Former Section 8(c), which immediately followed this section and dealt with the noncriminality of violations, was deleted 7-14-1997 by L.L. No. 4-1997.

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- (e) Do not include the installation of solid fuel burning heating appliances and associated chimneys and flues;
 - (3) For small noncommercial structures not intended for use by one or more persons as quarters for living, sleeping, eating or cooking; for example, a small storage building with a gross area of less than 120 square feet.
- B. Application for a building permit shall be made to the Code Enforcement Officer on forms provided by him or her, and shall contain the following information:
- (1) A description of the land on which the proposed work is to be done.
 - (2) A statement of the use or occupancy of all parts of the land and the proposed building or structure.
 - (3) The valuation of the proposed work.
 - (4) The full name and address of the owner and of the applicant, the names and addresses of their responsible officers if any of them are corporations, and the name and address of the owner's authorized agent, if any.
 - (5) A brief description of the nature of the proposed work.
 - (6) A statement that the application is made for permission to construct in accordance with the provisions of the Uniform Code.
 - (7) Such other information as may reasonably be required by the Code Enforcement Officer to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances, rules and regulations.
- C. The application shall be signed by the owner or his or her authorized agent.
- D. The application shall be made by the owner or by the agent, architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application.
- E. Each application for a building permit shall be accompanied by duplicate copies of plans and specifications, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site; the nature and character of the work to be performed and the materials to be incorporated; distances from lot lines; the relationship of structures on adjoining property; widths and grades of adjoining streets, walks and alleys; and, where required by the Code Enforcement Officers, details of structural, mechanical and -electrical work, including computations, stress diagrams and other essential technical data. Plans and specifications shall bear the signature of the person responsible for the design and drawings and, where required by §§ 7202 or 7203, as amended, of Articles 145 or 147 of the Education Law of the State of New York, the seal of a licensed architect or a licensed professional engineer; the Code Enforcement Officer may waive the requirements for filing plans and specifications for minor alterations and issue a building permit so stating.

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- F. Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Code Enforcement Officer and approval received from the Code Enforcement Officer prior to the commencement of such change of work.

§ 55-11. Fees.

A. Fees for building permits shall be as set forth by resolution of the Village Board of Trustees from time to time.²

B. 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.

§ 55-12. Issuance or disapproval of building permit.

A. The Code Enforcement Officer shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. He or she shall approve or disapprove the application within 30 days from the date of submission of a complete application. Grounds for automatic disapproval of the application shall include, but shall not be limited to, the following:

- (1) The existence of a lien on the subject property imposed pursuant to §55-15;
- (2) The existence of three or more convictions for failure to comply with this Article;
- (3) The existence of an unpaid fine or unserved sentence, imposed upon the applicant following his or her conviction for violating any provision of the Code of the Village of Mohawk;
- (4) The existence of any lien imposed by reason of the remediation by the Village of an unsafe structure, by reason of any measure taken by the Village to remediate any other dangerous condition created or permitted by the property owner, or by reason of the applicant's failure to comply with any Village law;
- (5) The existence of any unpaid special assessment imposed upon the subject property;
or
- (6) The continued or repeated failure of the applicant to comply with any provision of the Code of the Village of Mohawk pertaining to property maintenance, building codes, zoning, stormwater management, fences, or signs.

No approval shall be issued in any of the foregoing circumstances except upon resolution the Village Board. [Amended 10-9-2000 by L.L. No. 9-2000; 9-13-

² Editor's Note: See Ch. A160, Fees.

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2004 by L.L. No. 3-2004]

- B. Upon approval of the application and upon receipt of the fees therefor, the Code Enforcement Officer shall issue a building permit to the applicant upon the form prescribed by the Code Enforcement Officer and shall affix his or her signature or cause his or her signature to be affixed thereto.
- C. Upon approval/acceptance of the application, both sets of plans and specifications shall be endorsed with the word "approved." One set of such approved/accepted plans and specifications shall be retained in the files of the village, and the other set shall be returned to the applicant, together with the building permit, and shall be kept by the applicant at the building site open to inspection by the Code Enforcement Officer or his or her authorized representative at all reasonable times.
- D. If the application, together with plans, specifications and other documents filed therewith, describe proposed work which does not conform to all the requirements of the applicable building regulations, the Code Enforcement Officer shall disapprove the same, and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Code Enforcement Officer shall cause such refusal, together with the reason therefor, to be transmitted to the applicant, in writing,

§ 55-13. Term of permit; work to conform; display.

- A. A building permit shall be effective to authorize the commencing of work for a period of six months after the date of its issuance. For good cause, the Code Enforcement Officer may allow a maximum of two extensions for periods not exceeding three months each. All work shall conform to the approved application, plans and specifications and shall be in accordance with applicable building laws, ordinances, rules and regulations.
- B. Building permits shall be prominently displayed on the job site at all times during the progress of the work so as to be readily seen from adjacent thoroughfares.

§ 55-14. Stop-work orders.

The Code Enforcement Officer may issue a stop-work order in the following instances:

- A. Where he or she finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.
- B. Where he or she finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.
- C. Where he or she finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.

§ 55-15. Stop-work order. [Amended 8-23-1999 by L.L. No. 3-1999; 10-9-2000 by L.L. No. 9-2000]

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Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is being performed in violation of the provisions of the applicable building laws, ordinances, rules or regulations or not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued or in an unsafe and dangerous manner, he or she shall notify the owner of the property, or the owner's agent, to suspend all work, and any such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed, either by delivering it personally to him or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to him or her by certified mail at the address set forth in the application for permission for the construction of such building. Any continuation of work following the service of a stop-work order issued in accordance with this section shall be punishable by a fine of at least \$100 and not to exceed \$1,000. Each day in which the violation of the stop-work order continues shall constitute a separate and distinct offense hereunder. Upon any conviction of a violation of a stop-work order, a separate civil penalty of \$150 shall also be imposed and paid to the Village Clerk-Treasurer. If said civil penalty is not paid within 15 days of notice to the property owner, same shall be assessed against, and be a lien upon, the lot, tract or parcel of land upon which the work has continued, and shall be collected by the Tax Collector or Village Clerk-Treasurer as provided by law for the collection of delinquent taxes.

§ 55-16. Certificate of occupancy; certificate of compliance.

- A. No building hereafter erected shall be used or occupied, in whole or in part, until a certificate of occupancy shall have been issued by the Code Enforcement Officer.
- B. No building hereafter 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 by the Code Enforcement Officer.
- C. No change shall be made in the occupancy classification -as such classifications are defined in Part 701 of Title 9 of the Official Compilation of Codes, Rules and Regulations, of an existing building, unless a certificate of occupancy or certificate of compliance shall have been issued by the Code Enforcement Officer.
- D. The owner or his or her agent shall make application for a certificate of occupancy. Accompanying this application and before the issuance of a certificate of occupancy, there shall be filed with the Code Enforcement Officer 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 the 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. This affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought, that-the structure has been erected in accordance with approved plans and, as erected, complies with the law governing building construction or as varied by a variance which has been legally authorized. Such variances and qualifying conditions imposed therewith, if any, shall be specified in the affidavit.

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§ 55-17. Inspection.

Before issuing a certificate of occupancy, the Code Enforcement Officer shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair or change the use or nature of occupancy, and he or she shall conduct construction inspections at such times during the course of construction as will permit the observation of the foundation, structural elements, electrical systems, plumbing systems, heating, ventilation and air-conditioning systems, fire-protection and detection systems and exit features and may conduct other inspections as he or she deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. There shall be maintained in the village a record of all such examinations and inspections together with a record of findings of violations of the law.

§ 55-18. Issuance of certificate of occupancy.

- A. When, after final inspection, it is found that the proposed work has been -completed in accordance with the applicable building laws, ordinances, rules and regulations and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Code Enforcement Officer shall issue a certificate of occupancy upon the form provided by him. If it is found that the proposed work has not been properly completed, the Code Enforcement Officer shall 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.
- B. A certificate of occupancy shall be issued,- where appropriate, within 30 days after written application therefor is made.

§ 55-19. Other inspections.

In addition to inspections prior to issuance of a certificate of occupancy, other inspections shall be made as follows:

- A. Firesafety inspections of areas of public assembly, as defined in Part 606 of Title 9 of the Official Compilation of Codes, Rules and Regulations, at least once per year;
- B. Firesafety inspections of all multiple dwellings and all nonresidential occupancies-may be conducted, as needed, but at least once in a five-year period.
- C. Inspections in response to bona fide complaints regarding conditions-or activities allegedly failing to comply with the Uniform Code.

§ 55-20. Fees for inspections. [Added 2-9-1998 by L.L. No. 1-1998]

- A. The fee for fire safety inspections of areas of public assembly as required by § 55-19A shall be as set forth in Chapter A 160, Fees.
- B. The fee for fire safety inspections of multiple dwellings as required by § 55-19B shall be as set

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forth in Chapter A 160, Fees.

- C. The fee for fire safety inspections of nonresidential occupancies as required by § 55-19B shall be as set forth in Chapter A 160, Fees.
- D. The fee for reinspections shall be as set forth in Chapter A 160, Fees.

§ 55-21. Violations. [Added 8-23-1999 by L.L. No. 3-1999]

- A. Upon determination that a violation of the Uniform Code or this article exists in, on or about any building or premises, the Code Enforcement Official shall order in writing the remedying of the condition. Such order shall state the specific provision of -the Uniform Code which the particular condition violates and shall grant such time as may be reasonably necessary for achieving compliance before proceedings to compel compliance shall be instituted. Such order shall be served personally or by notification by registered mail.
- B. In addition to those penalties prescribed by state law, any person, firm or corporation who violates any provision of the Uniform Code or any rule or regulation of this article, or the terms or conditions of any certificate of occupancy issued by the Building and Fire Safety Inspector, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Village Board on its own initiative or at the request of the Code Enforcement Official.
- C. Alternatively or in addition to an action to recover the civil penalties provided by Subsection B, the Village Board may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation of, or to enforce, any provision of the Uniform Code or the terms or conditions of any certificate of occupancy issued by the Code Enforcement Official.

Chapter 57

BUILDINGS, UNSAFE

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| <p>§ 57-1. Purpose.</p> <p>§ 57-2. Authority.</p> <p>§ 57-3. Title.</p> <p>§ 57-4. Definitions.</p> <p>§ 57-5. Investigation and report.</p> <p>§ 57-6. Determination of safety by Village Board; notice.</p> | <p>§ 57-7. Contents of notice.</p> <p>§ 57-8. Service of notice.</p> <p>§ 57-9. Notice to County Clerk.</p> <p>§ 57-10. Refusal to comply.</p> <p>§ 57-11. Assessment of expenses.</p> <p>§ 57-12. Emergency cases.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 3-11-1996 by L.L. No. 1-1996. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention - See Ch. 55.

§ 57-1. Purpose.

Unsafe buildings pose a threat to life and property in the Village of Mohawk. Building and structures may become unsafe by reason of damages by fire, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for young children who may be injured therein, as well as points of congregation by vagrants and transients. A dilapidated building may also -serve as a place of rodent infestation, thereby creating a health menace to the community. It is the purpose of this chapter to provide for the safety, health protection and general welfare of persons and property in the Village of Mohawk by requiring that unsafe buildings be repaired or demolished and removed.

§ 57-2. Authority.

This chapter is enacted pursuant to Articles 2 and 3 of the Municipal Home Rule Law.

§ 57-3. Title.

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

§ 57-4. Definitions.

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

BUILDING - Any building, structure or portion thereof used for residential, business or industrial purposes.

CODES ENFORCEMENT OFFICER - The Codes Officer of the Village of Mohawk or such

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other person appointed by the Village of Mohawk Board to enforce the provisions of this chapter.

VILLAGE - The Village of Mohawk.

§ 57-5. Investigation and report.

The Codes Enforcement Officer when in his/her own opinion or upon receipt of information that a building is or may become dangerous or unsafe to the general public, is open at the doorways and windows making it accessible to and an object of attraction as well as a point of congregation to vagrants or other trespassers, is or may become a place of rodent infestation, presents any other danger to the health, safety, morals and general welfare of the public or is unfit for the purposes for which it may lawfully be used shall make an inspection thereof and report in writing to the Village Board with his/her findings and recommendations in regard to its repair or demolition and removal.

§ 57-6. Determination of safety by Village Board; notice.

The Village Board shall thereafter consider such report and by resolutions determine, if in its opinion the report so warrants, that such building is unsafe, dangerous or otherwise constitutes a public nuisance. If the Village Board determines that there is reason to believe that such building is unsafe, dangerous or otherwise constitutes a public nuisance, it shall cause notice thereof to be served upon the persons and in the manner provided herein.

§ 57-7. Contents of notice.

The notice shall contain the following:

- A. A description of the premises.
- B. A statement of the particulars in which the building is unsafe, dangerous or constitutes a public nuisance.
- C. A date by which the condition causing such building to be unsafe, dangerous or a public nuisance must be remedied, which date shall be not less than 30 days after the service of the notice and not more than 60 days thereafter.
- D. A date, time and place for a hearing before the Village Board in relation to such-dangerous or unsafe building, which hearing shall be scheduled not less than five business days from the date of service of the notice.
- E. A statement that in the event of neglect or refusal to remedy the condition, the Village Board is authorized to provide for its repair, demolition and removal, to assess all expenses thereof against the land on which such building is located or, in the alternative, to institute a special proceeding to collect the costs of demolition, including legal costs, in the sole discretion of the Village Board.

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§ 57-8. Service of notice.

The notice shall be served upon the owner and all other persons having an interest in such property or building as shown by the records of the tax collector or the County Clerk either personally or by certified mail. If such service be made by certified mail, such mailing shall be addressed to the last known address of the person to be served, and, in addition thereto, a copy of the notice shall be posted on the premises.

§ 57-9. Notice to County Clerk.

A copy of the notice served as provided herein shall be filed in the Office of the Herkimer County Clerk in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules and shall have the same effect as a notice of pendency as therein provided, except as otherwise hereinafter provided in this section. A notice so filed shall be effective for a period of one year from the date of filing unless sooner vacated by consent of the Village or upon court order.

§ 57-10. Refusal to comply.

In the event of the refusal or neglect of the person so notified to comply with said order of the Village Board after the hearing, the Village Board may provide for the demolition and removal of such building or structure either by village employees or by contract. Except in the case of an emergency as provided in § 57-12 hereof, any contract for demolition and removal of a building in excess of \$20,000 shall be awarded through competitive bidding

§ 57-11. Assessment of expenses.

All expenses incurred by the village in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the costs of actually removing such building, and all reasonable and necessary legal expenses incidental thereto shall, at the option of the Village Board, either:

- A. Be assessed against the land on which such buildings are located and shall be levied and collected in the same manner as provided by law for the levy and collection of a special ad valorem levy; or
- B. Be collected by commencement of a special proceeding against the owner of said unsafe or dangerous building or structure pursuant to General Municipal Law, § 78-b.

§ 57-12. Emergency cases.

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building is immediately repaired and secured or demolished, the Village Board may by resolution authorize the Codes Enforcement Officer to immediately cause the repair or demolition of such unsafe building. The expense of such repair or demolition shall be recovered as provided in § 57-11 hereof.

Chapter 61 CEMETERIES

ARTICLE 1

Hours

§ 61-2. Removal of vehicles.

§ 61-3. Penalties for offenses.

§ 61-1. Persons or vehicles prohibited during certain hours.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk: Art. 1, 8-5-1969. Amendments noted where applicable.]

ARTICLE I

Hours

[Adopted 8-5-1969]

§ 61-1. Persons or vehicles prohibited during certain hours.

Unless duly authorized in writing, no person or vehicle shall be present within the bounds of the Mohawk Cemetery from one-half (½) hour after sunset to one-half (½) hour before sunrise.

§ 61-2. Removal of vehicles.¹

Vehicles left unattended within the bounds of said cemetery in violation of § 61-1 above shall be removed, and the party leaving such vehicle or the owner thereof shall pay the cost of removal of such vehicle.

§ 61-3. Penalties for offenses.²

Any person found guilty of being present within the bounds of said cemetery in violation of § 61-1 above or any owner of a vehicle left unattended within the bounds of said cemetery in violation of § 61-1 above shall be subject to a fine of not more than two hundred fifty dollars (\$250.) or imprisonment for not more than fifteen (15) days, or both.

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

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

Chapter 65
CHECKS, RETURNED

§ 65-1. Charge.

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

§ 65-1. Charge.

All checks made payable to the Village of Mohawk that are returned for insufficient funds will be subject to a charge of fifteen dollars (\$15.), plus any bank fees.

Chapter 72

CODES ENFORCEMENT

§ 72-1. Purpose.

§72-4. Included offenses.

§ 72-2. Uniform notices and tickets authorized.

§72-5. Relation to other laws.

§ 72-3. Content of ticket.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 12-13-2004 by L.L. No. 5-2004. Amendments noted where applicable.]

§72-1. Purpose.

Compliance with building codes and local laws is critical to the safety of village residents, and to the maintenance of an attractive community. To that end, the Village Board of Trustees finds that a simplified procedure for notifying violators of alleged violations prior to the issuance of an appearance ticket is desirable and may often result in compliance without prosecution. Additionally, in some instances where prosecution is warranted, issuance of uniform enforcement tickets allowing an alleged violator who does not contest the charge to plead guilty by mail and pay a prescribed fine for certain violations may be preferable to the issuance of a standard appearance ticket.

§72-2. Uniform Notices and Tickets Authorized.

- A. The Village of Mohawk Codes Enforcement Officer(s), Police Officers, or any other duly appointed official agent, employee or designated person may hereafter issue a Codes and Local Law Uniform Violation Notice, and/or a Codes and Local Law Uniform Enforcement Ticket to any alleged violator of any applicable building code or local law within the Village.
- B. Said Notices, where issued, shall serve only to notify an alleged violator of an alleged violation and shall not be deemed to commence a criminal prosecution. In no event shall issuance of a Violation Notice be required prior to the issuance of a Uniform Ticket.
- C. Said Tickets, where issued, shall constitute appearance tickets as set forth in the New York State Criminal Procedure Law.

§72-3. Content of Ticket.

Codes and Local Law Uniform Enforcement Tickets shall contain the name of the alleged violator if known, the address of the premises at which the violation is alleged to have occurred, and a brief description of the alleged violation. The Tickets shall further allow the alleged violator to enter a plea in person or by mail, and shall set forth the fine to be paid upon a guilty plea by mail. The Village Board may by resolution prescribe the form in which said Uniform Ticket shall be issued.

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§72-4. Included Offenses.

The following offenses may be prosecuted by issuance of Codes and Local Law Uniform Enforcement Tickets, and the following fines shall be imposed for each corresponding offense for which a Uniform Ticket is issued, upon a guilty plea by mail:

<u>Offense</u>	<u>Local Law</u>	<u>Fine</u>
Unregistered or Abandoned Vehicle(s)	§150-16	\$ 15.00
High Grass or Weeds	§117-1	15.00
Failure to remove snow or ice	§137-6	15.00
Discarded Appliances/Rubbish	§133-7	15.00
Trash or Garbage Placed in Improper Container or Bag	§133-3	15.00
Trash or Garbage Left Out or Placed out Early	§133-6	15.00
Construction without Building Permit	§55-10	15.00

§72-5. Relation to Other Laws.

Issuance of a Codes and Local Law Uniform Enforcement Ticket shall in no event be mandatory, and this Chapter shall not be interpreted as in any manner limiting or eliminating the right of the Village, the Village Codes Enforcement Officer or Village Police from prosecuting violators or from pursuing any and all other civil or criminal remedies available under applicable Federal, State or Local Laws.

Chapter 77

FENCES

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| <p>§ 77-1. Definitions.</p> <p>§ 77-2. Approval required.</p> <p>§ 77-3. Issuance of permit; fees.</p> <p>§ 77-4. Swimming pools.</p> <p>§ 77-5. Height limitations.</p> <p>§ 77-6. Local restrictions.</p> | <p>§ 77-7. Materials.</p> <p>§ 77-8. Powers and duties of Code Enforcement Officer.</p> <p>§ 77-9. Penalties for offenses.</p> <p>§ 77-10. Appeals.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 1-26-2004 by L.L. No. 1-2004. This local law supersedes former Ch. 77, Fences, adopted 7-25-1978 by L.L. No. 5-1978. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction - See Ch. 55. Zoning - See Ch. 155.

§ 77-1. Definitions.

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

FENCE - Any structure, regardless of composition, except living fences, that is erected or maintained for the purpose of enclosing a piece of land or to divide a piece of land into distinct portions; or to direct or prohibit passage across land; or to enclose a swimming pool; or to protect against hazards of an excavation pit, well, spring or hole or otherwise.

FRONT YARD - That portion of a yard in front of the rear building line of the principal building or residence on a parcel of land. For purposes of determining the rear building line, additions visually identifiable from the outside of the building will not be considered. For corner parcels, the "front yard" will be determined from the street which is the mailing address of the building. The other street will be considered the side street.

HEIGHT - The distance measured from the existing grade to the top of the fence.

LIVING FENCE - Any fence or hedge composed of live materials.

§ 77-2. Approval required.

No fence shall be erected, except living fences and temporary fences for purposes of protecting against hazards of excavations and holes or like dangers newly created on the premises, until a permit therefor is issued by the Code Enforcement Officer of the village. Temporary fences are allowed for thirty (30) days before a permanent solution is installed.

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§ 77-3. Issuance of permit; fees.

- A. Applications for fence erection permits shall be made to the Code Enforcement Officer on forms provided by the Village Clerk-Treasurer. The applications shall include a plan or sketch of the proposed fence with the buildings and objects around it indicated. It shall state the purpose of the fence as proposed and shall set forth the materials of its construction and its height, and the application shall conform otherwise with building permit applications. The Codes Enforcement Officer shall have the discretion to deny any application for a fence which he deems to be contrary to the public interest, including but not limited to instances in which it appears that the fence builder's motive is malicious, where a neighbor's safety would be threatened by the fence, or where the fence would be detrimental to the Fire Department in containing or fighting a fire as determined by the Fire Chief for the Village of Mohawk.
- B. A filing fee shall accompany each application. The amount of that fee shall be established by resolution of the Village Board. Permits issued shall be valid for six (6) months after the date of issuance. The issued permit shall be available on the job for inspection during the fence erection work.

§ 77-4. Swimming pools.

In-ground swimming pools shall be completely and effectively fenced by an artificial enclosure six (6) feet in height above the ground.

§ 77-5. Height limitations.

- A. Rear yards. No fence at the rear of the principal building or residence on a piece of land shall be more than six (6) feet in height, and such fence shall not extend forward of the rear building line as established by § 77-1, the definition of "front yard," of the principal building or residence on the lot.
- B. Front yards. No fence in any front yard shall be higher than four (4) feet.
- C. Side yards: No fence in any side yard shall be more than six (6) feet.

§ 77-6. Location restrictions.

- A. Any fence, other than a living fence, shall be placed at least six (6) inches back from any property line or right of way, except that fences in a front yard shall be placed at least six (6) inches back from the sidewalk or street line in existence, as proposed or required by a development plan or otherwise by law.
- B. Living fences shall be placed at least two (2) feet back from a property line or right of way and from the inside line of a sidewalk or street line in existence or as proposed or required by a development plan or otherwise by law. Living fences shall be trimmed so as not to encroach on the sidewalk, street line or adjacent property.
- C. No fence shall interfere with visibility by vehicle operators when approaching corners or when entering a street from a piece of land as determined by the Chief of Police.

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- D. Corner properties. The rear yard fence on a corner property, if more than four (4) feet high, shall not be placed closer to the sidewalk or street line than the face of the building closest to the side street. For purposes of determining the building face, additions visually identifiable from the outside of the building will not be considered. Fences closer to the sidewalk/street line of a side street shall be subject to all limitations of a front yard fence.

§ 77-7. Materials.

Materials proposed for the construction of fences shall be subject to the approval of the Code Enforcement Officer. Fences must be made using generally available commercial fencing material. Specifically prohibited is the use of barbed wire, plywood, PVC pipe, cinder blocks, and electrically charged fences. Temporary fences may use plywood. (See §77-2)

§ 77-8. Powers and duties of Code Enforcement Officer.

The Code Enforcement Officer of the Village or an officer of the village duly authorized by the Code Enforcement Officer shall have the authority to direct the removal, trimming or modification of any shrubs, bushes, plants, trees, flowers or other vegetation, fence, wall, hedge or other structure on private or public property wherever the same shall be found to be in violation of this chapter. Any person who shall refuse or neglect to comply with a written direction under this authority shall be guilty of violation of this chapter and shall be subject to its penalties.

§ 77-9. Penalties for offenses.

Violations of any of the provisions of this chapter shall be punishable by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both. Each days' continuance of a violation after notice shall be deemed a separate and distinct violation and shall be punishable accordingly.

§ 77-10. Appeals.

The Code Enforcement Officer's decisions concerning the applicability of this chapter shall be appealable to the Board of Trustees.

Chapter 81

FIREARMS

§ 81-1. Discharge prohibited; exceptions.

§ 81-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 6-27-1994 as L.L. No. 4-1994. Amendments noted where applicable.]

§ 81-1. Discharge prohibited; exceptions.

No person shall discharge any firearms, air guns, springs guns or other instruments or weapons within the village, except in self-defense or in the discharge of official duty.

§ 81-2. Penalties for offenses.

Any person committing an offense against any provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punished for each offense by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both.

Chapter 85
FLOOD DAMAGE PREVENTION

ARTICLE I
Statutory Authorization and Purpose

- § 85-1. Findings.
- § 85-2. Statement of purpose.
- § 85-3. Objectives.

ARTICLE II
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[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 8-9-1999 by L.L. No. 21999. This local law supersedes former Ch. 85, Flood Damage Prevention, adopted 7-14-1997 by L.L. No. 4-1997. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention - See Ch. 55. Zoning - See Ch. 155.

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ARTICLE I
Statutory Authorization and Purpose

§ 85-1. Findings.

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

§ 85-2. Statement of purpose.

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

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

§ 85-3. Objectives.

The objectives of this chapter are to:

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood-control projects.
- C. Minimize the need -for rescue and relief efforts associated with flooding and, generally undertaken at the expense of the general public.
- D. Minimize prolonged business interruptions.

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- E. Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges, located in areas of special flood hazard.
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood-blight areas.
- G. Provide that developers are notified that property is in an area of special flood hazard.
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II Definitions

§ 85-4. Word usage and definitions.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

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

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

AREA OF SPECIAL FLOOD HAZARD - The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE or V 1 -V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

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

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

BUILDING - See "structure."

CELLAR - See "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

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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.

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:

- (1) A nonbasement building:
 - (a) Built, in the case of a building in Zone A1-A30, AE, A, A99, AO, AH, B, C, X or D, to have the top of the elevated floor or, in the case of a building in Zone V1-V30, 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
 - (b) 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.
- (2) In the case of Zone A1-A30, AE, A, A99, AO, AH, B, C, X or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.
- (3) In the case of Zone V1-V30, VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

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

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

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

FLOOD 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

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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:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters.
 - (b) The unusual and rapid-accumulation or runoff of surface waters from any source.
- (2) “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 (1)(a) above.

FLOODPLAIN or FLOOD-PRONE AREA - Any land area susceptible to being inundated by water from any source. (See “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 - See “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:

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- (1) 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;
- (2) 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;
- (3) 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
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

MOBILE HOME - See "manufactured home."

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

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

NEW MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities,

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the construction of streets and-either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

ONE-HUNDRED-YEAR FLOOD - See “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:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) 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 § 85-13B of this chapter.

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

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

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

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

- (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

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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.

ARTICLE III General Provisions

§ 85-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Mohawk, Herkimer County, New York.

§ 85-6. Basis for establishing areas of special flood hazard.

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

- (1) Flood Insurance Rate Map (single panel) No. 360314 0001C whose effective date is September 8, 1999.
- (2) A scientific and engineering report entitled "Flood Insurance Study, Village of Mohawk, New York, Herkimer County" dated September 8, 1999.

B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at: Village Clerk's Office, Village of Mohawk, 28 Columbia Street, Mohawk, New York, 13407.

§ 85-7. Interpretation and conflict with other laws.

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

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§ 85-8. Penalties for offenses.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established, in connection with conditions of the permit, shall constitute a violation. Any person who violates this, chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Mohawk, Herkimer County, New York, 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 §§ 85-19 and 47-20 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 85-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard 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 Mohawk, Herkimer County, New York, 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

§ 85-10. Designation of local administrator.

The Village of Mohawk Codes 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.

§ 85-11. Floodplain development permit; fees-and costs.

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring 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 § 85-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed

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structures, fill, storage of materials, drainage facilities and the location of the foregoing.

- B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee as set by resolution of the Village Board of Trustees from time to time.¹ In addition, the applicant shall be responsible for reimbursing the Village of Mohawk, Herkimer County, New York, for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit in an amount set by resolution of the Village Board of Trustees from time to time² to cover these additional costs.

§ 85-12. Permit application.

The applicant shall provide the following information as appropriate; additional information may be required on the permit application form:

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zone A1-A30, AE or AH or Zone A if base flood elevation data is available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 85-15C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 85-17, Nonresidential structures.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 85-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of

¹ Editor's Note: See Ch. A160, Fees.

² Editor's Note: See Ch. A160, Fees.

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special flood hazard may result in physical damage to any other property.

- G. In Zone A, when no base flood elevation data is available from other sources, base flood elevation data shall be provided by the pen-nit 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.

§ 85-13. Powers and duties of local administrator.

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

- A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit. The local administrator shall:
- (1) Review all applications for completeness, particularly with the requirements of § 85-12, Permit application, and for compliance with the provisions and standards of this chapter.
 - (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of §§ 85-14 through 85-18 and, in particular, § 85-14A, Subdivision proposals.
 - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of §§ 85-14 through 85-18, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
 - (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law
- B. Use of other flood data.
- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 85-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
 - (2) When base flood elevation data is not available, the local administrator may use flood

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information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard for the purposes of this chapter.

C. Alteration of watercourses. The local administrator shall:

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

D. Construction stage.

- (1) The local administrator shall, in Zones A1-A30, AE and AH and also Zone A, if base flood elevation data is 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 the same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

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

F. Stop-work orders.

- (1) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 85-8 of this chapter.
- (2) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 85-8 of this chapter.

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G. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in § 85-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter -created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (2) A certificate of compliance shall be issued by the local administrator -upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The local administrator shall retain and make available for inspection copies of the following:

- (1) Floodplain development permits and certificates of compliance.
- (2) Certificates of as-built lowest floor elevations of structures, required pursuant to Subsection D (1) and (2), and whether or not the structures contain a basement.
- (3) Floodproofing certificates required pursuant to Subsection D (1) and whether or not the structures contain a basement.
- (4) Variances issued pursuant to §§ 85-19 and 85-20.
- (5) Notices required under § 85-13C, Alteration of watercourses.

ARTICLE V Construction Standards

§ 85-14. General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 85-6:

- A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):
 - (1) Proposals shall be consistent with the need to minimize flood damage.
 - (2) Public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed so as to minimize flood damage.

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- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

B. Encroachments.

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
 - (b) The Village of Mohawk, Herkimer County, New York agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Mohawk, Herkimer County, New York 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 Mohawk, Herkimer County, New York for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 85-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during the occurrence of the base flood; or
 - (b) The Village of Mohawk, Herkimer County, New York agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Mohawk, Herkimer County, New York 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 Mohawk, Herkimer County, New York for all costs related to the final map revisions.

§ 85-15. Standards for all structures.

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

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- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) Enclosed areas.
 - (a) For enclosed areas below the lowest floor of a structure within Zone A1-A30, AE or AH and also Zone A, if base flood elevation data is available, 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:
 - [1] 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
 - [2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
 - (b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

C. Utilities.

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating and air-conditioning equipment, hot-water heaters, appliances, elevator lift machinery and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required.
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

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§ 85-16. Residential structures.

The following standards, in addition to the standards in § 85-14A, Subdivision proposals, and 1851413, Encroachments, and § 85-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:

- A. Within Zones A1-A30, AE and AH and also Zone A, if base flood elevation data is available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.
- B. Within Zone A, when no base flood elevation data is available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- C. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot more than the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 85-6 (at least two feet if no depth number is specified).
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away-from proposed structures on slopes.

§ 85-17. Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 85-14A, Subdivision proposals, and § 8514B, Encroachments, and § 85-15, Standards for all structures.

- A. Within Zones A1-A30, AE and AH and also Zone A, if base flood elevation data is available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:
 - (1) Have the lowest floor, including basement or cellar, elevated to or above one foot above the base flood elevation; or
 - (2) Be floodproofed so that the structure is watertight below one foot above the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot more than the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to

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that level to meet the floodproofing standard specified in Subsection A (2).

- C If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data is available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 85-18. Manufactured homes and recreational vehicles.

The following standards, in addition to the standards in § 85-14, General standards, and § 85-15, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A. Recreational vehicles.

- (1) Recreational vehicles placed-on sites within Zones AI-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 Subsections B, D and E.
 - (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.
- B. A manufactured home that is placed or substantially improved in Zones AI-A30, AE and AH that is on a site either outside of an existing manufactured home park or subdivision as herein defined, in a new manufactured home park or subdivision as herein defined, in an expansion to an existing manufactured home park or subdivision as herein defined or in an existing manufactured home park or subdivision -as herein defined on which a manufactured home has incurred substantial -damage as the result of a flood shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation-and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors.
 - C. A manufactured home to be placed or substantially improved in Zones AI-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on

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which a manufactured home has incurred substantial damage shall be:

- (1) Elevated in a manner such as required in Subsection B; or
 - (2) Elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- D. Within Zone A, when no base flood elevation data is 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. Elevation on piers consisting of dry stacked blocks is prohibited.
- E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as one foot more than the depth number specified on the Flood Insurance Rate Map enumerated in § 85-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

ARTICLE VI Variance Procedure

§ 85-19. Appeals board.

- A. The Zoning Board of Appeals as -established by the Village of Mohawk shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement,, decision or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
 - (1) The danger that materials may be swept onto other lands to the injury of others.
 - (2) The danger to life and property due to flooding or erosion damage.
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.

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- (5) The necessity to the facility of a waterfront location, where applicable.
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) The costs to local governments and the dangers associated with conducting search-and-rescue operations during periods of flooding.
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (12) The costs of providing governmental- services during and after flood conditions, including search-and-rescue operations and maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Zoning Board of Appeals may attach- such conditions to the granting of variances as it deems necessary to further the purpose of this chapter.
- F. The local administrator shall maintain the records of all-appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

§ 85-20. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 85-19D(1) through (12) have been fully considered. As the lot size increases beyond the ½ acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure.
 - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use,

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- provided that:
- (1) The criteria of Subsections A, D, E and F of this section are met.
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
- (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Chapter 90

GAMES OF CHANCE

§ 90-1. Definitions.

§ 90-3. Enforcement.

§ 90-2. Authorization; license.

§ 90-4. When effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 6-26-1978 as L.L. No. 3-1978. Amendments noted where applicable.]

GENERAL REFERENCES

Bingo - See Ch. 50.

§ 90-1. Definitions.

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

AUTHORIZED ORGANIZATION - An “authorized organization” as defined in § 186, Subdivision 4, of the General Municipal Law of the State of New York.

GAMES OF CHANCE - A “game or games of chance” as defined in § 186, Subdivision 3, of said General Municipal Law.

VILLAGE - The Village of Mohawk.

§ 90-2. Authorization; license.

Authorized organizations, upon being duly licensed as provided in Article 9-A of the General Municipal Law of the State of New York, may conduct games of chance within the village as is made provision for by said Article 9-A, provided that such games of chance be conducted in accordance with the laws of the State of New York and in conformance with the rules and regulations of the New York State Racing and Wagering Board and this chapter.

§ 90-3. Enforcement.

The Police Department of the village shall, with other authorities having jurisdiction, exercise control over and supervise all games of chance conducted under duly issued licenses. The Police Department's powers and duties shall include all those powers and duties set forth in Article 9-A of the General Municipal Law.

§ 90-4. When effective.

This chapter is subject to a mandatory referendum by submission to the qualified electors of the Village of Mohawk at the next annual village election, or at a special election for said purpose called and held, to be held not less than sixty (60) days after the adoption thereof by the Board of Trustees of the Village of Mohawk and shall take effect, if approved by the affirmative vote of a majority of

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the qualified voters of the Village of Mohawk voting and upon due filing in the office of the Secretary of State.¹

¹ Editor's Note: Said referendum was held 6-26-1978, approving this chapter.

Chapter 92

GARBAGE, RUBBISH AND REFUSE

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| <p>§ 92-1. Legislative intent.</p> <p>§ 92-2. Definitions.</p> <p>§ 92-3. Littering in public places.</p> <p>§ 92-4. Discarding materials from vehicles.</p> <p>§ 92-5. Dumping regulated.</p> | <p>§ 92-6. Maintenance of property; storage and disposal of construction and demolition debris.</p> <p>§ 92-7. Vehicles transporting solid waste.</p> <p>§ 92-8. Penalties for offenses; equitable relief.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 9-25-2000 by L.L. No. 7-2000. This local law was adopted as Ch. 54, but was renumbered to fit into the organizational style of the Code. Amendments noted where applicable.]

GENERAL REFERENCES

Littering - See Ch. 100.

Solid waste - See Ch. 133.

Property maintenance - See Ch. 117.

§ 92-1. Legislative intent.

A clean, wholesome and attractive environment is declared to be of vital importance to the health, welfare and safety of the inhabitants of the Village of Mohawk, as is the safeguarding-of their material rights against unwarrantable invasion and the protection of public health. In addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Village of Mohawk and the general welfare of its citizens. Therefore, recognizing the above and the need of the community for an effective and well-regulated procedure for the handling and disposal of solid waste, and in the exercise of its police power in these regards, the Village Board of the Village of Mohawk does hereby enact this chapter.

§ 92-2. Definitions.

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

COMMERCIAL AND INDUSTRIAL GARBAGE - Includes all nonhazardous and nontoxic wastes which are not commercial and industrial by-products.

CONSTRUCTION AND DEMOLITION DEBRIS - Waste resulting from construction, remodeling, repair and demolition of structures, road building and land clearing. Such wastes include, but are not limited to, bricks, concrete and other masonry materials, soil, rock, lumber, road spoils, paving material and tree and brush stumps.

FARM HAZARDOUS WASTE - All containers containing pesticides and/or pesticide residue and which can no longer be utilized for farm purposes.

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GREEN WASTE - Grass clippings, leaves and cuttings from shrubs, hedges and trees. The terms “garbage,” “recyclable material,” “construction debris” and “major appliances” shall not be construed to include green waste.

HOUSEHOLD GARBAGE - Putrescible solid waste, including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking or serving of foods. Garbage originates primarily in home kitchens, stores, markets, restaurants and other places where food is stored, prepared or served.

HOUSEHOLD HAZARDOUS WASTE - Includes pesticides, used motor oil and automobile batteries.

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, carpets, etc.).

MAJOR APPLIANCES - A large and/or bulky household mechanism (such as a refrigerator, washer, dryer, stove, etc.) ordinarily operated by gas or electric current.

PERSON - Any individual head of household, landlord, chief executive officer, owner or manager of a commercial or industrial establishment and all entities of any kind capable of being sued.

PUBLIC NUISANCE AFFECTING HEALTH - A nuisance which is a thing, act or occupation or use of property, premises, equipment or structure, either private or public, affecting the health of one or more persons.

RESIDENT - Any person having a domicile within the general limits of the Village of Mohawk, including landlords and tenants. The term shall also include any person, firm, partnership, corporation or other association operating an established business within the limits of the Village of Mohawk.

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

§ 92-3. Littering in public places.

It shall be unlawful for any person to throw, spill, place, deposit, leave or cause to be thrown, spilled, placed, deposited or left, or permit any agent, servant or employee to throw, spill, place, deposit or leave, in or upon any street, highway, alley, sidewalk, park or public building or in any running water

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or body of water within the Village of Mohawk, any form of solid waste, including sanitary sewage or sewage by-products or any material subject to be carried by the wind or unwholesome or putrescible matter of any kind.

§ 92-4. Discarding materials from vehicles.

It shall be unlawful for any person as a passenger, driver, owner, manager or conductor of any automobile, truck, tractor, motorcycle, bicycle, bus, conveyance or other vehicle to throw, spill, scatter, place, discard, deposit or leave any solid waste, be it bundled, bagged or otherwise, from any vehicle or conveyance in or upon any public or private lands within the village-limits.

§ 92-5. Dumping regulated.

It shall be unlawful to dispose of any solid waste material anywhere in the Village of Mohawk except:

- A. In a lawfully established landfill site operated by the Village of Mohawk; or
- B. At any other refuse site approved by the Oneida County Solid Waste Authority and the New York State Department of Environmental Conservation.

§ 92-6. Maintenance of property; storage and disposal of construction and demolition debris.

- A. It shall be unlawful for any person, as owner, lessee, agent, tenant or otherwise, to throw, cast, spill or otherwise deposit or cause or permit to be thrown, cast, spilled or deposited any solid waste, including sewage offal or other decomposable organic or putrescible matter, which will or could create a public nuisance or act as a breeding ground for or attraction to insects or vermin in or about any land or lot, vacant or otherwise, within the limits of the village.
- B. It shall be unlawful for any person to store or maintain upon any land or lot, vacant or otherwise, any object, discarded or not in current use, capable of collecting water which might serve as a breeding place for mosquitoes.
- C. It shall be unlawful for any person to deposit, place or store in or about any premises or vacant lands any combustible solid waste material which might serve to increase the fire hazard in the surrounding area.
- D. Nothing in this section shall be construed to prohibit the temporary storage of solid waste material awaiting removal, provided that such storage is accomplished by way of tightly covered containers or cans wherever practicable and as further defined in this section, nor shall this section be construed as prohibiting the depositing of manure or fertilizers upon any private property for the purpose of cultivating or improving the same.
- E. Construction and demolition debris.

- (1) It shall be unlawful for any person to temporarily (in excess of 24 hours) store for disposal

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on any premises or vacant land over ½ a cubic yard in volume -of construction and demolition debris, large household furnishings or major appliances, or combinations thereof, unless the material is stored in a receptacle having a minimum volume of one cubic yard. The receptacle shall be provided with a tarp or other means of securing the material within the receptacle. Where such volume of material is anticipated, a demolition permit shall be obtained from the Codes Enforcement Office for a fee currently in effect as established by the Village Board.¹

- (2) It shall be unlawful for any person to deposit or allow to be deposited on any premises or vacant land construction and demolition debris or other material not previously exempted in this section for the purpose of permanent disposal without first obtaining a fill permit from the Codes Enforcement Officer or his designee. The fill permit shall apply only for materials classified as nonhazardous and nontoxic as defined by federal, state and local regulatory agencies. Violators of this subsection will be fined \$250 per day (or the fine currently in effect as established by the Village Board) and prosecuted under § 92-8 of this chapter for each day the situation exists, beginning 24 hours after written notification by the Codes Enforcement Office. The fill permit fee shall be the fee currently in effect as established by the Village Board.²

§ 92-7. Vehicles transporting solid waste.

All vehicles used in the transport of solid waste material, operated on any street or highway within the village limits, shall be equipped with a cover so as to prevent any material from escaping from the vehicle. The failure of any commercial hauler or private person to utilize covered vehicles for the transport of solid waste material shall, in itself, constitute a violation of this chapter.

§ 92-8. Penalties for offenses; equitable relief.

- A. Any person, as that term is defined in § 92-2, who commits or permits any act or acts in violation of any of the provisions of this chapter shall be guilty of a violation and shall, upon conviction thereof, be liable to a penalty or fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment, for each and every offense. Each day the condition constituting such violation shall continue to be permitted to exist shall constitute a separate violation or offense.
- B. In addition to the above-mentioned penalties and punishment, the Village Board may also maintain an action or proceeding in the name of the village or of anyone aggrieved by the violation in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of -such chapter and cause the removal of the same at the expense of said person.
- C. Violators of this chapter shall be required to - be in compliance with the provisions of this chapter within 24 hours after being served written notification of the violation by an

¹ Editor's Note: See Ch. A160, Fees.

² Editor's Note: See Ch. A160, Fees.

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authorized village official, except that, at the discretion of the village official, the violation of the requirements of § 92-5, Dumping regulated, shall be immediately rectified. Violators of § 92-5 of this chapter shall automatically be fined a minimum of \$250, with additional penalties and punishment following the first offense to be as decided by a court of law.

Chapter 100

LITTERING

§ 100-1. Definitions.

§ 100-2. Littering prohibited.

**§ 100-3. Restrictions on vehicles;
persons in vehicles.**

§ 100-4. Exceptions.

§ 100-5. Beverage containers prohibited.

§ 100-6. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 7-25-1978 as L.L. No. 4-1978. Amendments noted where applicable.]

GENERAL REFERENCES

Solid waste - See Ch. 133.

§ 100-1. Definitions.

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

BEVERAGE CONTAINER - Any metal, glass or paper container, bottle, mug, jug, flask, tumbler or other drinking glass or other beverage container, whether empty or not.

GARBAGE - Putrescible animal and vegetable waste resulting from the handling or preparation of food.

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

REFUSE - All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market industrial wastes.

RUBBISH - Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as wrappings, cigarettes, yard clippings, leaves, wood, bedding, crockery and similar materials.¹

§ 100-2. Littering prohibited.

No garbage, litter, refuse, rubbish or beverage containers trash or papers or other offensive materials shall be discarded, thrown or placed or be permitted to accumulate upon any public street, gutter or sidewalk or other public place or upon any private premises in the village unless such is discarded, thrown or placed into receptacles placed and intended to receive such discards.

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

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§ 100-3. Restrictions on vehicles; persons in vehicles.

No person shall drive or move any truck or other vehicle within the village unless such vehicle is so equipped or loaded so as to prevent any load contents or litter from being blown or deposited upon any street, alley or other place.

§ 100-4. Exceptions.

Nothing in this chapter shall be construed as denying any person the right to maintain a mulch pile or accumulation of grass cuttings, leaves or other inoffensive materials on his own or leased property, as long as dust, odors or other nuisances are not permitted to develop from the resulting compost. Nothing in this chapter shall be construed as denying any person the right to use ashes or other clean material as fill on his property so long as dust or any other nuisance is not permitted to develop therefrom.

§ 100-5. Beverage containers prohibited.

- A. No person shall have in his possession any open beverage container, whether empty or not, while such person is on any public highway, public street, public sidewalk, public parking area or in any vehicle or public place. This provision shall not apply to persons in public parks and public areas within the village where picnic tables are maintained, nor shall it apply where prior consent from the Board of Trustees has been obtained to operate food and drink concessions on public or private property for a designated period.
- B. The carrying or transporting of beverages or containers containing beverages in bags, boxes or in other carrying devices from the place of their purchase enroute to private premises for use there or to business premises for mercantile resale or use there shall not constitute a violation hereof.

§ 100-6. Penalties for offenses.²

A violation of any provision of this chapter shall be punishable by a fine up to two hundred fifty dollars (\$250.) or by imprisonment for fifteen (15) days, or both.

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

Chapter 105

NOISE

§ 105-1. Sound-producing devices.

§ 105-3. Exceptions.

§ 105-2. Definitions.

§ 105-4. Penalties for offenses.

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

§ 105-1. Sound-producing devices.

No person shall operate or play or cause to be operated or played in or upon any building, street, premises, vehicle or thing of whatsoever name and nature any radio; musical instrument, whether mechanical or not; loud-speaking device; or any other sound-producing device of whatever name or nature whereby sound therefrom is cast or propelled upon the public streets and places in the village or upon adjoining or other private premises therein and the peace, repose, comfort and health of travelers upon the public streets or places or upon inhabitants of any buildings and premises is disturbed.

§ 105-2. Definitions.

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

PEACE, REPOSE, COMFORT AND HEALTH OF TRAVELERS UPON THE PUBLIC STREETS OR PLACES OR UPON INHABITANTS OF ANY BUILDINGS AND PREMISES IS DISTURBED - A disturbance whereby the sound is heard a distance of twenty-five (25) feet from its source. The disturbance of the peace, repose, comfort and health of travelers or inhabitants above shall be deemed a nuisance and may be abated forthwith.

§ 105-3. Exceptions.

The provisions of §§ 105-1 and 105-2 shall not apply to the lawful use of horns or other warning devices used upon motor vehicles for the purpose of warning the traveling public or to church or school chimes, bells or buzzers, nor to the use of loudspeakers and other sound devices in connection with all lawful public assemblies, election campaigns or by the Village of Mohawk, its officers, contractors and employees in the process of carrying out its governmental responsibilities. The Board of Trustees may provide relief from any prohibitions of this chapter for the purpose of any activity for which it deems necessary and proper.

§ 105-4. Penalties for offenses.¹

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

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Any person committing an offense against any provision of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.) or imprisonment for not more than fifteen (15) days, or both.

Chapter 110

PARKS

§ 110-1. Areas under development.

§ 110-3. Penalties for offenses.

§ 110-2. Regulations.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 9-25-1962. Amendments noted where applicable.]

§ 110-1. Areas under development.

While public park areas are under development, the presence in such areas by any and all persons is at their own risk.

§ 110-2. Regulations.

- A. No person shall be present in public park areas at night from sunset to sunrise unless such presence is pursuant to specific authorization by the Weller Library Commission, the Village Board of Trustees or the Chief of Police of the Village of Mohawk. [Amended 11-14-2005 by L.L. No. 3-2005]
- B. Defacing or destruction of any property, including, but not limited to, trees, plants, rocks, furnishings, building or structures of any kind, in a public park area is prohibited.
- C. Open fires (that is to say, fires not in gasoline stoves, charcoal grills, etc.) or fires not in designated places, and any unattended fires in a public park area are prohibited. No fire shall be left unextinguished after use.
- D. No firearms, fireworks, air guns, bows and arrows or any dangerous weapons are permitted in a public park area, except that firearms lawfully in possession, if holstered or cased, may, without loitering, be carried through a public park area.
- E. Throwing or leaving refuse in or on a public park area, other than in receptacles there provided for trash, is prohibited.
- F. No vehicles shall be operated in a public park area at a speed in excess of ten (10) miles per hour.
- G. No vehicles shall be operated or parked in a public park area outside designated roadways or designated parking areas.
- H. Use of the Weller Park Gazebo shall be by specific authorization of the Weller Library Commission, the Village Board of Trustees or the Chief of Police of the Village of Mohawk only. [Added 11-14-2005 by L.L. No. 3-2005]

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- I. Use of metal detectors for any purpose in any public park area within the Village of Mohawk or upon any property owned by the Village of Mohawk is prohibited. **[Added 11-14-2005 by L.L. No. 3-2005]**

- J. No tobacco products of any kind, including but not limited to cigarettes, cigars, pipes, snuff and chewing tobacco, shall be used or consumed in a public park area, nor shall any person have in his or her possession a lit tobacco product of any kind within a public park area. **[Added 12-8-2008 by L.L. No. 2-2008]**

§ 110-3. Penalties for offenses.¹

Violations of any of the prohibitions of § 110-2 above shall be punished by a fine not exceeding two hundred fifty dollars (\$250.) or imprisonment for not longer than fifteen (15) days, or both such fine and imprisonment.

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

Chapter 114

PEDDLING AND SOLICITING

§ 114-1. License required; exceptions.

§ 114-3. Honorable discharged veterans.

§ 114-2. License fees.

§ 114-4. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 5-1-1934; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

§ 114-1. License required; exceptions.

No person shall sell upon any street, square or public place or hawk, peddle or vend within the limits of the Village of Mohawk, New York, goods, wares or merchandise of any description without first having obtained a license to do so from the Village Clerk-Treasurer.

§ 114-2. License fees.

The fees to be paid to the Village Clerk-Treasurer at the time of issuing such licenses shall be as set forth by the Village Board of Trustees from time to time.¹

§ 114-3. Honorably discharged veterans.

Nothing herein contained shall prohibit hawking and peddling by an honorably discharged member of the armed forces who is the holder of a license granted pursuant to § 32 of the General Business Law. Fees in § 114-2 may be waived for qualifying veterans.

§ 114-4. Penalties for offenses.

Any person violating any of the provisions of this chapter shall be subject to a penalty of a fine not to exceed two hundred fifty dollars (\$250.) or imprisonment for a period not to exceed fifteen (15) days, or both such fine and imprisonment.

¹ Editor's Note: See Ch. A160, Fees.

Chapter 117

PROPERTY MAINTENANCE

§ 117-1. License required; exceptions.

§ 117-3. Abatement by village; lien.

**§ 117-2. Notice to abate nuisance;
service of notice.**

§ 118-4. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 9-25-2000 by L.L. No. 8-2000. This local law was adopted as Ch. 53, but was renumbered to fit into the organizational style of the Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention - See Ch:55.

Garbage, rubbish and refuse - See Ch. 92.

Buildings, unsafe - See Ch. 57.

Solid waste - See Ch. 133.

Fences - See Ch. 77.

Streets and sidewalks - See Ch. 137.

Flood damage prevention - See Ch. 85.

§ 117-1. Prohibited conditions.

No brush, grass, rubbish or weeds which constitute a fire or health hazard or public nuisance to the residents of the Village of Mohawk or to adjoining properties shall be permitted to grow, accumulate or spread on any real property in the Village of Mohawk. No ponds, pools, or other bodies of unsanitized standing water which constitute a public nuisance or health hazard shall be created, maintained, or otherwise permitted to exist by any property owner or resident within the Village of Mohawk. No excavation, land clearing, or earthmoving activities shall be conducted on any real property within the Village of Mohawk which create mudflows, increased surface water runoff, or any other public nuisance by any property owner or resident of the Village of Mohawk. No dams, obstructions, fallen trees or structures which interfere or may be expected to interfere with the free flow of streams or creeks, or which otherwise create a public nuisance within the Village of Mohawk shall be created, maintained, or otherwise permitted to exist by any property owner or resident within the Village of Mohawk. **[Amended 1-29-2006 by L.L. No. 2-2006]**

§ 117-2. Notice to abate nuisance; service of notice.

In the event that the Village Board of the Village of Mohawk determines that there exists such prohibited condition which constitutes a fire or health hazard or public nuisance, the Village Board shall direct the Codes Enforcement Officer to give written notice to the owner of such real property to take such remedial action as may be necessary to remove or abate such hazard or nuisance. Such notice shall be given in writing and delivered personally or by certified mail, return receipt requested, to the owner of such property and to the owner's last known address as appears on the latest assessment roll of the Village of Mohawk. In the event that the lot, tract or parcel of land is unoccupied and the address of the owner is unknown, service of the notice shall be made upon the owner by posting the same on such lot, tract or parcel of land. Such notice shall direct that such hazard or nuisance, within 10 days of the mailing of such notice, shall be removed or abated. **[Amended 1-29-2006 by L.L. No. 2-2006]**

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§ 117-3. Abatement by village; lien.

If, within said 10 days, the owner or occupant should fail, refuse or neglect to abate the hazard or nuisance, the Village of Mohawk may under-take to abate the same through the use of its own personal facilities or equipment, or the Village of Mohawk may contract with an independent contractor or contractors to do the work and cause the hazard or nuisance to be abated. In either event, the costs incurred by the Village of Mohawk to accomplish the abatement of the hazard or nuisance shall be assessed against and be a lien upon the lot, tract or parcel of land where the hazard or nuisance existed, and shall be collected by the Tax Collector or Village Clerk-Treasurer as provided by law for the collection of delinquent taxes.

§ 117-4. Penalties for offenses.

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

Chapter 120

RECORDS

ARTICLE I Public Access

- § 120-1. Purpose and scope.
- § 120-2. Designation of records access officer.
- § 120-3. Duties of records access officer.
- § 120-4. Designation of fiscal officer.
- § 120-5. Location.
- § 120-6. Hours of public inspection.
- § 120-7. Requests.
- § 120-8. Subject matter list.
- § 120-9. Removal.
- § 120-10. Denial of access.
- § 120-11. Appeals.

- § 120-12. Final denial of access.
- § 120-13. Fees.
- § 120-14. Public notice.

ARTICLE II Management Program

- § 120-15. Definitions.
- § 120-16. Program established; officer.
- § 120-17. Powers and duties of records management officer.
- § 120-18. Records Advisory Board.
- § 120-19. Custody.
- § 120-20. Replevin.
- § 120-21. Disposal.

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

ARTICLE I Public Access [Adopted at time of adoption of Code¹]

§ 120-1. Purpose and scope.

- A. The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. These regulations provide information concerning the procedures by which records may be obtained.
- C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law² and those which were furnished to the public prior to its enactment.

¹ Editor's Note: See Ch. 1, General Provisions, Art. I

² Editor's Note: See Public Officers Law § 85 et seq.

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- D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 120-2. Designation of records access officer.

The Mayor of the Village of Mohawk is responsible for ensuring compliance with the regulations herein, and designates the Village Clerk-Treasurer as records access officer.

§ 120-3. Duties of records access officer.

The records access officer is responsible for ensuring appropriate agency response to public requests for access to records. However, the public shall not be denied access to records through officials who have in the past been authorized to make records or information available. Records access officers shall assure that personnel:

- A. Maintain an up-to-date subject matter list.
- B. Assist the requester in identifying requested records, if necessary.
- C. Upon locating the records, take one (1) of the following actions in accordance with § 120-7B:
 - (1) Make records promptly available for inspection; or
 - (2) Deny access to the records in whole or in part and explain, in writing, the reasons therefor.
- D. Upon request for copies of records:
 - (1) Make a copy available upon payment or offer to pay established fees, if any, in accordance with § 120-13; or
 - (2) Permit the requester to copy those records.
- E. Upon request, certify that a transcript is a true copy of records copied.
- F. Upon failure to locate records, certify that:
 - (1) The Village of Mohawk is not the legal custodian of such records; or
 - (2) The records of which the Village of Mohawk is a legal custodian, after diligent search, cannot be found.

§ 120-4. Designation of fiscal officer.

- A. The Clerk-Treasurer is designated the fiscal officer, who shall certify the payroll and respond

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to requests, in accordance with § 120-7B, for an itemized record setting forth the name, address, title and salary of every officer or employee of the agency.

- B. The fiscal officer shall make the payroll items listed above available to any person, including bona fide members of the news media as required under the Public Officers Law.

§ 120-5. Location.

Records shall be available for public inspection and copying at 28 Columbia Street, Mohawk, New York, 13407, or at the location where they are kept.

§ 120-6. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours regularly open for business. These hours are Monday through Friday, 8:00 a.m. to 3:00 p.m.

§ 120-7. Requests.

- A. Where a request for records is required, such request may be oral or in writing. However, written requests shall not be required for records that have been customarily available without written request.
- B. Except under extraordinary circumstances, officials shall respond to a request for records no more than five (5) business days after receipt of the request, whether the request is oral or in writing. If, because of extraordinary circumstances, more than five (5) business days are required to respond to a request, receipt of the request shall be acknowledged within five (5) business days after the request is received. The acknowledgment shall state the reason for delay and estimate the date when a reply will be made.
- C. A request for access to records should be sufficiently detailed to identify the records. Where possible, the requester should supply information regarding dates, titles, file designations or other information which may help identify the records. However, a request for any or all records falling within a specific category conforms to the standard that records be identifiable.

§ 120-8. Subject matter list.

- A. A current list, by subject matter, of all records produced, filed or first kept or promulgated after September 1, 1974, shall be available for public inspection and copying. The list shall be sufficiently detailed to permit the requester to identify the file category of the records sought.
- B. The subject matter list shall be updated periodically, and the date of the most recent updating shall appear on the first page. The updating of the subject matter list shall not be less than semiannual.

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§ 120-9. Removal.

No records may be removed by the requester from the office where the records are located without the permission of the Village Board.

§ 120-10. Denial of access.

- A. Denial of access to records shall be in writing stating the reason therefore and advising the requester of the right to appeal to the individual or body established to hear appeals.
- B. If requested records are not provided promptly, as required in § 120-71B of these regulations, such failure shall also be deemed a denial of access.

§ 120-11. Appeals.

- A. The Mayor of the Village of Mohawk shall hear appeals for denial of access to records under the Freedom of Information Law.
- B. The time for deciding an appeal by the individual or board designated to hear appeals shall commence upon receipt of a written appeal identifying:
 - (1) The date of the appeal.
 - (2) The date and location of the requests for records.
 - (3) The records to which the requester was denied access.
 - (4) Whether the denial of access was in writing or was by failure to provide records promptly as required by § 120-7B.
 - (5) The name and return address of the requester.
- C. The individual or body designated to hear appeals shall inform the requester of its decision, in writing, within seven (7) business days of receipt of an appeal.

§ 120-12. Final denial of access.

A final denial of access to the requested record, as provided for in § 120-11C, shall be subject to court review, as provided for in Article 8 of the Civil Practice Law and Rules.

§ 120-13. Fees.

- A. There shall be no fee charged for:
 - (1) Inspection of records.

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- (2) Search for records.
 - (3) Any certification pursuant to this part.
- B. Copies of records shall be provided at a fee of twenty-five cents (\$0.25) per copy up to eight and one-half by fourteen (8½ x 14) inches; and may be subject to additional fees for any copy larger than eight and one-half by fourteen (8½ x 14) inches.

§ 120-14. Public notice.

A notice containing the job title or name and business address of the records access officers and fiscal officer; the name, job title, business address and telephone number of the appeal person or persons or body; and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.

ARTICLE II Management Program

§ 120-15. Definitions.

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

ARCHIVES - Those official records which have been determined by the officer and Advisory Committee to have sufficient historical or other value to warrant their continued preservation by the local government.

RECORDS - Any documents, books, papers, photographs, sound recordings, microforms or any other materials, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official (local government) business.

RECORDS CENTER - An establishment maintained by the (local government) primarily for the storage, servicing, security and processing of records which must be preserved for varying periods of time and need not be retained in office equipment or space.

RECORDS DISPOSITION:

- A. The removal by the Village of Mohawk, in accordance with approved records control schedules, of records no longer necessary for the conduct of business by such agency through removal methods which may include:
 - (1) The disposal of temporary records by destruction or donation; or
 - (2) The transfer of records to the records center/archives for temporary storage of inactive records and permanent storage of records determined to have historical or other sufficient value warranting continued preservation.

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- B. The transfer of records from one Village of Mohawk agency to any other Village of Mohawk agency.

RECORDS MANAGEMENT - The planning, controlling, directing, organizing, training, promotion and other managerial use and records disposition, including, records preservation, records disposal and records centers or other storage facilities.

SERVICING - Making information in records available to any (local government) agency for official use or to the public.

§ 120-16. Program established; officer.

There shall be a records management program established under the aegis of the Board of Trustees and headed by a records management officer (RMO). The officer will be responsible for administering the noncurrent and archival public records and storage areas for the Village of Mohawk in accordance with local, state and federal laws and guidelines.

§ 120-17. Powers and duties of records management officer.

- A. The officer shall have all the necessary powers to carry out the efficient administration, determination of value, use, preservation, storage and disposition of the noncurrent and archival public records kept, filed or received by the offices and departments of the Village of Mohawk.
- B. The records management officer shall continually survey and examine public records to recommend their classification so as to determine the most suitable methods to be used for the maintaining, storing and servicing of archival material and:
- (1) Obsolete and unnecessary records according to New York State Records Retention and Disposition Schedules thereby subject to disposition; or
 - (2) Information containing administrative, legal, fiscal, research historical or educational value which warrants their permanent retention; or
 - (3) Records not subject to disposition according to state law.
- C. The officer shall establish guidelines for proper records management in any department or agency of the Village of Mohawk in accordance with local, state and federal laws and guidelines.
- D. The officer shall report annually to the Mayor and the Board of Trustees on the powers and duties herein mentioned, including, but not limited to, the cost/benefit ratio of programs effectuated by the department.
- E. The officer shall operate a records management center for the storage, processing and servicing of all noncurrent and archival records for all Village of Mohawk departments and agencies.

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- F. The officer shall establish a Village of Mohawk archives and perform the following functions:
- (1) Advise and assist Village of Mohawk departments in reviewing and selecting material to be transferred to the Village of Mohawk Archives for preservation.
 - (2) Continually survey and examine public records to determine the most suitable methods to be used for the creating maintaining, storing and servicing of archival materials.
 - (3) Establish and maintain an adequate repository for the proper storage, conservation, processing and servicing of archival records.
 - (4) Promulgate rules governing public access to and use of records in the archives, subject to the approval of the Records Advisory Board.
 - (5) Develop a confidentiality policy for archival records designated confidential, provided that such policy does not conflict with any federal or state statutes.
 - (6) Provide information services to other Village of Mohawk offices.
 - (7) Collect archival materials which are not official Village of Mohawk records but which have associational value to the Village of Mohawk or a close relationship to the existing archival collection. Such collecting shall be subject to archive space, staff and cost limitations and to the potential endangerment of such materials if they are not collected by the archives.
 - (8) Develop a procedure whereby historically important records are to be identified at the point of generation.

§ 120-18. Records Advisory Board.

There shall be a Records Advisory Board designated to work closely with and provide advice to the records management officer. The Board shall consist of the records management officer, Village Attorney, Mayor and Village Historian. The Board shall meet periodically and have the following duties:

- A. Provide advice to the records management officer on the development of the records management program.
- B. Review the performance of the on an ongoing basis and propose changes and improvements.
- C. Review retention periods proposed by the records management office for records not covered by State Archive schedules.
- D. Provide advice on the appraisal of records for archival value and to be the final sign-off entity as to what is or is not archival.

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§ 120-19. Custody.

- A. A Village of Mohawk department is the legal custodian of its records and shall retain custody of records deposited in the records center. Records transferred to or acquired by the archives shall be under the custody and control of the archives rather than the department which created or held them immediately prior to being transferred to the archives.
- B. Records shall be transferred to the archives upon the recommendation of the RMO, with the approval of the head of the department which has custody of the records and the approval of the Records Advisory Board.
- C. Records may be permanently removed from the archives at the request of the RMO or the head of the department which had custody of the records immediately prior to the transfer of those records to the archives, subject to the approval of the Records Advisory Board.

§ 120-20. Replevin.

The legal department may take steps to recover local government records which have been alienated from proper custody and may, when necessary, institute actions of replevin.

§ 120-21. Disposal.

No records shall be destroyed or otherwise disposed of by a department of the Village of Mohawk, unless approval has been obtained from the records management officer. No records shall be destroyed or otherwise disposed of by the records management officer without the express written consent of the department head having authority.

Chapter 125

SIGNS

ARTICLE I

Advertising Posters and Handbills

- § 125-1. Attachment of posters to certain objects prohibited.
- § 125-2. Penalties for offenses.

ARTICLE II

Billboards and Signs on Main Street

- § 125-3. Restrictions.
- § 125-4. Notice to remove; penalties for offenses; removal by village.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk: Art. I, 6-121912; Art. II 5-16-1921. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction - See Ch. 55.

Zoning - See Ch. 155.

ARTICLE I

Advertising Posters and Handbills [Adopted 6-12-1912]

§ 125-1. Attachment of posters to certain objects prohibited.

No person shall post, paste, nail, tack or in any manner affix any bill, poster, card, placard or any form of advertisement or announcement or notice to or on any tree, post, telephone, telegraph or electric light pole or other structure in, on or upon the streets or public places of the Village of Mohawk, New York, and no person shall distribute, give away or hand out upon the public streets or public places of said village or to persons passing along and on said streets or public places any handbills, cards, posters, placards or advertising matter in, on or upon said public streets or public places or deposit or throw into the streets or public places of said village any wastepaper of any description.

§ 125-2. Penalties for offenses.¹

Any person violating any of the provisions of this Article shall be subject to a penalty of a fine of not more than two hundred fifty dollars (\$250.) or imprisonment for not more than fifteen (15) days, or both.

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

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ARTICLE II
Billboards and Signs on Main Street
[Adopted 5-16-1921]

§ 125-3. Restrictions.

Every owner or owners of real property located on Main Street in the Village of Mohawk, County of Herkimer and State of New York, shall see to it that no billboards, signs or other advertising matter are maintained on the Main Street side of any building on said real property, except such as is reasonably necessary to advertise the business or businesses carried on within said building or on said property.

§ 125-4. Notice to remove; penalties for offenses; removal by village.

- A. The Village Clerk-Treasurer is authorized and directed to serve a certified copy of this Article, certified by the Village Clerk-Treasurer under the corporate seal of the village, upon any person who violates any provision of this Article, whereupon said person so served shall have forty-eight (48) hours to remove any billboards, signs or other advertising matter maintained in violation of this Article, after which time said person or persons shall be punishable by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both.²
- B. Two (2) weeks after said notice is served, the Board of Trustees of said village can cause any billboards, signs or other advertising matter as aforesaid to be removed and have a lien placed on said property for the costs of said removal.

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

Chapter 129

SNOWMOBILES

§ 129-1. Intent.

§ 129-2. Authority.

§ 129-3. Voluntary registration.

§ 129-4. Prohibited acts.

§ 129-5. Owner's and operator's responsibilities.

§ 129-6. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 1-8-2001 by L.L. No. 1-2001. This local law repealed former Ch. 129, Snowmobiles, adopted 3-13-2000 by L.L. No.- 1-2000. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks - See Ch. 137.

Vehicles and traffic - See Ch. 150.

§ 129-1. Intent.

The intent of this chapter is to regulate the operation and travel of snowmobiles in the Village of Mohawk so as to permit the responsible pursuit of the sport of snowmobiling while maintaining public health and safety.

§ 129-2. Authority.

This chapter is enacted pursuant to the authority granted by the Municipal Home Rule Law and the Parks, Recreation and Historic Preservation Law. Except as specifically modified herein, the definitions, rules and regulations set forth in the Parks, Recreation and Historic Preservation Law are adopted herein, and the rules and regulations set forth herein shall be in addition to those set forth in the Parks, Recreation and Historic Preservation Law.

§ 129-3. Voluntary registration.

- A. Every owner who plans to operate a snowmobile within the limits of the Village of Mohawk is encouraged to voluntarily register. A sticker or other designated identification will be issued upon registering. Proof of a valid New York State Department of Motor Vehicles (DMV) registration is required as well as proof of valid insurance.
- B. The registration identification sticker should be affixed to the lower left-hand corner of the windshield of the snowmobile registered.

§ 129-4. Prohibited acts.

It shall be unlawful to operate and/or travel on a snowmobile in any of the following manners, times and locations:

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- A. At a rate of speed greater than reasonable or proper under all existing circumstances and in no event to exceed 15 miles per hour.
- B. Without a safety helmet and adequate eye protection.
- C. Between the hours of 11:00 p.m. and 8:00 a.m., except on Friday and, Saturday, when operation shall be permitted until 12:00 midnight.
- D. By any persons under the age of 16 years, unless under the immediate supervision of an adult.
- E. On any private property without the express consent of the owner.
- F. On public grounds, park property, cemeteries, playgrounds, recreational areas without express provision or permission by the proper public authority.
- G. On any village sidewalk except in crossing such sidewalk, or as may otherwise be authorized by resolution of the Village Board.
- H. In any manner which creates loud, unnecessary or unusual noise, or otherwise unreasonably disturbs or interferes with the peace and quiet of other persons.
- I. In a careless, reckless or negligent manner so as to endanger the safety or property of any person.
- J. While under the influence of intoxicating beverages or drugs.
- K. On any snowmobile not fully in compliance with all New York State laws and regulations governing registration, insurance, safety and age of lawful operation.
- L. On any village street, area or public lands, except as follows:
 - (1) Such streets as provide a direct route between the operator's residence within the village to designated routes to and from a trail out of the village.
 - (2) Such streets as provide a direct route between the operator's residence or from a designated route or trail entering the village to a gas station or restaurant for meals. The operator will then be required to take the most direct route from said establishment to his or her place of residence or designated trail exiting the village.
- M. The foregoing notwithstanding, no operation shall be permitted on Main Street, Columbia Street or Hammond Street except as otherwise permitted under the Parks, Recreation and Historic Preservation Law, nor on such other streets within the village as the Village Board may from time to time designate.

§ 129-5. Owner's and operator's responsibilities.

- A. The owner of any snowmobile shall not authorize or permit any person to operate said snowmobile in violation of any provision of this chapter.

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- B. The operator must drive on the right side of the roadway, as close as practicable to the right-hand edge thereof. Travel must be single file and in the same direction as the flow of vehicular travel.
- C. Pedestrians and all other motor vehicles, including snowplows, shall have the right-of-way over all snowmobiles operated within the village.
- D. Each person operating a snowmobile on any village street or highway shall observe strictly all vehicular traffic signs and signals and all other rules and regulations applicable to vehicular traffic. Each operator shall obey the orders and directions of any state or local police officer, and any other law enforcement officer authorized to direct or regulate traffic.
- E. It shall be unlawful for any owner or operator to leave or allow a snowmobile to be left unattended on any village highway or public place.

§ 129-6. Penalties for offenses.

Any person violating any provision of this chapter shall be subject to a fine of not more than \$250 for each violation.

Chapter 133

SOLID WASTE

- | | |
|---|--|
| § 133-1. Definitions. | § 133-8. Dumpsters. |
| § 133-2. Distinctively labeled bags. | § 133-9. Presumed responsibilities. |
| § 133-3. Unauthorized use of bags. | § 133-10. Prohibited burning. |
| § 133-4. Source separation required. | § 133-11. Permissible burning. |
| § 133-5. Schedule of collections. | § 133-12. Collection license. |
| § 133-6. Placement of containers. | § 133-13. Penalties for offenses. |
| § 133-7. Disposal of refuse. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 11-22-1988 as L.L. No. 2-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Littering - See Ch. 100.

§ 133-1. **Definitions.**

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

CONSTRUCTION DEBRIS - Waste resulting from construction, remodeling, repair and demolition of structures, road building and land clearing. Such wastes are not limited to bricks, concrete, stones, road spoils, paving material and tree and brush stumps.

GARBAGE - Putrescible waste, both animal and vegetable, resulting from the handling, storage, sale preparation, cooking and/or serving of foods.

LARGE HOUSEHOLD FURNISHINGS - All other large and/or bulky articles used in the home and which equip it for living (such as chairs, sofas, tables, beds, carpets, etc.).

MAJOR APPLIANCES - Large and/or bulky household mechanisms (such as refrigerators, washers, dryers, stoves, etc.) ordinarily operated by gas or electric current.

NONRECYCLABLE, RUBBISH - Rags, sweepings, rubber, leather, wastepaper, magazines, ashes, soft plastic and similar waste material.

OPEN FIRE - Any fire- or smoke-producing process wherein the combustion products are directly emitted into the atmosphere.¹

RECYCLABLE RUBBISH - Clean glass food containers and tin cans, glass clear/colored bottles, aluminum cans, newsprint, corrugated cardboard, hard plastic (polyethylene) and any

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

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material designated from time to time by Herkimer County which, under any applicable law or regulation, is not hazardous and which is separated from the waste stream and held for its material recycling or reuse value.

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

SOURCE SEPARATION - The segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.²

STACK - Any lawful conduit, chimney, duct, vent or flue arranged to conduct gases or gas-borne products to the outer air.³

YARD WASTE - Grass clippings, leaves, cuttings, weeds, and other debris from tree and shrubbery trimming.

§ 133-2. Distinctively labeled bags.

Distinctively labeled bags will be available for both garbage and recyclable items. These bags will be made available at local stores where they may be purchased at a standard price.

§ 133-3. Unauthorized use of bags.

No person shall:

- A. Use any container other than the distinctively labeled bags authorized by the village for the disposal of garbage and recyclable items or dumpsters provided, serviced and maintained in accordance with this chapter, the applicable county law and the rules and regulations for the use thereof adopted by the Village Board.
- B. Imitate the distinctively labeled bags approved by the Village Board.
- C. Except as authorized by the Village Board of Trustees or pursuant to license or contract with the

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

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

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village, provide, sell, make available or duplicate the distinctively labeled bags.

- D. Place at the roadside for collection any container other than one (1) which contains only garbage or recyclable material.

§ 133-4. Source separation required.

- A. All cans, glass bottles and jars must be washed clean for healthy and sanitary reasons.
- B. Garbage and nonrecyclable rubbish will be placed in a the distinctively labeled garbage bags and set at the curb for collection.
- C. Recyclable items will be placed in a distinctively labeled recyclable bag and placed at the curb for collection.
- D. Corrugated cardboard will be flattened and tied with twine, cord or the like. No bundle will exceed three (3) feet in diameter or weigh in excess of forty (40) pounds.

§ 133-5. Schedule of collections.

- A. Garbage and recyclable items shall be picked up once a week.
- B. Major appliances will be picked up at least semiannually, at dates to be announced.
- C. Large household items will be picked up at least semiannually, at dates to be announced.
- D. Yard waste will be picked up semiannually from April 15 through November 15.
- E. Construction debris shall be removed by the owner or his contractor at the owner's expense.
- F. Collection dates will be determined by the Village Board.
- G. Any variations due to holidays shall be published in the officially designated newspaper.

§ 133-6. Placement of containers.

- A. Containers are not to be placed at the curb until 3:00 p.m. of the afternoon before collection and no later than 5:00 a.m. the morning of collection. Containers holding yard waste, garbage and the like must be removed from the curb by 8:00 p.m. on the day of collection.
- B. No containers will be placed within fifteen (15) feet of a fire hydrant.

§ 133-7. Disposal of refuse.

The following actions are prohibited:

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- A. Disposal of solid waste and recyclables on both public and private property within the Village of Mohawk.
- B. Bringing in solid waste and recyclables originating outside the Village of Mohawk for the purpose of disposing of the same in the village or for having the same collected by the Village of Mohawk or its agents. Only solid waste and recyclables generated within the village limits are permitted for pickup.
- C. Village residents, property owners or occupants permitting anyone to place solid waste and recyclables outside the village on his or her property.

133-8. Dumpsters.

- A. The property owner, lessee or user of the container shall make provision to have the collection from the dumpster on such a schedule so that garbage and other waste materials do not accumulate so as to overflow the confines of the container or restrict the closing of the container cover.
- B. Appearance requirements. All dumpsters subject to scheduled pickups shall be enclosed by a solid fence, hedge, shrubbery or the like. The required enclosures must be in place on or before June 1, 1988.
- C. Use. Any person wishing to use a dumpster will provide for removal, at the owner's expenses, either by himself, herself or by public contractor.
- D. Location. No dumpster shall be located in or on a public right-of-way. Dumpsters shall be set back a minimum of twenty (20) feet from any road or right-of-way and a minimum of one (1) foot from the property line.
- E. The Village Board may require removal of any dumpster deemed to be unsightly, a public nuisance or not properly cleaned or maintained or a threat to the public health on three (3) days' notice to the owner or user thereof.

§ 133-9. Presumed responsibilities.

- A. In the case of a single residence, it shall be presumed that the occupant or person-in-charge is responsible for the placement of any such unauthorized bags of garbage and/or recyclables.
- B. In the case of commercial or industrial properties, it shall be presumed that the owner or person-in-charge is responsible for the placement of any such unauthorized bags of garbage or recyclables.
- C. In the case of multiple residences, it is presumed that the lessee is responsible for the placement of any such unauthorized bags of garbage and/or recyclables.

§ 133-10. Prohibited burning.

No person shall burn any garbage, rubbish or solid waste in any open fire, except as permitted by provisions set forth herein.

§ 133-11. Permissible burning.

When not prohibited by law, regulation, ordinance or by state officials having jurisdiction, such as the State Commission of Conservation or the State Commissioner of Health, the following types of open burning are permissible:

- A. Outdoor grills and fireplaces for the purpose of preparing food.
- B. Camp fires and fires used solely for recreation purposes when such fires are located at least one hundred (100) feet from any dwelling, structure or vehicle and are properly controlled by a responsible person and no nuisance is created and supervised by the Mohawk Fire Department.
- C. Burning of solid or liquid fuels or structures when under the direct control and supervision of a qualified instructor at a fireman's training exercise or when done for the instruction and training of firemen.
- D. Properly operated industrial flares for combustion of flammable gases.
- E. Burning specifically authorized by permit by officials acting within their authority and jurisdiction so authorized, such as the State Commissioner of Conservation or the State Commissioner of Health or by the Board of Trustees of the Village of Mohawk.

§ 133-12. Collection license.

No person, persons or corporation shall, within the Village of Mohawk, collect garbage, solid waste or recyclables of any kind without first obtaining a license from the Board of Trustees of the Village of Mohawk, if said Board of Trustees deems such license necessary. The license shall be issued for a period of up to one (1) year to any applicant who shall declare that he will haul said garbage, solid waste and recyclables to such place as approved by the New York State Department of Environmental Conservation.

§ 133-13. Penalties for offenses.⁴

Any person who violates any provision of this chapter shall be subject to a fine of not more than two hundred fifty dollars (\$250.) or imprisonment for not more than fifteen (15) days, or both. Each violation shall be a separate and distinct offense, and, in the case of a continuing violation, each days' continuance therefore shall be deemed a separate and distinct violation.

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

Chapter 136

STORMWATER MANAGEMENT AND EROSION CONTROL

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| § 136-1. Legislative intent. | § 136-7. Off-site stormwater management facilities. |
| § 136-2. Definitions. | § 136-8. Maintenance. |
| § 136-3. Applicability. | § 136-9. Performance bond; letter of credit. |
| § 136-4. Stormwater management and erosion control plan. | § 136-10. Enforcement. |
| § 136-5. Plan review process. | § 136-11. Variance. |
| § 136-6. Performance standards. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 1-8-2001 by L.L. No. 2-2001. This local law was adopted as Ch. 56, but was renumbered to fit into the organizational style of the Code. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention - See Ch. 85.

§ 136-1. Legislative intent.

Uncontrolled drainage and runoff associated with land development has a significant impact upon the health, safety, and welfare of the inhabitants of the Village of Mohawk. Recognizing the rights of residents to be protected against avoidable hazardous or disruptive conditions, while also recognizing the desirability of future development, the Village Board of the Village of Mohawk does hereby enact this chapter.

§ 136-2. Definitions.

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

CRITICAL ENVIRONMENTAL AREA- A specific geographic area designated by a state or local agency having exceptional or unique characteristics that make the area environmentally important.

DEVELOPMENT- To make a site or area available for use by physical alteration. Development includes but is not limited to providing access to a site, clearing of vegetation, grading, earth moving, providing utilities and other services such as parking facilities, storm water management and erosion control systems, and sewage disposal systems, altering landforms, construction of a structure on the land.

DRYWELL- Similar to infiltration trench but smaller with inflow from pipe; commonly covered with soil and used for drainage areas of less than one acre such as roadside inlets and rooftop runoff.

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EROSION- The removal of soil particles by the action of water, wind, ice or other geological agents.

EXFILTRATION- The downward movement of runoff through the bottom of an infiltration system into the soil

EXTENDED DETENTION- A practice to store storm water runoff by collection as a temporary pool of water and provide for its gradual (attenuated) release over 24 hours or more. A practice which is used to control peak discharge rates, and which provides gravity settling of pollutants.

FIRST FLUSH- The delivery of a disproportionately large load of pollutants during the early part of storms due to the rapid runoff of accumulated pollutants. The first flush in these guidelines is defined as the runoff generated from a one year 24 hour storm event from land which has been made more impervious from pre-development conditions through land grading and construction/development activities.

FLOOD PLAIN- For a given flood event, that area of land temporarily covered by water which adjoins a watercourse.

FOREBAY- An extra storage area or treatment area, such as a sediment pond or created wetland, near an inlet of a storm water management facility to trap incoming sediments or take up nutrients before they reach a retention or extended detention pond.

IMPERVIOUS AREA- Impermeable surfaces, such as pavements or rooftops, which prevent the percolation of water into the soil.

INFILTRATION- A practice designed to promote the recharge of groundwater by containment and concentration of storm water in porous soils.

INFILTRATION BASIN- An impoundment made by excavation or embankment construction to contain and exfiltrate runoff into the soil layer.

OUTFALL- The terminus of a storm drain where the contents are released.

PEAK FLOW- The maximum rate of flow of water at a given point and time resulting from a storm event.

PEAK FLOW ATTENUATION- The reduction of the peak discharge of storm runoff by storage and gradual release of that storage.

RETENTION- A practice designed to store storm water runoff by collection as a permanent pool of water without release except by means of evaporation, infiltration or attenuated release when runoff volume exceeds the permanent storage capacity of the permanent pool.

RIPRAP- A combination of large stone, cobbles and boulders used to line channels, stabilize stream banks, reduce runoff velocities.

RISER- A vertical pipe that is used to control the discharge rate from a pond for a specified design storm.

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STREAM CORRIDOR- The landscape features on both sides of a stream, including soils, slope and vegetation, whose alteration can directly impact the streams physical characteristics and biological properties.

SWALE- A natural depression or wide shallow ditch used to temporarily route, or filter runoff.

§ 136-3. Applicability.

- A. It has been established that land cleaning, land grading, earth moving or development activities can have a significant effect on the environment; therefore, no person, corporation, organization, or public agency shall, on or after the effective date of the ordinance:
- (1) Initiate any land clearing, land grading, earth moving or development activities without first preparing a stormwater management and erosion control plan and obtaining approval of said plan from the Village of Mohawk, or:
 - (2) Alter any drainage system without first preparing a stormwater management and erosion control plan and obtaining approval of said plan from the Village of Mohawk.
- B. Exemptions: The following activities are exempt from the Stormwater Management and Erosion Control Plan requirements: **[Amended 1-9-2006 by L.L. No. 1-2006]**
- (1) Agricultural activities, including household gardening, that is not part of a development project;
 - (2) Clearing and/or earthmoving activities which do not disturb or involve an area greater than 5,000 square feet in size, and when combined with future anticipated activities are not expected to disturb or involve an area greater than 5,000 square feet in size in total;
 - (3) Any maintenance, alteration, use or improvement to an existing structure, which will not change the quality, rate, volume or location of surface water discharge or contribute to erosion and sedimentation.

§ 136-4. Stormwater management and erosion control plan

- A. It is the responsibility of an applicant to prepare a stormwater management and erosion control plan so that the Village of Mohawk can evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the proposed activity on community waters, and the effectiveness and acceptability of those measures proposed by the applicant for reducing or mitigating adverse impacts.
- B. The stormwater management and erosion control plan shall contain the name, address, and telephone number of the owner and developer. In addition, the legal description of the property shall be provided, and its location with reference to such landmarks as major waterbodies, adjoining roads, railroads, subdivisions, or towns shall be clearly identified on a map.
- C. The stormwater management and erosion control plan shall contain the following:

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- (1) Background information about the scope of the project;
- (2) Statement of stormwater management objectives;
- (3) Comparison of post-development storm water runoff conditions with predevelopment conditions;
- (4) Description of proposed structural and vegetative stormwater measures to ensure that the quantity, temporal distribution and quality of storm water runoff during and after development is not substantially altered from pre-development conditions;
- (5) Identity of the type and frequency of maintenance required by the stormwater management and erosion control facilities utilized.

§ 136-5. Plan review process

A. [Amended 7-9-2001 by L.L. No. 4-2001] Provisions for stormwater management and erosion control should be considered in a three-stage process:

- (1) Pre-submission Phase: To provide an opportunity for the community to learn of the developer's intent and for the developer to learn of the community's requirements and standards for development. The prospective applicant shall submit in writing to the Village Clerk a statement of his intentions, containing sufficient detail as to convey the scope and character of the proposed project.
- (2) Preliminary site development plan phase: To include the submission of an application by the developer for preliminary site development plan approval, which shall be accompanied by information about the proposal as set forth in §56-4 of this Chapter. Action on the proposal shall be given by the Village Board as tentative approval, tentative approval with modification, or disapproval, within thirty (30) days of submission of the application or within sixty (60) days of submission of the statement of intentions set forth above, whichever is later.
- (3) Final site development plan phase: Upon tentative approval or approval with modification in the preliminary site development phase, an application may be submitted for final approval by the Village Board, which shall include satisfaction of any requested modifications. Approval or disapproval shall be made by the village board, in writing, within thirty (30) days of submission of the final application.

B. Inspections.

- (1) No stormwater management and erosion control plan will be approved without adequate provision for inspection of the property before development activity commences. The applicant shall arrange with the village for scheduling the following inspections:
 - (a) Initial inspection: Prior to approval of the stormwater management and erosion control plan;
 - (b) Erosion control inspection: To ensure erosion control practices are in accord with

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the plan;

- (c) Bury inspection: Prior to back filling of any underground drainage or storm water conveyance structures; and
- (d) Final inspection: Upon completion of all work, including construction of storm water management facilities.

- (2) The village shall inspect the work and either approve it or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved stormwater management and erosion control plan. Any portion of the work which does not comply shall be promptly corrected by the applicant or the applicant will be subject to the bonding and penalty provisions of this chapter. The village may conduct random inspections to ensure effective control of erosion and sedimentation during all phases of construction.

C. Application and Review Fees. [Added 9-23-2002 by L.L. No. 7-2002]

- (1) All applications for stormwater management and erosion control plan review shall be accompanied by an application fee as set forth by resolution of the Village Board of Trustees from time to time. In addition, the applicant shall be responsible for reimbursing the Village of Mohawk for any additional costs necessary for review, inspection and approval of the plan. The Village Board of Trustees may require a deposit in an amount set by resolution of the Village Board of Trustees from time to time to cover these additional costs.

§ 136-6. Performance standards

Stormwater management and erosion control plans shall be prepared in accordance with such performance standards as may be adopted or established by the Mohawk Village Board, Planning Board, and Codes Enforcement Officer. A written copy of all of such standards shall be provided upon request to all applicants, prospective applicants, residents, or any other person who so requests same.

§ 136-7. Off-site stormwater management facilities

The Village of Mohawk may allow stormwater run off that is of unacceptable quality or which would be discharged in volumes or rates in excess of those otherwise allowed by this Ordinance, to be discharged into storm water management facilities off the site of development if all of the following conditions are met:

- A. It is not practicable to completely manage runoff on-site in a manner that meets existing performance standards.
- B. The off-site drainage facilities and channels leading to them are designed, constructed and maintained in accordance with the requirements of this Chapter.

C. Adverse environmental impacts on the site of development will be minimized.

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- D. Adequate provision is made for the sharing of construction and operating costs of the off-site facilities. The developer may be required to pay a portion of the cost of constructing the facilities as a condition to receiving approval of the drainage plan.
- E. Use of regional off-site storm water management facilities does not eliminate the requirement that the first flush be captured and treated on-site.
- F. A request to use off-site storm water management facilities and all information related to the proposed off-site facilities shall be made a part of the developer's storm water management plan.

§ 136-8. Maintenance.

- A.. The Village of Mohawk shall determine whether storm water management facilities are to be maintained by the developer/owner, a homeowner's association, or by the village.
 - (1) If maintenance is to be performed by a homeowner's association, the homeowner's association must be registered pursuant to Section 352-F of the New York State General Business law.
 - (2) If maintained by an owner or homeowner's association, a maintenance plan containing a maintenance schedule shall be prepared by the developer, owner and/or homeowner's association for approval by the Village.
 - (3) Stormwater management facilities maintained by an owner or homeowner's association shall have adequate easements to permit the village to inspect and, if necessary; to take corrective action should the owner fail to properly maintain the system. Before taking corrective action, the village shall give the owner or homeowner's association written notice of the nature of the existing defects. If the owner or homeowner's association fails within thirty (30) days from the date of notice to commence corrective action or to appeal the matter to the Village, the Village may take necessary corrective action, the cost of which shall be borne by the owner or developer or by the homeowner's association. If, in the event the homeowner's association fails to pay for required corrective action, the Village shall have a lien placed on the real property of members of the homeowner's association until payment is made.
- B. Stormwater management facilities may be dedicated to the village for purposes of maintenance by mutual consent and agreement of the developer/owner and village.

§ 136-9. Performance bond.

- A. In order to ensure the full and faithful completion of all construction activities related to compliance with all conditions set forth by the village in its approval of the stormwater management and erosion control plan, the village may require the developer to provide, prior to construction, a performance bond, escrow account certification, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village of Mohawk as the beneficiary. The security shall be in an amount to be determined by the village based on submission of final design plans, with reference to actual construction costs.

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B. Letter of Credit.

- (1) Where storm water management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Village of Mohawk with an irrevocable letter of credit from an appropriate financial institution or surety to ensure proper operation and maintenance of all storm water management and erosion control facilities for the life of the project.
- (2) The letter of credit shall remain in force until the surety is released from liability by the village. Per annum interest on the letter of credit will be reinvested in the account until the surety is released from liability. The operation and maintenance letter of credit shall remain in force for the life of the project. If the developer or owner fails to properly operate and maintain storm water management and erosion and sediment control facilities, the Village may draw upon the account to cover the costs of proper operation and maintenance.

§ 136-10. Enforcement.

- A. Nuisance. Any development activity that is commenced without prior approval of a Storm water Management and erosion control plan or is conducted contrary to an approved Storm Water Management and erosion control plan as required by this ordinance, may be restrained by injunction or otherwise abated in a manner provided by law.
- B. Civil and Criminal Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Chapter shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000) or by imprisonment for a period not to exceed sixty (60) days, or by both such fine and imprisonment. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.
- C. Any violator may be required to restore the land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Village may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- D. Failure of applicant to comply with any provision of this Chapter shall serve as just cause for the Codes Enforcement Officer to withhold issuance of a certificate of occupancy until such time as full compliance with this Chapter is achieved. **[Added 7-9-2001 by L.L. No. 4-2001]**

§ 136-11. Variance.

The Village of Mohawk may grant a written variance from any requirement of this Chapter using the following criteria:

- A. There are special circumstances applicable to the subject property or its intended use; and
- B. The granting of the variance will not result in:

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1. An increase or decrease in the rate or volume of surface water runoff;
2. An adverse impact on a wetland, water course or water body;
3. Degradation of water quality; or
4. Otherwise impair attainment of the objectives of this Chapter.

Chapter 137
STREETS AND SIDEWALKS

ARTICLE I
General Provisions

- § 137-1. Awnings over sidewalks.
- § 137-2. Building materials.
- § 137-3. Unauthorized excavations;
obstructing repairs.
- § 137-4. Private drains or sewers;
guarding excavations;
restoration.
- § 137-5. Penalties for offenses.

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- § 137-6. Duty to keep sidewalks clear.
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ARTICLE III
Street Excavation Permits

- § 137-8. Permit required.
- § 137-9. Permit fee; bond.
- § 137-10. Utilities to be consulted.
- § 137-11. Amending of permit.
- § 137-12. Cuts to pavement; damage to
pipes.
- § 137-13. Backfilling.
- § 137-14. Inspection hours.

ARTICLE IV
Sidewalk Maintenance

- § 137-15. Responsibility.
- § 137-16. Application.
- § 137-17. Notice.
- § 137-18. Repairs by village.
- § 137-19. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk: Art. 1, 9-15-1894, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. 1); Art. II, 12-20-1917; Art. III, at time of adoption of Code (see Ch. 1, General Provisions, Art. 1). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Sidewalk - See Charter § C-12.
Vehicles and traffic - See Ch. 150.

Snowmobiles - See Ch. 129.

ARTICLE I

General Provisions

**[Adopted 9-15-1894; amended in its entirety
at time of adoption of Code¹]**

§ 137- 1. Awnings over sidewalks.

No person shall erect or maintain any awning in any street unless the same shall be elevated at least seven (7) feet from the sidewalk and securely fastened to the side of a building, nor shall the drip therefrom fall upon or within the sidewalk.

§ 137-2. Building materials.

No person shall place or cause to be placed any stone, timber, lumber, plank, boards or other materials for building in or upon any street or lane so as to prevent the passing of persons upon the sidewalk or of wagons or sleighs in the street without written permission for that purpose first obtained from the Trustees or Mayor of the village.

§ 137-3. Unauthorized excavations; obstructing repairs.

No person shall injure or tear up any pavement, sidewalk or crosswalk, drain, pipe, sewer or conduit or any part thereof, nor dig or make any hole, ditch or drain in any street, pavement or sidewalk without due authority; nor hinder or obstruct the making or repairing of any street, pavement or sidewalk which is or may be made or done under or by the authority of the Board of Trustees.

§ 137-4. Private drains or sewers; guarding excavations; restoration.

Private drains or sewers shall not be made in the streets, except by the permission of the Board of Trustees. Pipes, logs or other conduits of water or gas may be laid in said streets by permission of the Board of Trustees, subject to their discretion; but no excavation in said street shall remain open during the night, unless safely covered up or fenced about, nor in the daytime unless kept in a safe condition; and the streets must be restored in good condition to the satisfaction of said Trustees whenever the same shall be broken or excavated for the purposes mentioned in this section.

§ 137-5. Penalties for offenses.

Any person, firm or corporation convicted for violating any of the provisions of this Article shall be guilty of a violation punishable by a fine of not more than two hundred fifty dollars (\$250.) or fifteen (15) days' imprisonment, or both.

¹ Editor's Note: See Ch. 1, General Provisions, Art. 1.

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ARTICLE II
Snow and Ice Removal
[Adopted 12-20-1917]

§ 137-6. Duty to keep sidewalks clear.

Every person who is an owner or occupant of land fronting on sidewalks in the Village of Mohawk shall cause said sidewalks in front thereof and on the same side of the street or road as said lands so owned or occupied to be cleared of snow and ice and to be kept clear of snow and ice.

§ 137-7. Penalties for offenses.²

Any person violating any provision of this Article shall be punishable by a penalty and fine not exceeding the sum of two hundred fifty dollars (\$250.) for each offense or imprisonment for not more than fifteen (15) days, or both.

ARTICLE III
Street Excavation Permits
[Adopted at time of adoption of Code³]

§ 137-8. Permit required.

A permit is required by any person, firm, corporation, company or organization of any kind, including, but not limited to, public service companies which are engaged in excavation on village rights-of-way (the land owner is responsible only if he/she is doing work him/herself, otherwise, the contractor is responsible).

§ 137-9. Permit fee; bond.⁴

The permit must be obtained from the Village Clerk-Treasurer. In addition to the permit fee, a bond must be paid to the Village Clerk-Treasurer.⁵ The bond will be returned upon the completion of said work and satisfaction by the Village of Mohawk Street Department Foreman. All money collected for the permit and bond will be deposited and held.

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

³ Editor's Note: 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: See Ch. A137, Fees.

§ 137-10. Utilities to be consulted.

Before excavation is commenced, the applicant must meet with the Street Department Foreman and Municipal Commission employees to mark water, sewer and storm lines in excavation areas. It is also the responsibility of the applicant to check with NIMO for gas lines and New York Telephone for underground cable. The Underground Utilities Hot Line telephone number is 1-800-962-7962.

§ 137-11. Amending of permit.

While the excavation is underway, should it become necessary to cut further than the original permit allows, the Street Department Foreman and the Village Clerk-Treasurer must be notified and the permit amended before additional excavating is done.

§ 137-12. Cuts to pavement; damage to pipes.

All cuts to pavement must be made with a jackhammer or pavement saw. Any damage done to existing pipes in the area must be reported to the Street Department Foreman or Utilities Supervisor immediately.

§ 137-13. Backfilling.

After repair/installation work is completed, the Street Department Foreman must be notified and be on site before backfilling of the excavation begins. Specifications for backfilling are as follows:

- A. All material excavated from the hole must be disposed of in a proper and lawful manner.
- B. The hole must be completely filled with crusher-run only and be tamped at two-foot intervals.
- C. Crusher-run must be brought to the existing road level for a period of at least fifteen (15) days. During that fifteen-day period, the applicant must make daily inspections and maintain the excavated area at road level.
- D. At the end of fifteen (15) days, but not more than sixty (60) days, if the excavation has properly settled, and with the approval of the Street Department Foreman, the road surfacing must be completed. Blacktop must be used on all streets to a depth equal to the existing street or six (6) inches, whichever is greater.
- E. After November 1 and prior to May 1, coldpatch surfacing must be used. After May 1, and at such time as the frost is out of the ground and materials are available, proper surfacing must be completed (all permit fees will be held until this is done). If final surfacing of the excavation done between November 1 and May 1 is not completed by July 1, fees will be forfeited and surfacing will be completed by the village.
- F. If any of said conditions are not followed, the applicant will forfeit the entire fee.

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§ 137-14. Inspection hours.

Work will be checked only during regular working hours, Monday through Friday 7:00 a.m. to 3:00 p.m.

**ARTICLE IV
Sidewalk Maintenance
[Adopted 8-26-2002 by L.L. No. 6-2002]**

§137-15. Responsibility.

It shall be the duty of every property owner within the Village to maintain the sidewalks adjacent to his or her property in good repair, free from obstruction, defects and cracks.

§137-16. Application.

An person intending to effectuate the repair to or replacement of four (4) or more flags or blocks simultaneously shall submit an application to the Village Clerk, and pay such fee as established by the Village Board of Trustees.

§137-17. Notice.

Each property owner who receives written notice by the Village Codes Enforcement Officer concerning the need to repair or replace the sidewalk(s) adjacent to his or her property shall effectuate said repairs within thirty (30) days.

§137-18. Repairs by Village.

Should any property owner fail to repair or replace the sidewalk(s) adjacent to his or her property following notice as set forth herein, the Village of Mohawk may effectuate the repairs without further notice to the property owner, and may assess the cost of same to the property owner in the manner provided in §C-12 of the Charter of the Village of Mohawk.

§137-19. Penalties for Offenses.

Any person violating any provision of this Article shall be guilty of a violation, punishable by a fine not exceeding the sum of two hundred fifty dollars (\$250.00) for each offense or imprisonment for not more than fifteen (15) days, or both. Each days' continuance of a violation after notice shall be deemed a separate and distinct violation and shall be punishable accordingly.

Chapter 142

TAXATION

ARTICLE I

Business Investment Exemption

- § 142-1. Purpose; repeal of other provisions.
- § 142-2. Exemption reinstated.

ARTICLE II

Veterans Tax Exemption

- § 142-3. Grant of exemption.
- § 142-4. Reduction of exemption.

ARTICLE III

Senior Citizens Exemption

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

GENERAL REFERENCES

Assessment - See Ch. 3, Art. 1.

ARTICLE I

Business Investment Exemption

[Adopted 5-12-1997 by L.L. No. 2-1997¹]

§ 142-1. Purpose; repeal of other provisions.

- A. Purpose. The purpose of this article is to repeal Local Law No. 1-1989 which reduced the business investment exemption to zero in order to reinstitute the exemption under Real Property Tax Law § 485-b.
- B. Repeal of prior law. Local Law No. 1-1989 and all other local laws, ordinances, rules and regulations inconsistent with this article are hereby repealed.

§ 142-2. Exemption reinstated.

The business investment exemption and all other provisions in Real Property Tax Law § 485-b are hereby reinstated.

¹ Editor's Note: This local law also repealed former Art. 1, Business Investment Exemption, adopted 2-23-1989 by L.L. No. 1-1989.

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ARTICLE II
Veterans Tax Exemption
[Adopted 8-13-1991 by L.L. No. 1-1991]

§ 142-3. Grant of exemption.

The alternative exemption for veterans, as set forth and allowed by § 458-a of the Real Property Tax Law, is hereby granted to qualified owners as determined pursuant to said section of law.

§ 142-4. Reduction of exemption.

The maximum exemption allowable under said section of law is reduced as follows:

- A. For war veterans: 15% of assessed value to a maximum of \$9,000, plus, if applicable;
- B. For combat zone veterans: 10% of assessed value to a maximum of \$6,000, plus, if applicable;
- C. For disabled veterans: such percent of assessed value equal to ½ of the service-connected disability rating to a maximum of \$30,000.

ARTICLE III
Senior Citizens Exemption

[The maximum income levels for senior citizens for an exemption from the taxation of real property shall be as set forth by the Town of German Flatts. The schedule of the income levels is on file in the Village Clerk's office for inspection during regular business hours.]

Chapter 146

TREES

§ 146-1. Control vested in Board of Trustees.

§ 146-3. Cost of trimming or removal; nonliability of village.

§ 146-2. Determination of trimming or removal.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 1-29-1963. Amendments noted where applicable.]

§ 146-1. Control vested in Board of Trustees.

- A. The Board of Trustees of the village shall have exclusive control of all trees located between the sidewalk and curb on any street; the term “street” shall include any public thoroughfare within said village.
- B. On streets where no sidewalk or curb exists, those trees within the limits of the of the street line, as established, shall be controlled in the same manner as herein set forth.
- C. No new trees shall be planted within the limits stated in Subsections A and B above.¹

§ 146-2. Determination of trimming or removal.²

The Board of Trustees shall determine when a tree should be trimmed or removed, but no tree shall be removed unless the same is dead, in a dangerous condition or is a hazard to public safety in the sole opinion of the Board of Trustees.

§ 146-3. Cost of trimming or removal; nonliability of village.

- A. The cost of trimming or removal of trees, as determined and ordered by the Board of Trustees, shall be an expense of said village.
- B. In the event that an adjoining property owner desires to remove or trim a tree located between the sidewalk and curb after it has been determined by the Board of Trustees that the same is not dead nor in a dangerous condition, then if consent for trimming or removal is granted by said Board of Trustees, the same shall be at the cost and expense of said property owner.

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

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

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- C. If an adjoining property owner trims or removes a tree in accordance with Subsection B of this section, such owner, in the performance of said work, shall hold the Village of Mohawk free and harmless from any and all liability of any kind or nature whatsoever.

Chapter 150
VEHICLES AND TRAFFIC

ARTICLE I
Terminology

§ 150-1. Definitions.

ARTICLE II
Traffic Control Signs, Markings
and Devices

§ 150-2. Installation.

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Stop and Yield Intersections

§ 150-3. Through highways.

§ 150-4. Stop intersections.

ARTICLE IV
Parking

§ 150-5. Blocking driveways prohibited.

§ 150-6. Parallel parking.

§ 150-7. Overnight parking.

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§ 150-10. Traffic-control signs, markings or devices.

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ARTICLE VI
One-Way Streets

§ 150-12. One-way streets designated.

§ 150-13. Penalties for offenses.

ARTICLE VIA
Weight Exclusions

§ 150-13.1. Exclusion of certain vehicle traffic.

§ 150-13.2. Penalties for offenses.

ARTICLE VII
Speed Limits

§ 150-14. Maximum speed designated for village streets.

§ 150-15. Maximum speed for state highways; penalties for offenses.

ARTICLE VIII
Impoundment of Vehicles

§ 150-16. Authority to impound.

§ 150-17. Storage and charges.

§ 150-18. Notice of removal.

ARTICLE IX
Parking fines

§ 150-19. Schedule of fines.

§ 150-20. Failure to pay; increase in fine.

§ 150-21. Penalties not to exceed statute.

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**ARTICLE X
Weight Limits**

- § 150-23. Temporary permits.**
- § 150-24. Penalties for offenses.**

§ 150-22. Limit established; exceptions.

[HISTORY: Adopted by the Board of Trustees of the-Village of Mohawk 12-14-1976 by L.L. No. 1-1976. Amendments noted where applicable.]

**ARTICLE I
Terminology**

§ 150-1. Definitions.

The words and phrases used herein 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.

**ARTICLE II
Traffic Control Signs, Markings and Devices**

§ 150-2. Installation.

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

**ARTICLE III
Stop and Yield Intersections**

§ 150-3. Through highways.

The following named streets shall be designated as "through highways" as described below:

Yield Sign on	Direction	Stop Sign on
Canal Street	North & South	Elizabeth Street
Columbia Street	East	Columbia Street
Columbia Street	East	Henry Street
Columbia Street	East	Michigan Street
Columbia Street	North	South Otsego Street

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Yield Sign on	Direction	Stop Sign -on
Columbia Street	West	Bushnell Street
Columbia Street	West	Fulmer Street
Columbia Street	West	Marmet Street
Devendorf Street	East	West Center Street
Devendorf Street	West	Charles Street
East Center Street	North & South	Walnut Street
East Main Street	North	Ann Street
East Main Street	North	Elizabeth Street
East Main Street	North	New York Street
East Main Street	South	Youngs Avenue
East Main Street	South	Bellinger Street
East Main Street	South	Fulton Street
East Main Street	South	Orchard Street
Johnson Avenue	North	Walnut Street
Johnson Avenue	South	Church Street
Johnson Street	South	Warren Street
Marmet Street	North & South	John Street
Marshall Avenue	North	Bellinger Street
Marshall Avenue	North	Fulton Street
Marshall Avenue	South	Bums Avenue
Michigan Street	East	Marshall Avenue
Michigan Street	South	Church Street
Michigan Street	South	Green Street
Michigan Street	South	Walnut Street
North Street	South	West Street
North Richfield St.	West	North Street
Steele Street	East and West	Brookside Drive
[Added 4-24-1995 by L.L. No. 1-1995]		
Steele Street	East & West	Marion Street
[Added 4-24-1995 by L.L. No. 1-1995]		
Warren Road	East	Newton Street
West Center Street	North	Grove Street
West Center Street	North	South Richfield Street

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Yield Sign on	Direction	Stop Sign on
West Center Street	South	Firman Street
West Center Street	South	John Street
West Main Street	North	Erie Street
West Main Street	North	Lock Street
West Main Street	North	North Otsego Street
West Main Street	North	North Richfield Street
West Main Street	North	West Street
West Main Street	South	Cary Avenue
West Main Street	South	Catherine Street
West Main Street	South	Devendorf Street
West Main Street	South	Grove Street
West Main Street	South	Harter Street
West Main Street	South	Petrie Street
West Main Street	South	Pettingill Street
West Main Street	South	South Richfield Street
West Main Street	South	Steele Street
West Main Street	South	Warren Road

§ 150-4. Stop intersections.

The following intersections shall be designated as "stop intersections" as described below:

Intersection of	Direction
Church Street and East Center Street	All
Church Street and Henry Street	All
Marshall Avenue and Orchard Street	All

**ARTICLE IV
Parking**

§ 150-5. Blocking driveways prohibited.

The parking of any vehicle in front of a driveway along the near edge of the traveled portion of the street in front of such driveway is hereby forbidden.

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§ 150-6. Parallel parking.

Except where angle parking is authorized, every vehicle stopped, standing or parked upon a public highway shall be so stopped, standing or parked parallel with the edge of the roadway, headed in the direction of lawful traffic.

§ 150-7. Overnight parking. [Amended 4-24-1995 by L.L. No. 1-1995; 8-25-2003 by L.L. No. 2-2003; 6-28-2004 by L.L. No. 2-2004]

- A. The parking of all vehicles is hereby prohibited on all roads, street and highways and public parking areas so designated, between the hours of 2:00 a.m. and 6:00 a.m. beginning November 1 and ending April 1 of each year.
- B. The parking of all vehicles for a continuous period of more than 48 hours is hereby prohibited on all roads, street and highways and public parking areas so designated beginning April 1 and ending November 1 of each year.

§ 150-8. Parking prohibited in designated locations.

- A. Parking shall be prohibited on the area between the paved portion of the roadway or curb and the furthest line of a sidewalk from the roadway.
- B. [Amended 11-9-1986 by L.L. No. 2-1986; 4-24-1995 by L.L. No. 1-1995] Parking shall be prohibited on the following streets in the locations described below:

Name of Street	Side	Location
Ann Street	East	Entire length
Bellinger Street	West	Entire length
Brookside Drive	East	Entire length
Bums Avenue	East	Entire length
Bushnell Street	North	Entire length
Canal Street	South	From Warren Street to Elizabeth Street
Carver Street	Both	From Grove Street to the end of the street
Cary Avenue	West	Entire length
Catherine Street	West	Entire length
Charles Street	North	Entire length
Church Street	East	From Michigan Street to Fisher Avenue
Church Street [Added 2-12-2007 by L.L. No. 1-2007]	West	From corner of Johnson Ave a distance of 50 feet North

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Name of Street	Side	Location
Columbia Circle	North	From Columbia Street to the beginning of the circle
Columbia Street	East	From the northernmost corner of a driveway at No. 23 Columbia Street in a southerly direction of 100 feet (post office mail-chute area)
Columbia Street	East	Between Henry Street and Columbia Circle
Columbia Street	East	From Michigan Street to a point 75 feet south of Michigan Street's southernmost corner
Columbia Street	West	From Bushnell Street south to the village line
Columbia Street	West	From northernmost property line of No. 26 Columbia in a southerly direction to a distance of 125 feet (fire station and post office mail-chute area)
Columbia Street		From the southwest corner of West Center Street and Columbia Streets from pole No. 11 south for 250 feet
Columbia Street		From the southeast corner of East Center and Columbia Streets from the point the sidewalk and curb intersect for a distance of 176 feet southerly
Columbia Street	West	From a point where the southerly side of the ramp intersects with the street to a distance 20 feet southerly, except police cars
Devendorf Street	East	From West Main Street to Charles Street
Devendorf Street	West	From 36 Devendorf Street to West Center Street
East Center Street	North	From Columbia Street to Green Street
East Center Street	South	From Columbia Street easterly 20 feet
Elizabeth Street	West	Entire length
Erie Street	West	Entire length
Firman Street	West	Entire length
Fisher Avenue [Amended 6-23-1997 by L.L. No. 3-1997]	East	Both sides between the hours of 7:00 a.m. and 4:00 p.m., school days only
Fulmer Street	North	Entire length
Green Street	East	Entire length

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Name of Street	Side	Location
Green Street extension [Added 6-23-1997 by L.L. No. 3-1997]	East	Entire length
Green Street [Added 8-25-2003 by L.L. No. 2-2003]	East	Entire length, excluding an area beginning 75 feet south from the East Center Street stop sign and ending 340 feet south of said stop sign
Grove Street	West	From West Main Street to West Center Street
Hammond Street [Added 10-12-1999 by L.L. No. 4-1999]	East	Entire length
Hammond Street [Added 10-29-2007 by L.L. No. 3-2007]	South	From Columbia Street to Village Limit
Henry Street	North	Entire length
Hillview Avenue	South	Entire length
John Street East		Entire length
Johnson Avenue	North	From Columbia Street to Church Street (on the south side between the hours of 7:00 a.m. and 4:00 p.m., school days only)
Johnson Street	Both	Entire length
Lock Street	West	From West Center Street to a point 150 feet south, between the hours of 8:00 a.m. and 4:00 p.m., school days only
Marion Street	South	Entire length
Marmet Street	North	Entire length
Marshall Avenue	North	From Michigan Street to Bellinger Street and on the south side in front of 52 and 54 Marshall Avenue
Michigan Street [Added 7-24-2000 by L.L. No. 5-2000]	North	From Columbia Street east for a distance of 392 feet and from Marshall Avenue east for a distance of 392 feet
Michigan Street	South	Entire length
Murphy Lane	Both	Entire length
New York Street	East	Entire length
Newton Street	South	Entire length
North Street	North	Entire length
North Otsego Street	East	From south line of 8 North Otsego Street to Johnson Street

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Name of Street	Side	Location
North Otsego Street [Added 6-24-2002 by L.L. No. 3-2002]	West	From the West Main Street crosswalk north a distance of 193 feet
North Richfield Street	East	Entire length
Orchard Street	East	Entire length
Petrie Street	West	Entire length
Pettingill Street	East	Entire length
South Otsego Street	West	In front of the entrance walk to the Reformed Church for a distance of 20 feet
South Richfield Street	West	Entire length
South Washington Street [Added 7-24-2000 by L.L. No. 5-2000]	East	From Columbia Street north for a distance of 358 feet
South Washington Street	East	From Main Street to No. 5 South Washington Street
South Washington Street	West	Entire length
Steele Street	East	Entire length
Walnut Street	East	From Michigan Street to Johnson Avenue
Walnut Street [Added 7-24-2000 by L.L. No. 5-2000]	West	From Marshall Avenue south for a distance of 81 feet
Warren Road	East	Entire length
Warren Road	West	From Main Street to No. 4 Warren Road
Warren Street	East	From East Main Street to Johnson Street
West Center Street	South	On the area between paved portion of roadway, or curb, and furthest line of sidewalk from roadway
West Center Street [Added 6-24-2002 by L.L. No. 3-2002]	North	From Grove Street east a distance of 19 feet
West Center Street [Added 6-24-2002 by L.L. No. 3-2002]	North	From Richfield Street west a distance of 19 feet
West Street	West	Entire length
Youngs Avenue	East	Entire length

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§ 150-9. Time limit parking.

A. The parking of vehicles is hereby prohibited in any of the following locations for a period longer than two hours, except on Sundays and holidays, between the hours of 7:00 a.m. and 6:00 p.m.:

Name of Street	Side	Location
Ann Street West [Amended 4-24-1995 by L.L. No. 1-1995]	Entire length	
Name of Street	Side	Location
East Main Street	South	From Columbia Street east 238 feet
Elizabeth Street		[Repealed 4-24-1995 by L.L. No. 1-1995]
Grove Street		[Repealed 4-24-1995 by L.L. No. 1-1995]
Michigan Street		[Repealed 4-24-1995 by L.L. No. 1-1995]
Ann Street		[Repealed 4-24-1995 by L.L. No. 1-1995]
Canal Street	North	From Warren Street to Elizabeth Street
Canal Street		[Repealed 4-24-1995 by L.L. No. 1-1995]
Columbia Street	East	From Michigan Street north to East Main Street
Columbia Street	West	From West Main Street- south to Michigan Street
East Main Street	North	From Warren Street east for a distance of 125 feet
East Main Street	South	From Columbia Street east 238 feet
Elizabeth Street		[Repealed 4-24-1995 by L.L. No. 1-1995]
Grove Street		[Repealed 4-24-1995 by L.L. No. 1-1995]
Michigan Street		[Repealed 4-24-1995 by L.L. No. 1-1995]
North Otsego Street	East	From West Main Street for a distance of 102 feet
South Otsego Street	East	From West Main Street south for a distance of 172 feet
South Otsego Street	West	From West Main Street south for a distance of 140 feet
South Richfield Street	East	From West Center Street north to a point 200 feet south of West Main Street
Warren Street	West	From Johnson Street south to West Main Street intersection

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B. The parking of vehicles is hereby prohibited, except on Saturdays, Sundays and holidays, on:

- (1) The south side of West Main Street from 4:00 p.m. to 5:30 p.m. from South Richfield Street to South Washington Street.
- (2) The north side of East Main Street from 4:00 p.m. to 5:30 p.m. from Elizabeth Street - to Warren -Street.
- (3) The north side of West Center Street, commencing at Grove Street westerly 213 feet 9 from 8:00 a.m. to 4:00 p.m.
- (4) East side of Grove Street, from Carver Street to West Center Street, from 7:00 a.m. to 4:00 p.m. on days on which school is in session. [Added 4-23-07 by L.L. No. 2-2007]

C. The parking of vehicles is hereby prohibited in the Village Public Parking Lot on the west side of South Otsego Street between 10:00 p.m. and 6:00 a.m.

§ 150-9.1. Standing prohibited in designated locations. [Added 4-24-1995 by L.L. No. 1-1995]

The standing of a vehicle shall be prohibited in the following locations:

Name of Street	Side	Location
Columbia Street		
Grove Street [Added 6-24-02 by L.L. No. 3-2002]	East	From Center Street north a distance of 520 feet.

§150-9.2 Handicapped Parking [Added 6-24-02 by L.L. No. 3-2003].

The parking of all vehicles, except those bearing a valid handicapped parking permit issued by the NYS Department of Motor Vehicles, is hereby prohibited in the following locations:

Name of Street	Side	Location
Grove Street	East	South from a point 51½ feet south of the Main Street sidewalk a distance of 15 feet
North Otsego Street [Added 8-25-2003 by L.L. No. 2-2003]	West	North from Murphy Lane, a distance of 214 feet
South Otsego Street [Added 1-13-2003 by L.L. No 1-2003]	West	South from a point 377 feet south of West Main Street a distance of 39 feet, from Saturday at 9:00 a.m. through Sunday at 8:00 p.m. only.

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§ 150-9.3. Parking of trailers and house coaches. [Added 4-26-1998 by L.L. No. 2-1998. Renumbered from §150-9.2 to §150-9.3 on 6-24-2002 by virtue of L.L. No. 3-2002]

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

HOUSE COACH - Any vehicle -motivated by a power connected therewith or propelled by a power within itself, which is or can be used as the home or living abode or habitation of one or more persons, either temporarily or permanently. In the application of this section to house coaches., a house coach propelled by a power within itself shall be deemed a motor vehicle, a house-coach motivated by a power connected therewith shall be deemed a trailer.

TRAILER - Any vehicle not propelled by its own power drawn on the public highways by a motor vehicle as defined in § 125 operated thereon, except motorcycle side cars, vehicles being towed by a non-rigid support and vehicles designed and primarily used for other purposes and only occasionally drawn by such a motor vehicle.

- B. Parking prohibited. The parking of a trailer or house coach for the period between 7:00 p.m. and 6:00 a.m. on any public street or thoroughfare is prohibited.
- C. Penalty. The provisions of Article V notwithstanding, the operator of a trailer or house coach who parks same in violation of this section shall be subject to a fine up to \$250. The registered owner of such trailer or house coach shall be presumed to be the operator thereof at the time of such violation.

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**ARTICLE V
Penalties for Offenses**

§ 150-10. Traffic-control signs, markings or devices.

The operator of a vehicle who fails to heed and comply with a traffic-control sign, marking or device prescribed and erected pursuant to - any provision of Article III above shall be subject to a fine of not less than \$10 and not exceeding \$25, or shall be subject to confinement for not more than five days.

§ 150-11. Parking violations. [Amended 7-14-1997 by L.L. No. 4-1997]

Except as otherwise provided, the operator of a vehicle who parks a vehicle in violation of any of the provisions of Article IV above shall be subject to a fine of up to \$10. The registered owner of such vehicle shall be presumed to be the operator thereof at the time of such violation. Subject to the approval of the Mohawk Municipal Commission and the Board of Trustees of the Village of Mohawk, the Chief of Police may establish a schedule of payments to be received by alleged violators for purposes of civil compromise dispositions of charges of violations of the provisions of Article IV above.

**ARTICLE VI
One-Way Streets**

§ 150-12. One-way streets designated.

The following streets in the Village of Mohawk are hereby designated "one-way streets," and all traffic thereon shall proceed only as follows:

Name of Street	Direction of Travel
Church Street Extension North	
Fisher Avenue	South
Grove Street	South, from Carver Street to
[Added 4-24-1995 by L.L. No. 1-1995]	West Center Street
Johnson Avenue	East
Lock Street	North and east, from Main
[Added 5-24-1995 by L.L. No. 1-1995]	Street to Erie Street
South Otsego Street	South
Warren Street	South

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§ 150-13. Penalties for offenses.

The operator of any vehicle operated in violation of this article shall be subject to a fine not to exceed \$25 or to confinement up to five days.

**ARTICLE VIA
Weight Exclusions
[Added 4-24-1995 by L.L. No. 1-1995]**

§ 150-13.1. Exclusion of certain vehicle traffic.

All trucks, tractors and tractor-trailer combinations in excess of five (5) tons shall be excluded from the following designated streets, except for local deliveries:

Street

East Main Street

Murphy Lane

West Main Street

§ 150-13.2. Penalties for offenses.

The operator of a vehicle who fails to heed and comply with any section of this Article shall forfeit and pay to the Village of Mohawk a penalty not to exceed \$500.

**ARTICLE VII
Speed Limits**

§ 150-14. Maximum speed designated for village streets.

No person shall operate or cause to be operated a motor vehicle in or upon any part of any street in the Village of Mohawk, New York, except on Columbia Street, at a greater speed than at the rate of thirty (30) miles per hour. The maintenance of greater speed shall be presumptive evidence of driving at a rate of speed which is not careful and prudent.²

§ 150-15. Maximum speed for state highways; penalties for offenses.

A. No person shall operate a motor vehicle on a state highway in the Village of Mohawk, New York, at a speed in excess of thirty (30) miles per hour, except on Columbia Street, N.Y.S. Route 28, between the southerly Mohawk village line and Center Street and on Hammond Street, N.Y.S. Route 168, between Columbia Street and the southeasterly Mohawk village line, wherein no person

² Editor's Note: Former § 59-15 which established a penalty for offenses and immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. 1. See now § 150-24.

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shall operate a motor vehicle at a speed in excess of thirty-five (35) miles per hour.

- B. Any person violating Subsection A of this section shall be subject to a fine payable to the Village of Mohawk of up to fifty dollars (\$50.).

ARTICLE VIII
Impoundment of Vehicles

§ 150-16. Authority to impound.

- A. When any vehicle is parked or abandoned on any street or highway within this village during a snowstorm, flood, fire or other public emergency which affects that portion of the public street or highway upon which said vehicle is parked or abandoned, said vehicle may be removed by order of the Chief of Police of the village.
- B. When any vehicle is found unattended on any street or highway within this village where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by order of the Chief of Police of the Village of Mohawk.
- C. When any vehicle is parked or abandoned on any street or highway within this village where stopping, standing or parking is prohibited, said vehicle may be removed by order of the Chief of Police of the Village of Mohawk.

§ 150-17. Storage and charges.

After removal of any vehicle, as provided in this Article, the Chief of Police of the village 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 Village Clerk-Treasurer the amount of all expenses actually and necessarily incurred in effecting such removal, together with any charges for storage.

§ 150-18. Notice of removal.

The Chief of Police of the village shall, without delay, report the removal and the disposition of any vehicle removed as provided in this Article to the owner thereof, and it shall be the duty of the Chief of Police to ascertain to the extent possible the owner of the vehicle or person having the same in charge and to notify him of the removal and disposition of such vehicle and of the amount which will be required to redeem the same.

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**ARTICLE IX
Parking Fines**

[Added 2-24-1988, amended 7-8-2002 by L.L. N0. 5-2002]

§150-19. Schedule of fines.

Any person guilty of illegal parking upon the roadways, streets or upon private or public properties within the Village of Mohawk may, within five (5) days (excluding weekends and holidays) of the time when a notice indicating such illegal parking was attached to such vehicle, pay to the Traffic Violations Bureau Clerk, as a penalty for and in full satisfaction of such violation, the following fines for any violation of the Village Code and/or New York State Vehicle and Traffic Laws violated:

Offense	Fine
Abandoned Vehicle	\$ 20.00
Overtime limit	20.00
No parking at any time	20.00
Restricted parking zone	20.00
Handicapped parking zone	50.00
Improperly parked	20.00
Parking on median	20.00
Double parking	20.00
Obstructing traffic	20.00
Blocking intersection	20.00
Blocking crosswalks and sidewalks	20.00
Blocking driveways	20.00
Blocking loading zones	20.00
Blocking snow emergency zones	20.00
Blocking or parking too close to fire hydrants	25.00
Unregistered vehicle	20.00
Uninspected vehicle	20.00
On wrong side of street or roadway	20.00
Parking in or blocking a fire lane	20.00
Any and all other parking violations	20.00

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§ 150-20. Failure to pay; increase in fine.

The failure of such owner and/or operator to make such payment within said period of five (5) days (excluding weekends and holidays) will result in said fees being raised as follows:

- A. All five-dollar tickets shall become ten-dollar tickets.
- B. All ten-dollar tickets shall become twenty-dollar tickets.
- C. All fifteen-dollar tickets shall become thirty-dollar tickets.

§ 150-21. Penalties not to exceed statute.

The penalties imposed by this Article shall not be in excess of those imposed according to the New York State Vehicle and Traffic Law.

ARTICLE X
Weight Limits
[Added 5-31-1978 by L.L. No. 2-1978]

§ 150-22. Limit established; exceptions.

- A. The operation of any vehicle hauling dirt or hard fill and weighing, with load, more than ten (10) tons on the streets in the Village of Mohawk, other than on New York State highways, is prohibited, except as is set forth in Subsection B below.
- B. Excepted from the prohibition of Subsection A above are United States, New York State and municipal owned vehicles; vehicles hauling to a project site in the Village of Mohawk, which project site requires not more than two hundred (200) tons of dirt or hard fill for its completion; and vehicles operated pursuant to a temporary permit issued under § 150-23 below.

§ 150-23. Temporary permits.

- A. This Article shall not apply to persons, firms or corporations that have first obtained a temporary permit from the Board of Trustees of the Village of Mohawk to haul dirt or hard fill over the streets of the Village of Mohawk. Such temporary permits may be issued upon terms that, in the public interest, will minimize dust, mud, dirt and noise; will limit hours of the day and days, for such hauling; and will protect against damage to village streets and utility and sewer installations and curbing, sidewalks, trees and plantings. A bond conditioned upon compliance with the terms of a permit, as issue, may be required of the applicant for a temporary permit.
- B. Applications for a temporary permit or for modifications of temporary permits issued shall be accompanied by a filing fee as set from time to time by resolution of the Board of

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Trustees.^{3 4}

§ 150-24. Penalties for offenses.

Each use of a vehicle, prohibited under this Article, of a Village of Mohawk street shall be deemed a separate violation of this Article, and a succeeding use of another village street led to by the first use violation shall be deemed also a separate violation of this Article. Violators shall be fined not less than one hundred dollars (\$100.) nor more than two hundred fifty dollars (\$250.) for each violation.

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

⁴ Editor's Note: See Ch. A 160, Fees.

Chapter 153
WATER AND SEWER RATES

§ 153-1. Water rates.

§ 153-2. Sewer rates.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk on May 13, 2002 by L.L. No. 2-2002; 8-8-2005 by L.L. No. 2-2005. Amendments noted where applicable.]

§ 153-1. Water Rates.

Water rents shall be charged on a combination per meter and usage basis, as follows: A basic charge shall be imposed in an annual amount of \$200.00 per water meter within the Village, which shall be billed in equal installments throughout the year. In addition, water meter usage shall be converted to cubic feet and billed on a per unit basis, with each unit equaling 100 cubic feet or 748 gallons. The rate to be charged for water usage within the Village of Mohawk shall be \$1.60 per unit.

§ 153-2. Sewer Rates.

The rate to be charged for sewer rent within the Village of Mohawk shall be \$1.30 per unit of water used.

Chapter 155

ZONING

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**ARTICLE XI
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- § 155-67. Amendments.
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- § 155-69. Separability.
- § 155-70. Effective Date.

**SCHEDULE A
Parking Space Requirements.**

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk 12-13-2010 by L.L. No. 2-2010. Replaced prior Chapter 55, adopted by the Board of Trustees of the Village of Mohawk 12-14-1976 by L.L. No. 1-1976.]

GENERAL REFERENCES

Building construction and fire prevention - See Ch. 55.
Fences - See Ch. 77.
Flood damage prevention - See Ch. 85.

Parks - See Ch. 110.
Signs - See Ch. 125.
Fees - See Ch. A160.

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ARTICLE I Introduction

§155-1. Enacting Clause

Pursuant to the authority conferred by Article 7 of the Village Law and Articles 2 and 3 of Municipal Home Rule Law of the State of New York, the Village Board of the Village of Mohawk hereby adopts and enacts the following law.

§155-2. Title

This law shall be known as “The Village of Mohawk Zoning Law.”

§155-3. Purpose

The purposes of this zoning law are to provide for orderly growth in accordance with a comprehensive plan; to lessen congestion in the streets; to secure safety from fire, flood and other dangers; to provide adequate light and air; to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to promote the health, safety, and general welfare of the public.

This zoning law has been made with reasonable consideration, among other things, as to the character of each zone and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Village of Mohawk.

§155-4. Applicability

This law, and any amendment thereto, shall apply on its effective date to all uses which have not been substantially commenced, and structures which have not been substantially constructed, regardless of the status of permits or certificates of occupancy issued pursuant to the New York State Uniform Fire Prevention and Building Code.

§155-5. Replaced, Superseded Laws and Ordinances

This law shall replace and supersede Chapter 155 of the Village of Mohawk Municipal Code entitled “Zoning,” adopted on December 14, 1976, as amended.

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ARTICLE II
Definitions

§155-6. General

Except where specifically defined herein, all words used in this law carry their customary meanings. Words in the present tense include the future, words in the singular include the plural and the plural the singular, and the word “shall” is intended to be mandatory.

§155-7. Specific Definitions

Accessory Apartment: A second dwelling unit located on the same lot as a principal single-family dwelling, located either within the principal dwelling or within an accessory building, which is subordinate to the principal dwelling in terms of size, location, and appearance. Such a dwelling is an accessory use to the principal dwelling.

Accessory Building: A building which is an accessory structure.

Accessory Structure: A structure incidental and subordinate to the principal structure and located on the same lot with such principal structure. Where an accessory structure is attached to the principal structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure.

Accessory Use: A use incidental and subordinate to the principal use and located on the same lot with such principal use.

Apartment Complex: A building or a portion thereof used for occupancy by more than four (4) families living independently of each other and containing more than four (4) dwelling units.

Building: Shelter having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or property.

Building, Accessory: See *Accessory Building*.

Building Line: The line, parallel to the road line, that passes through the point of the principal building nearest the front lot line.

Building Permit: A permit issued by the code enforcement officer before activities such as constructions, alteration or expansion of buildings or improvements on land may legally commence.

Certificate of Compliance: A certification by the zoning enforcement officer that a lot, structure, or use of land has been developed in conformity with the provisions of this law.

Certificate of Occupancy: A certification by the code enforcement officer that a lot, structure, or use of land has been developed in conformity with an approved building permit and/or complies with the provisions of the New York State Uniform Fire Prevention and Building Code and may be occupied and used for the purposes specified, if any.

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Code Enforcement Officer: Any person appointed by the village board to administer and enforce the provisions of the New York State Uniform Fire Prevention and Building Code.

Communication Facility: Towers, antennas, and accessory structures designed for or used in connection with the provision of cellular telephone service, personal communication services, paging services, radio and/or television broadcasting services, or other similar broadcast services..

Coverage, Lot: See *Lot Coverage*.

Depth, Lot: See *Lot Depth*.

Dwelling: A building or portion thereof which is used exclusively for residential purposes, including one-family, two-family, and multifamily dwellings, but not including mobile homes, hotels, motels, or rooming houses.

Dwelling, Multifamily: A building or a portion thereof used for occupancy by three (3) or four (4) families living independently of each other and containing either three (3) or four (4) dwelling units.

Dwelling, One-family: A building containing only one dwelling unit, and occupied by only one family.

Dwelling, Two-family: A building containing only two dwelling units, and occupied by only two families.

Dwelling Unit: A complete self-contained residential unit, with living, sleeping, cooking and sanitary facilities within the unit, for use by one family.

Essential Facilities: The operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers; electrical or gas substations; water treatment, storage and transmission facilities; pumping stations; and similar facilities.

Family: One or more persons living, sleeping, cooking or eating on the same premises as a single housekeeping unit.

Front Yard: See *Yard, Front*.

Frontage, Lot: See *Lot Frontage*.

Home Business: An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit, is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and conforms to the regulations of §155-15 of this law. Home business may include but are not limited to professional offices, barbering, hairdressing, laundering, home cooking, teaching and musical instruction. In no event shall the following be deemed home businesses: Stables and kennels, restaurants and tea rooms, rooming houses, instruction to groups, dancing instruction, mortuary establishments, garages or shops for the repair of motor vehicles, and other trades and businesses of a similar nature.

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Hotel: A building or portion thereof containing rooms intended or designed to be rented or hired out to be occupied or which are occupied primarily for sleeping purposes for compensation, whether the compensation is paid directly or indirectly, and which do not fall within the definition of dwellings, motels or rooming houses.

Line, Lot: See *Lot Line*.

Line, Street: See *Street Line*.

Lot: A designated parcel or tract of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

Lot Area: The total horizontal area included within the lot lines of a lot. No part of the area within a public right-of-way shall be included in the computation of lot area.

Lot Coverage: That portion of the lot that is covered by buildings and structures.

Lot Depth: The average horizontal distance between the front and rear lot lines.

Lot Frontage: The length of the front lot line measured at the road line.

Lot Line: A line of record bounding a lot which divides one lot from another lot or from a public or private road.

Lot of Record: A lot for which a valid conveyance has been recorded in the office of the county clerk prior to the effective date of the Village of Mohawk Subdivision Regulations; or, is either part of a subdivision plat approved by the planning board and filed in the county clerks office, or was exempt from the Wage of Mohawk Subdivision Regulations at the time of recording with the county clerk.

Lot Width: The horizontal distance between side lot lines, measured at the required front setback line.

Manufacturing and Processing: Any land or structures used for the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts; the manufacturing of products; the blending of materials; and the packaging of products for distribution.

Mobile Home: A structure transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or which when erected on site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

Mobile Home Park: A residential use in which two (2) or more mobile homes are located on a single property.

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Motel: A building or group of buildings, whether detached or in connected units, used as individual sleeping units designed primarily for transient automobile travelers and providing for accessory off-street parking.

Nonconformity: A lot of record, structure, or use of land which lawfully existed prior to the enactment of this law, or conformed to the regulations of the zone in which it was located prior to the amendment of this law; which does not conform to the regulations of the zone in which it is located following the enactment or amendment of this law.

Park/Playground, Public: A tract of land, designated and used by the public for active and passive recreation.

Parking Lot: A tract of land used for the temporary parking of motor vehicles when such use is not accessory to any other use.

Permit, Special Use: See *Special Use Permit*.

Permit, Zoning: See *Zoning Permit*.

Plat: A map of a subdivided tract of land showing the boundaries and location of individual properties and roads.

Planning Board: The Village of Mohawk Planning Board.

Principal Structure: A structure through which the principal use of the lot on which it is located is conducted.

Principal Use: The primary or predominant use of any lot.

Private Street: See *Street, Private*.

Professional Office: The place of business of any doctor, lawyer, chiropractor, accountant, or other licensed professional where clients or patients are seen.

Public and Semi-Public Facility: Any one or more of the following uses, including grounds and accessory buildings necessary for their use: religious institutions; public parks, playgrounds and recreational areas; schools; public libraries; fire, ambulance and public safety buildings; and public meeting halls and community centers.

Rear Yard: See *Yard, Rear*.

Retail Sales and Service: A commercial facility engaged in the indoor selling of goods or merchandise to the general public for personal or household consumption; or providing indoor retail services or entertainment to the general public such as eating and drinking establishments, finance, real estate and insurance, personal services, amusement and recreational services, health, educational and social services; and not including outdoor retail sales and service,

Retail Sales and Service, Outdoor: A commercial facility including sales, rental, lease and service or repair for new and used automobiles, trucks, mobile homes, boats, recreational vehicles, farm implements, tree nurseries and other large items stored outdoors.

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Retail Sales and Service, Large Facility: A retail sales and service facility of over 15,000 square feet of gross leasable area, planned, constructed and managed as a single retail establishment

Retail Sales and Service, Small Facility: A retail sales and service facility of 15,000 square feet or less of gross leasable area, planned, constructed and managed as a single retail establishment.

Rooming House: Any building or portion thereof contained within or attached to a dwelling, containing at least one (1) and less than five (5) rooms which are used, rented or hired out to be occupied or which are occupied for sleeping purposes for compensation, whether the compensation is paid directly or indirectly. The term “rooming house” shall be deemed to include any lodging house, boarding house, tourist home or bed-and-breakfast inn.

Side Yard: See *Yard, Side*.

Site: Any area of a single parcel of land to be used, developed, or built upon as a unit.

Site Plan: A rendering, drawing, or sketch prepared to the specifications of this law and containing necessary elements as set forth in this law which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

Special Flood Hazard Area: Land in the floodplain subject to a one percent or greater chance of flooding in any given year. It includes the area shown on the Flood Insurance Rate Map as Zone A, AE, AO, AH, and A1 to A99.

Special Use Permit: A permit for special uses which must be approved by the planning board, granting permission to the zoning officer to issue a zoning permit.

Special Use: A use of land as designated in Article 4 of this law, which requires a review and approval of the planning board prior to the issuance of a special use permit by the planning board or a zoning permit by the zoning officer, and is subject to conditions imposed by the planning board to ensure that the use is in harmony with this law and will not adversely affect the neighborhood if such conditions are met.

Story: Portion of a building which is between one floor level and the next higher floor level or the roof. A half-story is that part of a building between a pitched roof and the uppermost full story, and having a floor area at least half as large as the floor below. Space less than 5 feet clear headroom shall not be considered as floor area for purposes of computing halfstories.

Street: A thoroughfare dedicated and accepted by a municipality for public use or legally existing on any map of a subdivision filed in the manner provided by law.

Street, Private: A private way which affords the principal means of access to abutting property.

Street Line: A right-of-way line dividing a lot, plot, or parcel from a street

Structure: Anything constructed or erected, the use of which requires location on the ground, or attachment to something located on the ground.

Structure, Accessory: See Accessory Structure.

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Structure, Principal: See *Principal Structure*.

Use: The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

Use, Accessory: See *Accessory Use*.

Use, Principal: See *Principal Use*.

Use, Special: See *Special Use*.

Variance: Any departure from the strict letter of this law granted by the zoning board of appeals as applied to a particular piece of property.

Warehouse: An enclosed building or structure used primarily for storage, and which does not serve as an accessory structure to a residential use.

Width, Lot: See *Lot Width*.

Yard: Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings, or such projections as are expressly permitted in this law. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and the nearest point of the foundation wall of the main building.

Yard, Front: The space within and extending the full width of the lot from the street line to that part of the building or structure which is nearest to such street line. If a lot adjoins two or more streets, it shall be deemed to have a front yard respectively on each.

Yard, Rear: The space within and extending the full width of the lot from the rear lot line to that part of the building or structure which is nearest to such rear lot line.

Yard, Side: The space within and extending the full distance from the front yard to the rear yard and from the side lot line to that part of the building or structure which is nearest to such side lot line.

Zoning Board of Appeals: A board appointed by the village board pursuant to §7-712 of the Village Law to hear and decide appeals of this law.

Zoning Permit: A permit issued by the zoning officer certifying that all plans for the use and development of land comply with the regulations of this law, and granting permission to commence development activities in conformity with the conditions of the approved permit

Zoning Officer: Any person appointed by the village board to enforce the provisions of this law.

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**ARTICLE III
Establishment of Districts**

§155-7. Classes of Districts

For the purpose of this law, the Village of Mohawk is hereby divided into the following districts:

- A. Residential.
- B. Business.
- C. Industrial.

§ 155-8. Industrial District Boundaries.

The following described areas in the Village of Mohawk, New York, shall be known as “Industrial Districts:”

All that portion of the Village of Mohawk, New York, bounded and described as follows: Beginning at a point one hundred feet (100') northerly from the northerly boundary line of West Main Street where the westerly boundary of said Village intersects same; thence northerly and easterly along the westerly and northerly boundary lines of said Village to the southerly bank of the Mohawk River; thence easterly along said southerly river bank to the easterly limits of said Village; thence southwestly along the boundary line of said village to a point where said boundary line intersects the southerly line of Marshall Avenue extended; thence at right angles to said southerly line of Marshall Avenue extended to the northern side of East Main Street; thence on a straight line to the southeast corner of the lands of the YMCA; thence along the easterly boundary of said YMCA property to the abandoned Erie Canal lands; thence westerly along the southerly boundary of said abandoned Erie Canal lands to the westerly line of Ann Street; thence southerly along the westerly line of Ann Street to the northerly line of Canal Street; thence westerly along the northerly line of Canal Street to the easterly line of Elizabeth Street; thence northerly along the easterly line of Elizabeth Street to the northerly line of Johnson Street; thence westerly along the northerly line of Johnson Street to the easterly line of North Otsego street; thence northerly along the easterly line of Otsego Street to the southerly line of said abandoned Erie Canal lands; thence westerly along the southerly boundary of said abandoned Erie Canal lands to a point one hundred feet (100') from the northerly boundary of West Main Street; thence on westerly course parallel to West Main Street to the point and place of beginning.

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§ 155-9. Business District Boundaries.

The following described areas in the Village of Mohawk, New York, shall be known as “Business Districts:”

All those certain lots or parcels of land abutting upon the northern side of West Main Street from the westerly Village boundary running east to and including the YMCA property on East Main Street.

All those certain lots or parcels of land abutting upon the southern side of West Main Street from the westerly Village boundary running east to the westerly boundary of the intersection of a line running perpendicular from Marshall Avenue at the easterly Village limit to East Main Street.

All those certain lots or parcels of land abutting upon the eastern side of Columbia Street from East Main Street to its intersection with East Center Street.

All those certain lots or parcels of land abutting upon the western side of Columbia Street from West Main Street to its intersection with West Center Street.

All those certain lots or parcels of land abutting upon the western and eastern sides of Warren Street from West Main Street and East Main Street to the intersection of Johnson Street.

All those certain lots or parcels of land abutting upon the southern side of Johnson Street from Warren Street to North Otsego Street.

All those certain lots or parcels of land abutting upon the western and eastern sides of North Otsego Street from Johnson Street and Murphy Lane to the intersection of West Main Street.

All those certain lots or parcels of land abutting upon the western and eastern sides of South Otsego Street from the intersection of West Main Street to the intersection of Columbia Street.

All those certain lots or parcels of land abutting upon the western side of South Washington Street north of West Main Street.

All those certain lots or parcels of land abutting upon the western and eastern sides of New York Street.

All those certain lots or parcels of land abutting upon the western and eastern sides of Ann Street from the intersection of East Main Street to the intersection Canal Street on the west and the entire length of Ann Street on the east.

All those certain lots or parcels of land abutting upon the western and eastern sides Elizabeth Street from the intersection of East Main Street to the intersection Canal Street.

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All those certain lots or parcels of land abutting upon the southern side of Canal Street.

All those certain lots or parcels of land abutting upon the southern line of the abandoned Erie Canal lands from and including the YMCA property on the east to the east intersection of Ann Street south on the west.

For purposes of this section, all property which was part of a tax map parcel which on the date of the enactment of this zoning law bordered the specified street or boundary shall be considered as “abutting upon” the specified street or boundary and shall be deemed to lie entirely within a Business District. Any parcel which is located within the Business District boundaries but does not abut any of the aforesaid streets shall be considered as within the Business District. No subdivision of any parcel after the date of enactment of this zoning law shall remove property from a Business District.

§ 155-10. Residential District Boundaries.

All areas in the Village of Mohawk, New York, not included in the areas set forth in §§155-8 through 155-9 herein shall be known as “Residential Districts.”

§155-11. Zoning Map

Said districts are shown on the map accompanying this law entitled “Village of Mohawk Zoning Map” dated December 7, 2009 and filed in the office of the Village Clerk, which map and all explanatory matter thereon is by this reference incorporated into this law.

§155-12. Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of the various districts, as described above or as shown on the zoning map, the following rules shall apply:

- A. Where the designation indicates a boundary approximately upon a street, the centerline of the street shall be construed to be the boundary.
- B. Where the designation indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.
- C. In other cases the district boundary shall be determined by the use of the scale on the zoning map, or distances as indicated in §§155-8 through 155-9 or on the zoning map.

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§155-13. Lots Divided by District Boundaries

Where a district boundary divides a lot of record at the time such boundary is adopted, the zone requirements of the least restrictive portion of such lot shall extend 30 feet into the more restrictive portion of the lot, provided the least restrictive portion of the lot has frontage on a street.

**ARTICLE IV
District Regulations**

§155-14. Residential Districts

A. Except as otherwise herein provided, no building or premises shall be used, in whole or in part, and no building shall be erected which is arranged, intended or designed to be used, in whole or in part, in Residential Districts except for:

(1) The following uses and purposes, which shall not require a zoning permit:

One-Family Dwellings

(2) The following uses and purposes, which shall require a zoning permit issued by the Zoning Officer:

Two-Family Dwellings
Accessory Apartments

(3) The following uses and purposes, which shall require a site plan review by the Planning Board prior to the issuance of a zoning permit by the Zoning Officer:

Multi-Family Dwellings
Essential Facilities

(4) The following uses and purposes, which shall require a special use permit by the Planning Board prior to the issuance of a zoning permit by the Zoning Officer:

Home Businesses
Rooming Houses
Public and Semi-Public Facilities
Communication Facilities

B. All uses in Residential Districts shall meet the following requirements:

Minimum Lot Area:	5,000 square feet
Minimum Front Yard Depth:	Same as majority of buildings on street
Minimum Setback Each Side Yard:	5 feet
Minimum Rear Yard Depth:	20 feet
Maximum Lot Coverage:	25 percent
Maximum Building Height:	2.5 stories
Max. Accessory Building Height:	2.5 stories

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- C. No signs of any kind shall be erected within Residential Districts, except those expressly authorized herein, authorized by other provisions within the Code of the Village of Mohawk, or authorized by state or federal statute, rule or regulation, and except the following:
- (1) Nameplate/house number signs, affixed to the building and measuring not more than one (1) square foot;
 - (2) Real estate signs, which shall be freestanding temporary signs advertising that the property is for sale, and measuring not more than six (6) square feet;
 - (3) Construction signs, which shall be freestanding temporary signs advertising that the identity of the contractor working on the property, which shall measure not more than six (6) square feet and shall be displayed not more than fourteen (14) days before commencement of construction and not more than fourteen (14) days after the completion of construction, and in no event longer than ninety (90) days;
 - (4) Political/campaign signs, which shall be freestanding temporary signs advertising a party, candidate, or support for or against an issue, which shall measure not more than six (6) square feet and shall be displayed no longer than ninety (90) days.

§155-15. Business Districts

- A. Except as otherwise herein provided, no building or premises shall be used, in whole or in part, and no building shall be erected which is arranged, intended or designed to be used, in whole or in part, in Business Districts except for:

- (1) The following uses and purposes, which shall require a zoning permit issued by the Zoning Officer:

One-Family Dwellings
Two-Family Dwellings
Accessory Apartments
Professional Offices

- (2) The following uses and purposes, which shall require a site plan review by the Planning Board prior to the issuance of a zoning permit by the Zoning Officer:

Apartment Complexes
Communication Facilities
Multi-Family Dwellings
Mobile Home Parks
Essential Facilities
Home Businesses
Rooming Houses
Hotels and Motels
Public and semi-Public Facilities
Small Retail Sales and Services

- B. All uses in Business Districts shall meet the following requirements:

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Minimum Lot Area:	10,000 square feet
Minimum Front Yard Depth:	Same as majority of buildings on street
Minimum Setback Each Side Yard.:	5 feet
Minimum Rear Yard Depth:	20 feet
Maximum Lot Coverage:	35 percent
Maximum Building Height.:	2.5 stories
Max. Accessory Building Height:	2.5 stories

§155-16. Industrial Districts

- A. Except as otherwise herein provided, no building or premises shall be used, in whole or in part, and no building shall be erected which is arranged, intended or designed to be used, in whole or in part, in Industrial Districts except for the following uses and purposes, which shall require a site plan review by the Planning Board prior to the issuance of a zoning permit by the Zoning Officer:

Essential Facilities
Professional Offices
Rooming Houses
Hotels and Motels
Public and semi-Public Facilities
Large Retail Sales and Services
Outdoor Retail Sales and Services
Communication Facilities
Warehouses
Manufacturing and Processing Facilities

- B. All uses in Industrial Districts shall meet the following requirements:

Minimum Lot Area:	10,000 square feet
Minimum Front Yard Depth:	Same as majority of buildings on street
Minimum Setback Each Side Yard.:	15 feet
Minimum Rear Yard Depth:	20 feet
Maximum Lot Coverage:	45 percent
Maximum Building Height.:	2.5 stories
Max. Accessory Building Height:	2.5 stories

**ARTICLE V
General Regulations**

§155-17. Home Businesses.

Home businesses shall comply with the following:

- A. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
- B. The business shall have in its employ no more than three (3) employees, even if said

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employees work off-site or work on site at different times.

- C. There shall be no exterior display, nor any more than one exterior sign advertising the business. Said sign shall not exceed two (2) feet by three (3) feet, and shall be mounted flat against the surface of the building. Lighted signs, portable signs, signs on brackets, signs located on lawns or on public property shall not be permitted.
- D. There shall be no exterior unscreened storage of materials or waste products, and no other exterior indication of variation from the residential character of the principal building.
- E. Home occupations that generate objectionable amounts of vehicle traffic, offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare or other objectionable effects shall not be approved and shall not exist within residential zone limits. Should a home occupation once established generate any of the foregoing items, the home occupation shall terminate as ordered by the zoning officer.
- F. No home occupation shall be approved which is classified as an industrial use or is a moderate or high-hazard fire classification under the New York State Uniform Fire Prevention and Building Code
- G. All home occupations shall be operated by the owner of the home, who shall also reside in the same home in which the home occupation is being conducted. Tenants, lessees, renters and occupants of any properties shall not be approved for or allowed to operate a home occupation.
- H. No more than two (2) customer vehicles shall be at the premises at a single time.

§155-18. Accessory Apartments.

- A. No more than one accessory apartment shall be allowed for each dwelling unit.
- B. Each accessory apartment shall be a maximum of 35% of the total floor area of the principal dwelling unit.
- C. If separate entrance to the accessory apartment is provided, such separate entrance shall be to the side or rear of the building.

§155-19. Line of Sight for Traffic Safety

- A. No accessory structure, fence, wall, or hedge shall be erected in such a manner as to confuse or obstruct the views of any traffic sign, signal, or device, or obstruct the visibility of vehicles entering or exiting highways.
- B. On a comer lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet and ten feet above the street centerline grades of two intersecting streets, in the area bounded by the street lines of such comer lot and a line joining points along said street lines 20 feet from the point of the intersection.

§155-20. Accessory Uses and Structures

- A. Accessory uses and structures shall be allowed on the premises of any principal use in any zoning district.
- B. The establishment or change of an accessory use or structure which is incidental to a use requiring a site plan review pursuant to Article IV of this law shall likewise require a site plan review.
- C. The establishment or change of an accessory use or structure which is incidental to a use requiring a special use permit pursuant to Article IV of this law shall likewise require a special use permit.
- D. When an accessory building is attached to a principal building, it shall comply in all respects with the requirements of this law applicable to the principal building.
- E. Detached accessory buildings and all other structures shall comply with the following:
 - (1) building distance from other buildings: 5 feet minimum
 - (2) front yard: same as principal use
 - (3) side yard: 5 feet minimum
 - (4) rear yard: 5 feet minimum

§155-21. Parking Requirements.

- A. All uses in Residential Districts shall be provided with off-street parking for all vehicles during typical peak use periods.
- B. In Residential Districts:
 - (1) No parking areas shall be constructed in any front yard, except as may exist in a single-width driveway servicing a garage, side yard carport, or rear yard parking area.
 - (2) All front yards shall be surfaced with grass, garden beds or shrubbery, except to the extent permitted for driveway use.
 - (3) In yards where a sidewalk exists, the area between the sidewalk and street curb shall be surfaced and maintained with grass only.
- C. All uses with nonconforming parking situations shall comply with the parking requirements of this Article, to the extent possible, if one or more of the following conditions occurs:
 - (1) The use changes;
 - (2) The use expands its gross floor area;
 - (3) The use is destroyed and seeks to be reestablished;
 - (4) The use is abandoned for a period of one year or longer and seeks to be reestablished.
- D. A parking space shall be not less than 9 feet by 20 feet exclusive of access ways and driveways.
- E. Off-street parking may be located off-site but must be within 500 feet of the site.

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- F. No nonresidential or multifamily dwelling parking area shall be located within five (5) feet of a side lot line.
- G. To the greatest extent possible, all parking areas for nonresidential and multifamily dwelling uses shall be located to the side or rear of buildings and out of roadside view. Where parking areas must be located in side or in front yards adjacent to public streets, and where parking areas must be located adjacent to residential areas, appropriate buffering, landscaping or visual barriers shall be provided.
- H. Landscaping shall be provided around parking areas which shall be designed to break up the visual impact of such areas. Vegetation shall be designed to provide adequate site distances to vehicles entering and exiting the site. When large areas are to be paved, parking rows shall be designed with the landscaping interspersed within the paved area.
- I. All parking areas for nonresidential and multifamily dwelling uses shall be designed to allow vehicles to exit front first onto streets.
- J. One parking area may contain required spaces for more than one use. The required spaces assigned to one use may not be credited to another use, except where the uses operate at different times. The applicant shall provide written evidence that the owner has granted permission for such shared parking.
- K. All parking areas shall be surfaced with dust inhibiting materials acceptable to the planning board.
- L. Minimum parking spaces for each use shall be required as indicated on Schedule A of this law.

§155-22. Off-Street Loading Facilities.

Off-street loading facilities shall be provided for each commercial or industrial establishment hereafter erected or substantially altered and shall be so arranged as not to interfere with pedestrians or motor traffic on the public street or highway. Off-street loading facilities shall be to the rear of structures where practicable, and shall otherwise be to the side of structures. All facilities shall be appropriately screened as required of parking areas.

§155-23 Communication Facilities.

- A. In addition to all requirements set forth in this Chapter, all communication facilities shall require a special use permit, without regard for which zoning district in which the proposed use may be located. No special use permit relating to a communication facility shall be approved unless:
 - (1) The facility is necessary to provide adequate service to locations which the applicant is not able to serve with existing facilities;
 - (2) The facility conforms to all applicable regulations promulgated by the FCC, FAA and other federal agencies;

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- (3) The facility will be designed and constructed in a manner which minimizes visual impact to the fullest extent practicable;
 - (4) The proposed site is the most appropriate among those available within the technically feasible area for the location of a communications facility.
- B. The following information/documentation shall be submitted in support of an application for a special use permit communication facility. This information is required in addition to any other information or documents required under this Chapter pertaining to site plan review, special use permits, or variances.
- (1) Environmental assessment form;
 - (2) Manufacturer's design data pertaining to installation of a new facility;
 - (3) A safety analysis and certification by a NYS licensed professional engineer that the proposed facility will be in compliance with all applicable FAA and FCC laws and regulations;
 - (4) Proof of the site owner's consent, if the applicant is not the owner of the site on which the applicant seeks to locate a communications facility;
 - (5) Inventory of existing communications facility sites within the Village of Mohawk and within one mile of the municipal border including specific information regarding the height, location, street address, tax parcel id, latitude and longitude, altitude (MSL) of base, and design type of each tower facility;
 - (6) Site plan which includes:
 - (a) Name of operator, owner and lessee;
 - (b) Exact location of the proposed facility, including any mounting devices, appendages, support structures and accessory equipment, storage cabinets or other materials used in connection therewith;
 - (c) Location of all structures on the site;
 - (d) Maximum height of each proposed facility and any structure in which it is proposed to be affixed;
 - (e) Location, type and intensity of any lighting;
 - (f) Property boundaries, adjacent uses and zoning classifications;
 - (g) Names and addresses of adjacent property owners, as contained in public records;
 - (h) Landscaping and screening plan including existing vegetation; and
 - (i) Location and nature of access.

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- (7) Identification and description of anti-climbing device(s) to be utilized;
 - (8) Report from a licensed professional engineer which describes the tower including its height and design, demonstrates its compliance with structural standards and describes the tower's capacity, including the number and type(s) of antennas it can accommodate; and
 - (9) A demotion bond or other security acceptable to the Village for the purpose of removing the tower if the owner fails to do so if the tower has not been used for a period of six (6) months, or has been ordered removed by the Village because it is no longer necessary for the original holder of the special use permit.
- C. At all time, shared use of existing towers or structures shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antennas on pre-existing structures such as water towers, office buildings, etc. shall be considered.
 - D. Communications facilities shall be constructed so as to minimize the potential safety hazards and located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structures, public streets, utility lines and other communications facilities.
 - E. The tower and antennas shall comply with all existing setbacks for the affected district. Setbacks shall apply to all tower parts including guy wires and any accessory facilities.
 - F. Towers shall not be artificially lighted except to assure human safety as required by the FAA. Notwithstanding, an applicant may be compelled to add FAA-style lighting and marking, if the planning board believes such a requirement would be of direct benefit to public safety. The planning board may choose the most appropriate lighting and marking plan from the options acceptable by the FAA at that location. The applicant must provide both standard and alternative lighting and marking plans for the planning board's review.
 - G. Towers and accessory structures shall be provided with security fencing to prevent unauthorized entry. Existing on-site vegetation shall be preserved to the maximum extent possible, no cutting of trees in excess of 4" in diameter shall take place prior to the approval of the site plan review and/or special permit. Appropriate vegetative buffering shall be provided around fences, accessory structures and anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, historic and scenic areas, or public roads.
 - H. A driveway and an appropriate parking area shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private shall be made.
 - I. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited. Signs shall be no larger than two square feet.

ARTICLE VI Site Plan Reviews

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§155-24. Authority.

The Planning Board of the Village of Mohawk is hereby authorized pursuant to Village Law §7-725-a to review and approve, approve with modifications, or disapprove site plans within the Village of Mohawk as designated in accordance with the standards and procedures set forth in this law.

§155-25. Applicability.

All nonresidential uses on any site or lot and all multifamily dwellings shall be required to have a site plan approved by the planning board prior to the issuance of a zoning permit or a certificate of occupancy by the zoning officer.

§155-26. General Review Criteria.

The planning board shall require that all site plans comply with the following general review criteria:

- A. That the site is designed in the interests of the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area;
- B. That the site is designed so as to be in harmony with the comprehensive plan for the community;
- C. That parking areas are adequate for the intended level of use, and arranged and screened so as to minimize negative impacts on adjacent properties;
- D. That access to the site is safe and convenient and relates in an appropriate way to both the internal circulation on the site as well as the Village street system;
- E. That the internal circulation of the site is arranged so as to minimize impacts on the Village street system;
- F. That the site is suitably landscaped, and appropriately screened from adjacent properties and the street so as to protect the visual character of the area and to minimize negative impacts on adjacent properties and the neighborhood;
- G. That any activities on the site which are incompatible with adjacent properties are suitably buffered so as to minimize negative impacts on such adjacent properties;
- H. That signs, site lighting, and the locations of all buildings and structures are in keeping with the character of the neighborhood;
- I. That any changes to existing drainage patterns, or increased drainage due to development activity has no negative impacts on adjacent property;
- J. That proposed water supply and sewage disposal facilities are adequate and compatible with

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Village systems;

- K. That the site is designed so as to have no negative impacts on the Village water supply; and
- L. That development activity complies with all other standards and requirements of this law.

§155-27. Application.

The zoning officer shall refer any application for a zoning permit which requires a site plan review to the planning board. An application for a site plan review shall be filed with the planning board, and the appropriate fee as determined by the fee schedule adopted by village board resolution shall be paid to the village clerk-treasurer. Ten copies of the application and site plans shall be provided which shall include the following:

- A. Name and address of applicant and owner, if different, and of the person responsible for preparation of drawings;
- B. Date, northpoint, written and graphic scale;
- C. Boundaries of the site plotted to scale, including distances, bearings, and areas;
- D. Locator map showing the site in relationship to the Village;
- E. Location and ownership of all adjacent lands as shown on the latest tax records;
- F. Location of all zone district boundaries;
- G. Location, name, and existing width of adjacent streets;
- H. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
- I. Complete outline of existing or proposed deed restrictions or covenants applying to the property;
- J. Existing hydrologic features together with a grading and drainage plan showing existing and proposed contours at a maximum of five foot intervals;
- K. Location, proposed use, and height and dimensions of all buildings including the number and distribution by type of all proposed dwelling units, and the designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office and other commercial or industrial activities;
- L. Location and design of all parking and loading areas including access and egress drives and fire lanes and emergency access areas;
- M. Provision for pedestrian access, including public and private sidewalks;
- N. Location of outdoor storage;

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- O. Location and design of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;
- P. Description of the method of securing public water supply and disposing of sewage, and the location and design of such facilities;
- Q. Location and design of all energy distribution facilities, including electrical, gas, and solar energy;
- R. Location, size and design of all proposed signs;
- S. Location and design of outdoor lighting facilities;
- T. General landscaping plan and planting schedule, including the location and proposed development of all buffer areas;
- U. Erosion and sediment control plan conforming to the standards and practices contained in the USDA Soil Conservation Service Engineering Field Manual (EFM) and New York Guidelines for Urban Erosion and Sediment Control, or other erosion and sediment control manual recognized by the planning board;
- V. An agricultural data statement pursuant to Village Law §7-739, when applicable;
- W. A statement of the nature and extent of the interest of any state employee, or officer or employee of the town in the applicant pursuant to General Municipal Law §809, when applicable;
- X. An environmental assessment form (EAF) and, when applicable, a draft environmental impact statement (EIS) pursuant to 6 NYCRR Part 617;
- Y. Other elements integral to the proposed development as considered necessary by the planning board.

§155-28. Waiver of Submission Requirements.

The planning board may waive any of the submission requirements listed in §155-27 above where it deems that the information is either not applicable or is unnecessary to a particular site plan review.

§155-29. Environmental Impact Review.

The planning board shall be responsible for the completion of an environmental assessment form (EAF) for each application for site plan review. The planning board shall be responsible for compliance with 6 NYCRR Part 617 (State Environmental Quality Review regulations) in cooperation with other involved agencies in the review of any site plan.

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§155-30. Review.

Upon a determination by the planning board that the application for a site plan review is complete, the board shall review the site plan taking into consideration the objectives for site plan review as outlined in §155.26 above and the general standards for all uses as outlined in Article V of this law.

§155-31. Area Variance.

During the course of the review, should the planning board determine that a site plan approval may not be feasible without the granting of an area variance as defined by Village Law §7-712, the planning board may at any time refer the application and site plans to the zoning board of appeals for the consideration of such variance.

§155-32. Public Hearing.

Unless waived pursuant to §155.34, the planning board shall conduct a public hearing. Such public hearing shall be conducted within 62 days of the receipt of the completed application for a site plan review and shall be advertised at least five days before the hearing in a newspaper in general circulation in the village. A notice of the hearing shall be mailed to the applicant at least 10 days before the hearing.

§155-33. Referral to County Planning Board.

At least 10 days before the hearing, the planning board shall refer all site plan review matters that fall within those areas specified under General Municipal Law §239-m to the Herkimer County Planning Board. This includes any use that falls within 500 feet of the following: the boundary of the Village; a state or county park or recreation area; a state or county highway or expressway; a state or county owned drainage channel; state or county land where a public building or institution is located; or a farm operation in an agricultural district. Such referral shall be to the Herkimer County Planning Board for its recommendations thereon. If the Herkimer County Planning Board does not respond within 30 days from the time it received a full statement on the referral matter, then the village planning board may act without such report.

§155-34. Waiver of Public Hearing.

The planning board may waive the public hearing. Such waiver shall not be allowed in any one of the following circumstances:

- A. The use requires a special use permit pursuant to this law;
- B. The use is a Type I SEQR action, the use is determined by the planning board to have

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environmental significance, or the use is within the Water Protection zone;

- C. The use is over 1000 square feet of floor or ground area;
- D. The use is over 20 feet in height;
- E. The use requires an increase or change in public water supply facilities, sewerage facilities, drainage facilities, sidewalks, streets, curbs, gutters, or other public improvements;
- F. The use is within 200 feet of a DEC designated wetland area, within 200 feet of a stream with a DEC classification of C or higher, or in a FEMA designated floodplain area;
- G. The use is determined by the planning board to be of a publicly controversial nature; or
- H. The applicant has requested a public hearing.

§155-35. Final Action.

- A. Within 62 days of the public hearing, or within 62 days of the acceptance of a complete application by the planning board where such hearing has been waived pursuant to §155-34 above, the planning board shall act on the site plans. The time within which the planning board must render its decision may be extended upon mutual consent of the applicant and the planning board. The action of the planning board shall be in the form of a written statement to the applicant stating whether or not the site plans are approved, approved with modifications, or disapproved. In its approval, the planning board shall have the authority to impose such reasonable conditions and restrictions on the issuance of a zoning permit for the application as are directly related to and incidental to a proposed site plan. The decision of the planning board shall immediately be filed in the office of the village clerk-treasurer and a copy mailed to the applicant.
- B. If the site plans are approved, and upon payment by the applicant of all fees and reimbursable costs due the Village, the planning board shall endorse its approval on a copy of the application and site plans.
- C. If the site plans are approved with modifications, the planning board shall specify in the statement all modifications to be made. Upon payment by the applicant of all fees and reimbursable costs due the Village, and upon approval of the modified application and site plans, the planning board shall endorse its approval on a copy of the application and site plans.
- D. If the site plans are disapproved, the statement shall contain the reasons for such findings. In such case, the planning board may recommend further study of the application and resubmission after it has been revised or redesigned.

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§155-36. Report to County Planning Board

Within 30 days of final action on any matter referred to the county planning board pursuant to §155-33 above, the planning board shall file a report of the final action it has taken with the county planning board.

ARTICLE VII Site Plan Review Standards

§155-37. Site Review Standards

All uses reviewed by the planning board pursuant to Article VI and VIII of this law shall conform to the standards of all sections below.

§155-38. Access.

Access to all sites shall be consistent with the standards set forth in “Policy and Standards for Entrances to State Highways,” as revised, published by the New York State Department of Transportation.

§155-39. Drive-Up Service Windows.

Facilities with drive-up service windows shall have a minimum of five waiting spaces for each drive-up lane. Each waiting space shall be at least 20 feet in length. Where multiple drive-up windows exist, there shall be one additional waiting space which shall be in a common lane.

§155-40. Lighting.

- A. In commercial and industrial zones, exterior site lighting shall be planned, erected, and maintained so the light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way.
- B. Light levels at lot lines or street lines adjoining either residentially developed land or residential zones shall not exceed 0.6 foot-candles, measured at ground level. High intensity lighting shall not be permitted.
- C. No illumination source (lamp) shall be higher than 15 feet. No illumination source (lamp) shall be directly visible from adjacent properties or public rights-of-way. All illumination sources shall be appropriately shielded.
- D. Architectural lighting shall be shielded and developed as necessary to adequately promote business operation and public safety. Flood lighting and dramatic landscape lighting shall be minimized and used only for specific effects as noted by the developer on the lighting plan.

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§155-41. Screening of Storage and Collection Areas.

- A. Open storage areas, exposed machinery, and outdoor areas used for the storage and collection of rubbish, shall be visually screened from streets and surrounding land uses.
- B. Suitable types of screening include opaque and semi-opaque wood fences (such as board on board) and dense, mixed evergreen and deciduous hedges of a height necessary to screen the intended use. The screening shall be sufficient to screen the site in all seasons.
- C. In locations where potential health or safety hazards may arise, such as rubbish storage/collection areas, a solid wooden fence, six feet in height is required to deter children and animals from entering the premises. Where new fencing would create a continuous surface greater than ten feet in length, the visual expanse of bare fence shall be alleviated by plant groupings, consisting of mixed evergreen and deciduous shrubs and trees.

§155-42. Continuation of Streetscape.

All multifamily uses and nonresidential uses shall provide sidewalks, street trees and planted areas along streets in keeping with the pattern established for the street and neighboring properties.

§155-43. Buffer Area Requirements.

- A. Side and rear yard buffer areas shall be required by the planning board as a landscape and utility area in the following circumstances:
 - (1) Where a nonresidential use in a nonresidential district abuts land in a residential district;
 - (2) Where a nonresidential use in a residential district abuts a residential use in a residential district.
- B. Buffer areas shall be of such width and landscaping as to eliminate the impacts of objectionable lights, noise, smoke, odor, and aesthetics.
- C. Buffer area landscaping shall take the form of shade trees, deciduous shrubs, evergreens, well-kept grassed areas and ground cover. One shade tree at least eight feet in height and at least two inches in diameter measured at a point six inches above finished grade level shall be planted no nearer than five feet to any lot line, for each 500 square feet of required landscaped area; and one deciduous shrub or evergreen shall be planted for each 200 square feet of required landscaped area.

§155-44. General Landscaping and Screening Requirements

- A. Landscaping and screening plans shall specify the types of vegetative materials, planting schedule and minimum sizes, and shall be designed to provide suitable cover within three

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years of time of installation. Material will be selected to provide year-round coverage suitable to the climate.

- B. All vegetation shall be maintained in a healthy state and condition by the owner, with ground cover or grassed areas, and damaged and dead shrubs and trees shall be removed and replaced at the property owner's expense.

ARTICLE VIII Special Use Permits

§155-45. Authority.

The Planning Board of the Village of Mohawk is hereby authorized pursuant to Village Law §7-725-b to review and approve, approve with modifications, or disapprove special use permits within the Village of Mohawk as designated in accordance with the standards and procedures set forth in this law.

§155-46. Applicability.

All uses listed in Article IV of this law as requiring a special use permit shall be required to have such permit approved by the planning board prior to the issuance of a zoning permit or a certificate of occupancy by the zoning officer.

§155-47. Considerations.

- A. In considering and acting on special use permits, the planning board shall consider the public health, safety, welfare, and comfort and convenience of the public in general, the residents of proposed developments, and the residents of the immediate surrounding area.
- B. The planning board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the following objectives:
 - (1) **Compatibility:** That the proposed use is of a character compatible with the surrounding neighborhood and in harmony with the comprehensive plan for the community.
 - (2) **Public Facilities:** That the public facilities to service the proposed use, including water supply, sewage disposal, drainage facilities, and street and highway facilities, and any other utilities and public services are adequate for the intended level of use.
 - (3) **Water Supply:** That the proposed use does not negatively impact or threaten the provision of good quality drinking water to the people dependent upon the Village of Mohawk water supply. In making such determination, the planning board shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality which would result if the control

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measures failed.

- (4) ***Other Requirements***: That the proposed use complies with all special requirements as set forth for the use in this law.

§155-48. Application and Review Procedure.

All applications for special use permits shall be submitted and reviewed in compliance with the submission requirements and review procedures for site plan reviews in Article VI of this law.

ARTICLE IX Nonconformities

§155-49. Intent.

The intent of this article is to recognize lots, structures and uses of land and structures which legally existed prior to the enactment or subsequent amendment of this law which would be prohibited or unreasonably restricted by the requirements herein. All rights of nonconformity shall continue regardless of the transfer of ownership of nonconforming lots, structures or uses.

§155-50. Nonconforming Lots.

Any lot held under separate ownership prior to the enactment or amendment of this law, and having a width, depth or area less than the minimum requirements set forth in this law, may be developed for any use allowed in the zone in which it is located as designated in Article IV of this law, except as otherwise prohibited by this law, provided that such lot has sufficient width, depth and area to undertake development which will maintain the required minimum front yard, side and rear yards, and not exceed the maximum permitted lot coverage.

§155-51. Nonconforming Structures.

No structure which by the enactment or amendment of this law is made nonconforming or placed in a nonconforming situation with regard to yard sizes, lot coverage, height or any requirement of this law, other than the use to which it is put, shall be changed so as to increase its nonconformity. If a structure is nonconforming as to use, see §155-52 below. Any such nonconforming structure may be used for any compatible use listed for the zone in which it is located as designated in Article IV of this law.

§155-52. Nonconforming Uses of Land or Structures.

Any use of land or structures which by the enactment or amendment of this law is made nonconforming may be continued on the premises and to the extent preexisting provided that:

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- A. No nonconforming use other than single- and two-family dwellings shall be increased in size so as to occupy a greater area of land or floor area than was committed to the nonconforming use at the time of such enactment or amendment;
- B. A site plan review shall be required for any alteration or reconstruction which is on the premises of a nonconforming multifamily residential or nonresidential use;
- C. No nonconforming use which has for any reason been discontinued for a period of one year or more shall be reestablished.

§155-53. Nonconforming Structures Damaged or Destroyed.

Any structure which is nonconforming as to use, yard sizes, lot coverage, height or any other requirement of this law, which is damaged or destroyed by fire or other hazard, may be repaired, restored or reconstructed provided that such work is undertaken within one year of the date on which the damage or destruction occurred. No such work shall increase the nonconformity of the structure.

ARTICLE X Administration and Enforcement

§155-54. Zoning Permits Required.

No land-use activity as listed below shall be carried out until a zoning permit has been issued by the zoning officer stating that the proposed building, structure, use of land, or development activity complies with the requirements of this law:

- A. Erection, re-erection or movement of a building or structure;
- B. Change of the exterior structural dimensions of a building or structure;
- C. Change in use of land, buildings or structures through the establishment of a new use, or through the expansion or enlargement of an existing use;
- D. The resumption of any use which has been discontinued for a period of 12 months or longer;
- E. Establishment or change in dimensions of a parking area for nonresidential or multifamily residential uses;
- F. Change in the contours of land.

§155-55. Zoning Permit Exceptions.

A zoning permit shall not be required for:

- A. Accessory structures with less than 100 square feet of ground coverage, unless over 15 feet

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in height;

- B. Fences or walls complying with Section 515 of this law;
- C. Interior structural alterations or routine maintenance and improvement that does not expand the exterior dimensions of the structure (e.g., roofing, window replacement, siding replacement, etc.);
- D. Minor accessory structures such as posts, sidewalks, driveways, flagpoles, playground equipment, etc.;
- E. Family day care homes and group family day care homes.

§155-56. Temporary Zoning Permits.

Temporary zoning permits may be issued upon approval of the planning board for a period not to exceed 12 months for temporary uses and structures incidental to a construction project. Such temporary zoning permit shall be conditioned upon agreement by the applicant to remove any nonconforming uses or structures upon expiration of the permit.

§155-57. Application Procedure for Zoning Permits.

- A. Applications for zoning permits shall be submitted to the zoning officer or village clerk-treasurer and shall include three copies of a layout or plot plan showing the actual dimensions of the lot to be used; the size and location on the lot of existing and proposed structures and accessory structures; the setbacks of structures from all lot lines, street lines, mean high water lines of streams, ponds and wetlands, and any other features of the lot; and such other information as may be necessary to provide for the enforcement of this law. This information, and other relevant application data, shall be provided on forms issued by the village clerk-treasurer.
- B. When establishing measurements to meet the required setbacks and yard sizes, the measurements shall be taken from the lot line, street line, or nearest mean high water line to the furthestmost protruding part of the use or structure. This shall include such projecting facilities as porches, carports, attached garages, etc.
- C. The zoning officer shall take action to approve or disapprove the application within 15 days of the receipt of a completed application by the zoning officer and the payment of all fees.
- D. A zoning permit shall expire one year from the date of issue if construction is not substantially started or the use has not commenced.

§155-58. Permit Fees.

A fee as determined by village board resolution shall be paid for each application for a zoning

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permit. No permit shall be issued until full payment has been received by the village clerk-treasurer.

§155-59. Certificate of Compliance.

No use or structure requiring a zoning permit shall be occupied, used, or changed in use until a certificate of compliance has been issued by the zoning officer stating that the use or structure complies with the provisions of this law. All certificates of Compliance shall be applied for coincidentally with the application for a zoning permit and shall be issued within five days after the use has been approved as complying with the provisions of this law.

§155-60. Temporary Certificate of Compliance.

A temporary certificate of compliance for not more than 60 days for a part of a building or lot may be issued upon approval of the zoning board of appeals. Such temporary certificate may be renewed upon request for an additional 30 days.

§155-61. Unapproved Lots.

No zoning permit or certificate of occupancy shall be issued for any use or structure on any lot which has been filed in the office of the county clerk after the effective date of the Village of Mohawk Subdivision Regulations, unless such lot is included in a plat which has been approved by the planning board and filed with the office of the county clerks or was exempt from said regulations at the time of filing.

§155-62. Zoning Officer.

This law shall be enforced by the zoning officer, who shall be appointed by the village board. The duties of the zoning officer shall be to:

- A. Approve and disapprove zoning permits and certificates of compliance;
- B. Scale and interpret zone boundaries on the zoning map;
- C. Refer appropriate matters to the board of appeals, planning board, or village board;
- D. Revoke zoning permits or certificates of compliance where there is false, misleading or insufficient information or where the applicant has varied from the terms of the application;
- E. Investigate violations, issue appearance tickets, and refer violations to a court of competent jurisdiction or the village board;
- F. Report at regular village board meetings the number of zoning permits and certificates of compliance issued.

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§155-63. Zoning Board of Appeals.

A zoning board of appeals is hereby created pursuant to Village Law §7-712. The board shall prescribe rules for the conduct of its affairs. The board of appeals shall have all the power and duties prescribed by Village Law §7-712 and by this law. All applications for appeals shall be made and reviewed in compliance with the administrative regulations established by the zoning board of appeals pursuant to Village Law §7-712.

§155-64. Planning Board.

The planning board shall have the following powers and duties with respect to this law:

- A. Approval of site plans;
- B. Approval of special use permits;
- C. Submittal of an advisory opinion to the village board for proposed amendments to this law.

All applications made shall be made in writing on forms prescribed by the village. Every decision of the planning board shall be made by resolution which shall contain a full record of findings in the case.

§155-65. Filing of Records.

- A. A copy of all zoning permits, temporary zoning permits, certificates of occupancy, notices of violation, and stop work orders shall be immediately filed in the office of the village clerk, upon issuance by the zoning officer.
- B. A copy of all decisions of the zoning board of appeals shall be filed in the office of the village clerk within five business days of the decision of the board.
- C. A copy of all decisions of the planning board shall be immediately filed in the office of the village clerk.
- D. All such records shall be available for the inspection of the public.

§155-66. Violations and Penalties.

- A. Whenever a violation of this law occurs any person may file a complaint in regard thereto. All such complaints shall be in writing and shall be filed with the zoning officer who shall properly record and immediately investigate such complaint. If the complaint is found to be valid, the zoning officer shall issue a stop work order requiring all work to cease until the violation is corrected. If the violation is not corrected within the specified time the zoning officer shall take action to compel compliance.

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- B Pursuant to Criminal Procedure Law §150.20(3), the zoning officer is hereby authorized to issue an appearance ticket to any person causing a violation of this law, and shall cause such person to appear before a court of competent jurisdiction.
- C. Pursuant to Municipal Home Rule Law §10 and Village Law §7-714, any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation and subject to fine and/or imprisonment. Any violation of this law is an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$750 nor more than \$1000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- D. The village board may maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law.

ARTICLE XI Miscellaneous Provisions

§155-67. Amendments.

The Village Board may amend the provisions of this law pursuant to Village Law §7-708 and Municipal Home Rule Law Article 3 after public notice, public hearing, compliance with the State Environmental Quality Review Act regulations (6 NYCRR Part 617), and following appropriate referral to the County Planning Board pursuant to General Municipal Law §239-m.

§155-68. Interpretation.

Interpretation and application of the provisions of this law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this law differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§155-69. Separability.

Should any article, section, subsection, sentence or clause of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or

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any part thereof other than the part so decided to be unconstitutional or invalid.

§155-70. Effective Date.

The provisions of this law shall take effect upon filing with the Secretary of State.

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**Village of Mohawk Zoning Law
Parking Space Requirements
Schedule A**

	Uses	Spaces Required
1.	Dwellings	1.5 spaces per dwelling unit
2.	Rooming houses	1 space per guest room
3.	Office	1 space per 400 square feet of floor space
4.	Funeral home	10 spaces plus 1 space per employee
5.	Religious institution	1 space per 8 seating spaces in main assembly room
6.	Elementary School	1 space per classroom
7.	High School	1 space per classroom
8.	Theater or other place of assembly	1 space per 5 seating spaces
9.	Hospital	1 space per 2 beds
10.	Nursing or convalescent home	1 space per 4 beds
11.	Retail sales and service	1 space per 250 square feet of customer use floor area
12.	Large product retail sales and service	1 space per 250 square feet of customer use floor space
13.	Clubs and restaurants	1 space per 3 customer seats
14.	Bowling alley	5 spaces per alley
15.	Wholesale, warehousing	1 space per 1000 square feet gross floor area
16.	Industrial or manufacturing use	1 space per 2 employees on the maximum working shift
17.	Home business	1 space per client or patient and one space per employee

APPENDIX

Chapter A160 FEES

§ A160-1. Fees enumerated.

[HISTORY: Adopted by the Board of Trustees of the Village of Mohawk during codification 6-8-1998 (see Ch. 1, General Provisions, Art. 11). Amendments noted where applicable.]

§ A160-1. Fees enumerated.

The following fees are hereby established for the Village of Mohawk:

Chapter/Type	Fee
Ch. 45, Animals, Art 11	
Cat licenses	
Unneutered or unspayed	\$7.50
If neutered or spayed	\$2.50
Ch. 55, Building Construction and Fire Prevention, Art. 11	
Demo permit application fee	\$5.00
Fence permit application fee	\$5.00
Pool permit application fee	Same schedule as building permit
Building permit application fee (based upon cost of construction)	
Up to \$500	\$5.00
\$501 to \$1,000	\$15.00
\$1,001 to \$5,000	\$25.00
Over \$5,000	\$25.00 plus \$3.00 for each \$ 1,000 over \$5,000 in value
Fire safety inspections of areas of public assembly conducted on and after January 1, 1999	
Per occupant load	\$1.00
Minimum fee	\$35.00
Maximum fee	\$70.00

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Chapter/Type	Fee
Fire safety inspections of multiple dwellings conducted on and after January 1, 2003	
Up to 3 units	\$35.00
Each unit in excess of 3	\$10.00
Fire safety inspections of nonresidential occupancies conducted on and after January 1, 2003	\$35.00
Reinspections	Up to \$10.00 as set by the Code Enforcement Officer
 Ch. 77, Fences	
Fence permit	No charge
 Ch. 85, Flood Damage Prevention [Added 8-9-1999 by L.L. No. 2-1999]	
Application for floodplain development permit	\$25.00
Deposit to cover additional review, inspection and approval costs	Not more than \$500.00
 Ch. 92, Garbage, Rubbish and Refuse [Added 9-25-2000 by L.L. No. 7-2000]	
Demolition permit	\$10.00
Fill permit	\$10.00
 Ch. 114, Peddling and Soliciting	
Vendors permits	
Per year	\$50.00
Per day	\$25.00
Farmers' Market, per year*	\$50.00
Farmers' Market, per day*	\$5.00
*\$20 refundable deposit required	
 Ch. 120, Records, Art. I	
Photocopies, per page	\$0.25

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Chapter/Type	Fee
Ch. 137, Streets and Sidewalks, Art. III	
Street cut permits	
Permit fee	\$50.00
Per square foot additional if over 100 square feet	\$25.00
Bond fee (returnable if completed to specs)	\$250.00
Ch. 150, Vehicles and Traffic	
Temporary hauling permit for dirt or hard fill	\$25.00
Ch. 155, Zoning	
Appeal of interpretation	\$50.00
Additional fees	
Certified copy of birth or death certificate	\$10.00 each
Registrar's seal	\$10.00 each
Tax search (per property)	\$10.00
Water search	\$10.00
Police accident report	\$3.00
Zoning pamphlet	\$7.50
Village Code book	\$10.00 over publisher's charge to village
Code on disk	\$10.00 over publisher's charge to village
Code on CD	\$10.00 over publisher's charge to village

**DISPOSITION
LIST**

DISPOSITION LIST

The following is a chronological listing of legislation of the Village of Mohawk adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Village Clerk. The last legislation reviewed for the original publication of the Code was L.L. No. 3-1996, adopted 6-24-1996. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the Village Clerk-Treasurer.

Enactment	Adoption Date	Subject	Disposition
L.L. No. 4-1996	9-23-1996	Senior citizens tax exemption amendment	NCM
L.L. No. 5-1996	10-14-1996	Charter amendment	Charter
L.L. No. 1-1997	3-10-1997	Charter amendment	Charter
L.L. No. 2-1997	5-12-1997	Business investment exemption amendment	Ch. 142, Art. I
L.L. No. 3-1997	6-23-1997	Vehicles and traffic amendment	Ch. 150
L.L. No. 4-1997	7-14-1997	Adoption of Code	Ch. 1, Art. I
L.L. No. 1-1998	2-9-1998	Building construction and fire prevention: permit procedures amendment	Ch. 55, Art. II
L.L. No. 2-1998	5-26-1998	Vehicles and traffic amendment	Ch. 150
Res.	6-8-1998	Fees	Ch. A160
L.L. No. 3-1998	6-22-1998	Retirement incentive	NCM
L.L. No. 4-1998	10-13-1998	Charter amendment	§ C-7
L.L. No. 5-1998	11-9-1998	Charter amendment	§ C-13

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Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-1999	7-26-1999	Outside service by local police	Ch. 16
L.L. No. 2-1999	8-9-1999	Flood damage prevention	Ch. 85
L.L. No. 3-1999	8-23-1999	Building construction and fire prevention: permit procedures amendment	Ch. 55, Art. II
L.L. No. 4-1999	10-12-1999	Vehicles and traffic amendment	Ch. 150
L.L. No. 1-2000	3-13-2000	Snowmobiles amendment	Repealed by L.L. No. 1-2001
L.L. No. 2-2000	3-27-2000	Charter amendment	§ C-13
L.L. No. 3-2000	3-27-2000	Charter amendment	§ C-7
L.L. No. 4-2000	7-24-2000	Animals amendment (repealer only)	Ch. 45
L.L. No. 5-2000	7-24-2000	Vehicles and traffic amendment	Ch. 150
L.L. No. 6-2000	7-24-2000	Animals	Repealed by L.L. No. 3-2001
L.L. No. 7-2000	9-25-2000	Garbage, rubbish and refuse	Ch. 92
L.L. No. 8-2000	9-25-2000	Property maintenance	Ch. 117
L.L. No. 9-2000	10-9-2000	Building construction and fire prevention: permit procedures amendment	Ch. 55, Art. II

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Enactment	Date	Adoption Subject	Disposition
L.L. No. 1-2001	1-8-2001	Snowmobiles	Ch. 129
L.L. No. 2-2001	1-8-2001	Stormwater management and erosion control	Ch. 136
L.L. No. 3-2001	4-23-2001	Animals	Ch. 45
L.L. No. 4-2001	7-9-2001	Stormwater management and erosion control amendment	Ch. 56
L.L. No. 1-2002	1-28-2002	Charter amendment	Charter
L.L. No. 2-2002	5-13-2002	Water and sewer rates	Ch. 153
L.L. No. 3-2002	6-24-2002	Vehicles and traffic amendment	Ch. 150
L.L. No. 4-2002	6-24-2002	Retirement incentive	NCM
L.L. No. 5-2002	7-8-2002	Vehicles and traffic amendment	Ch. 150
L.L. No. 6-2002	8-26-2002	Sidewalk maintenance amendment	Ch. 137
L.L. No. 7-2002	9-23-2002	Stormwater management amendment	Ch. 136
L.L. No. 1-2003	1-13-2003	Vehicles and traffic amendment	Ch. 150
L.L. No. 2-2003	8-25-2003	Vehicles and traffic amendment	Ch. 150
L.L. No. 3-2003	11-10-2003	Vehicles and traffic amendment	Ch. 150
L.L. No. 1-2004	1-26-2004	Fences	Ch. 77
L.L. No.	6-28-2004	Vehicles and traffic	Ch. 150

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2-2004		amendment	
L.L. No. 3-2004	9-13-2004	Codes enforcement amendment	Ch. 55
L.L. No. 4-2004	10-18-2004	Charter amendment	Charter
L.L. No. 5-2004	12-13-2004	Codes enforcement	Ch. 72
L.L. No. 1-2005	5-9-2005	Charter amendment; Commissions amendment	Charter Ch. 19 Ch. 27 Ch. 155
L.L. No. 2-2005	8-8-2005	Water rents amendment	Ch. 153
L.L. No. 3-2005	11-14-2005	Parks amendment	Ch. 110
L.L. No. 1-2006	1-9-2006	Stormwater management amendment	Ch. 136
L.L. No. 2-2006	1-9-2006	Property maintenance amendment	Ch. 117
L.L. No. 1-2007	2-12-2007	Vehicles and traffic amendment	Ch. 150
L.L. No. 2-2007	4-23-2007	Vehicles and traffic amendment	Ch. 150
L.L. No. 3-2007	10-29-2007	Vehicles and traffic amendment	Ch. 150
L.L. No. 1-2008	1-14-2008	Charter amendment	Charter
L.L. No. 2-2008	12-8-2008	Parks amendment amendment	Ch. 110
L.L. No. 3-2008	12-8-2008	Charter amendment; Recreation commission amendment	Charter Ch. 27