

**Code
of the
Village of North Hornell**

COUNTY OF STEUBEN
STATE OF NEW YORK

SERIAL NO

GENERAL CODE PUBLISHERS CORP.

72 Hinchey Road

Rochester, New York 14624

1988

**Code
of the
Village of North Hornell**

COUNTY OF STEUBEN
STATE OF NEW YORK

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CERTIFICATION

VILLAGE OF NORTH HORNELL

Office of the Village Clerk

I, **MARILYN D. HEERS**, Village Clerk of the Village of North Hornell, 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 North Hornell, 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 North Hornell, County of Steuben, State of New York, as adopted by local law of the Board of Trustees on December 12, 1988.

Given under my hand and the Seal of the Village of North Hornell, County of Steuben, State of New York, this 12th day of December 1988, at North Hornell, New York.

s/**MARILYN D. HEERS**

**OFFICIALS
OF THE
VILLAGE OF NORTH HORNELL**

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1988

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PREFACE

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

Contents of Code

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

Division of Code

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

Grouping of Legislation and Arrangement of Chapters

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

Table of Contents

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

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

General References; Editor's Notes

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

Appendix

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

Index

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

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or complete new additions, should be adopted as amending the Code. In doing so, existing material that is not being substantively altered should not be renumbered. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between § 45-5 and 45-6 should be designated § 45-5.1). New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the

reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled “Vehicles, Abandoned” under “V” in the table of contents, and a new enactment on coin-operated amusement devices should be “Amusement Devices” or “Amusement Devices, Coin-Operated” under “A” in the table of contents). Where a reserved number is not available, an “A” chapter should be used (e.g., a new chapter to be included between Chapters 45 and 46 should be designated Chapter 45A). New Articles may be inserted between existing Articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of “A” Articles (e.g., a new Article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 45-30 and Article XVII begins with § 45-31, Article XVIA should contain §§ 45-30.1 through 45-30.6.).

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 preparation of this Code has required much time and effort on the part of village officials, particularly in the review and approval of proposed legislation. The assistance of Roy E. Graham, Village Mayor; Joseph Damrath, Esq., Village Attorney; Marilyn D. Heers, Village Clerk; and the entire Board of Trustees is gratefully acknowledged by the editor. The dedication to the tasks involved in the preparation of

this Code by all concerned makes it an outstanding achievement of the Village of North Hornell.

The codification of the legislation of the Village of North Hornell 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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PART I

**ADMINISTRATIVE
LEGISLATION**

GENERAL PROVISIONS

Chapter 1 GENERAL PROVISIONS

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- § 1-1. Legislative intent.**
- § 1-2. Distributions of laws, ordinances and resolutions.**
- § 1-3. Continuation of existing provisions.**
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- § 1-14. When effective.**

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[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell; Art. I, 12-12-88 as L.L. No. 3-1988. Amendments noted where applicable.]

101

1-25-89

§ 1-1

NORTH HORNELL CODE

§ 1-2

ARTICLE I

Adoption of Code

[Adopted 12-12-88 as L.L. No. 3-1988]

Be it enacted by the Board of Trustees on the Village of North Hornell as follows:

§ 1-1. Legislative intent.

The local laws, ordinances and resolutions on the Village of North Hornell referred to in § 1-2 of this local law shall be known collectively as the “Code of the Village of North Hornell,” hereafter termed the “Code,” and the various parts and sections of such local laws, ordinances and resolutions shall be distributed and designated as provided and set forth in § 1-2 of this local law.

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

Derivation Table

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

New Number (chapter, title Article, section)	Old Number (source)	Adoption or Amendment Date
Ch. 7, Ethics, Code of	Ch. 14A of 1965 Code (L.L. No. 1-1970)	9-14-70
§ 7-1	§ 14A-1	
§ 7-2	§ 14A-2	
§ 7-3	§ 14A-3	Amended at time of adoption of the Code.
§ 7-4	§14A-4	
§ 7-5	§14A-5	

§ 1-2

GENERAL PROVISIONS

§ 1-2

New Number (chapter, title Article, section)	Old Number (source)	Adoption or Amendment Date
§ 7-6 § 7-7 § 7-8	§ 14A-6 § 14A-7 § 14A-8	Amended at time of adoption of Code
Omitted Omitted	§ 14A-9 § 14A-10	
Ch. 12, Local Laws, Adoption of	Ch. 24 of 1965 Code (L.L. No. 1-1977)	4-15-77
§ 12-1	§ 24-1	Amended at time of adoption of Code
§ 12-2 § 12-3	§ 24-2 § 24-3	Amended 5-13-85 by L.L. No. 2-1985
§ 12-4	§ 24-4	Amended at time of adoption of Code
§ 12-5	§ 24-5	Amended at time of adoption of Code
Omitted	§ 24-6	
Ch. 27, Brush, Grass and weeds		Amended at time of adoption of Code
§ 27-1 § 27-2 § 27-3 § 27-4		
Ch. 31, Buildings Unsafe		Adopted at time of adoption of Code
§ 31-1		

§ 31-2
§ 31-3
§ 31-4
§ 31-5

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 1-2	NORTH HORSELL CODE	§ 1-2
§ 31-6 § 31-7		
Ch.37, Dogs and Other Animals		
Art. I, Animals at Large	Ch. 4 of 1965 Code	10-11-65; amended in its entirety at time of adoption of Code
§ 37-1 § 37-2	§ 4-1 § 4-2	
Art. II, Dogs	CH. 11 of 1965 Code	2-14-72
§ 37-3 § 37-4	§ 11-1 §§ 11-2 and 11-3	Amended at time of adoption of Code
§ 37-5		Added at time of adoption of Code
Omitted Omitted	§ 11-4 § 11-5	
Ch. 42, Electrical Standards	Ch. 13 of 1965 Code	5-9-66
§ 42-1 § 42-2 § 42-3	§ 13-1 § 13-2 § 13-3	Amended at time of adoption of Code
§ 42-4 § 42-5	§ 13-4 § 13-5	Amended at time of adoption of Code
§ 42-6	§ 13-6	Amended at time of adoption of Code
§ 42-7	§ 13-7	Amended at time of adoption of Code

§ 1-2 New Number (chapter, title, Article, section)	GENERAL PROVISIONS Old Number (source)	§ 1-2 Adoption or Amendment Date
§ 42-8 Omitted	§ 13-8 § 13-9	
Ch. 46, Fences and Hedges	L.L. No. 7-1987	10-12-87
§ 46-1	Sec. 1	Amended at time of adoption of Code
§ 46-2	Sec. 2	
§ 46-3	Sec. 3	
§ 46-4	Sec. 4	
§ 46-5	Sec. 5	
§ 46-6	Sec. 6	
§ 46-7	Sec. 7	
§ 46-8	Sec. 8	
§ 46-9	Sec. 9	
§ 46-10	Sec. 10	
§ 46-11	Sec. 11	
§ 46-12	Sec. 12	
§ 46-13	Sec. 13	
§ 46-14	Sec. 14	
§ 46-15	Sec. 15	Amended at time of adoption of Code
Ch. 49, Firearms and Fireworks	Ch. 18 of 1965 Code	10-11-65; amended in its entirety at time of adoption of Code
§ 49-1	§ 18-1	
§ 49-2	§ 18-3	
§ 49-3	§ 18-4	
Ch. 52, Fire Prevention and Building Construction		

§ 1-2	NORTH HORNELLS CODE	§ 1-2
New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
Art. I, Fire Prevention	LL. No.1-1984	6-19-84
§ 52-1	Sec. 1	Amended at time of adoption of Code
Omitted § 52-2	Sec. 2 Sec. 3	Amended at time of adoption of Code
Omitted § 52-3	Sec. 4 Sec. 5	Amended at time of adoption of Code
§ 52-4 § 52-5	Sec. 6 Sec. 7	Amended at time of adoption of Code
§ 52-6 § 52-7	Sec. 8 Sec. 9	Amended at time of adoption of Code
§ 52-8	Sec. 10	Amended at time of adoption of Code
§ 52-9 Omitted	Sec. 11 Sec. 12	
Art. II, Building Construction	L.L. No. 2-1984	6-19-84
§ 52-10	Sec. 1	Amended at time of adoption of Code
§ 52-11 § 52-12	Secs. 2, 3 and 4 Sec. 5	
§ 52-13	Sec. 6	Amended at time of adoption of Code
§ 52-14	Sec. 7	
§ 52-15	Sec. 8	
§ 52-16	Sec. 9	Amended at time of

§ 52-17

Sec. 10

adoption of Code
Amended at time of
adoption of Code

§ 1-2 GENERAL PROVISIONS § 1-2

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 52-18	Sec. 11	
Omitted	Sec. 12	
Omitted	Sec. 13	
Omitted	Sec. 14	
Ch. 55, Flood Damage Prevention	Ch. 54, Art. II, of 1965 Code (L.L. No. 1-1987)	5-11-87
§ 55-1	§ 54-15	
§ 55-2	§ 54-16	
§ 55-3	§ 54-17	
§ 55-4	§ 54-18	
§ 55-5	§ 54-19(1)	
§ 55-6	§ 54-19(2)	
§ 55-7	§ 54-19(3)	
Omitted	§ 54-19(4)	
§ 55-8	§ 54-19(5)	
§ 55-9	§ 54-19(6)	
§ 55-10	§ 54-20(1)	
§ 55-11	§ 54-20(2)	
§ 55-12	§ 54-20(3)	
§ 55-13	§ 54-21(1)	
§ 55-14	§ 54-21(2)	
§ 55-15	§ 54-21(3)	
§ 55-16	§ 54-22	
Omitted	§ 54-25	
Omitted	§ 54-26	
Ch. 59. Garage Sales	Ch. 19A of 1965 Code (L.L. No. 1-1979)	2-12-79
§ 59-1	§ 19A-2A	
§ 59-2	§ 19A-1	
§ 59-3	§ 19A-2B, C, D,	Amended 5-11-87

§ 1-2 NORTH HORSELL CODE § 1-2

**New Number
(chapter, title,
Article, section)**

**Old Number
(source)**

**Adoption or
Amendment
Date**

§ 59-4

§ 19A-3

Amended at time of
adoption of Code

Omitted
Ch. 62, Garbage,
Rubbish and Refuse

§ 19A-4
Ch. 20 of 1965
Code (LL. No.
4-1977)

6-27-77

§ 62-1

§ 20-1

§ 62-2

§ 20-2

§ 62-3

§ 20-3

§ 62-4

§ 20-4

Amended at time of
adoption of Code

§ 62-5

Added at time of
adoption of Code

§ 62-6

Added at time of
adoption of Code

§ 62-7

Added at time of
adoption of Code

§ 62-8

Added at time of
adoption of Code

§ 62-9

Added at time of
adoption of Code

§ 62-10

Added at time of
adoption of Code

§ 62-11

Added at time of
adoption of Code

§ 62-12

Added at time of
adoption of Code

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§ 62-18

§ 20-11

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§ 62-19	§ 20-12	Amended at time of adoption of Code
§ 62-20	§ 20-10	
Omitted	§ 20-13	
Omitted	§ 20-14	
Ch. 67, Junk- and Storage Yards	Ch. 22 of 1965 Code	10-11-65
§ 67-1	§ 22-1	
§ 67-2	§ 22-2	Amended at time of adoption of Code
§ 67-3	§ 22-3	Amended at time of adoption of Code
Ch. 71, Licensing Regulations	Ch. 23 of 1965 Code	10-11-65
§ 71-1	§ 23-1	Amended at time of adoption of Code
§ 71-2	§ 23-2	
§ 71-3	§ 23-3	
§ 71-4	§ 23-4	
§ 71-5	§ 23-5	Amended at time of adoption of Code
Ch. 80, Peddling and Soliciting	Ch. 21 of 1965 Code	10-11-65
§ 80-1	§ 21-1	
§ 80-2	§ 21-2	
§ 80-3	§ 21-3	
§ 80-4	§ 21-4	
§ 80-5	§ 21-5	Amended at time of adoption of Code

§ 80-6
§ 80-7

§ 21-6
§ 21-7

§ 1-2

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§ 1-2

**New Number
(chapter, title,
Article, section)**

**Old Number
(source)**

**Adoption or
Amendment Date**

§ 80-8
§ 80-9
§ 80-10
§ 80-11

§ 21-8
§ 21-9
§ 21-10

Added at time of
adoption of Code

§ 80-12
§ 80-13
§ 80-14
§ 80-15

§ 21-11
§ 21-12
§ 21-13
§ 21-14

Amended at time of
adoption of Code

Omitted
Omitted
Omitted

§ 21-15
§ 21-16
§ 21-17

Ch. 83, Plumbing
Standards

Ch. 29 of 1965
Code

11-14-66

§ 83-1
§ 83-2

§ 29-1
§ 29-2

Amended at time of
adoption of Code

§ 83-3

§ 29-3

Amended 5-11-87 by
LL. No. 3-1987; at
time of adoption of
Code

§ 83-4
§ 83-5

§ 29-4
§ 29-5

Amended 2-8-71
Amended at time of
adoption of Code

§ 83-6

§§ 29-6, 29-7
and 29-8

§ 83-7

§ 29-9

Amended at time of
adoption of Code

§ 83-8	§ 29-10	Amended at time of adoption of Code
Omitted	§ 29-11	
Omitted	§ 29-12	

§ 1-2	GENERAL PROVISIONS	§ 1-2
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**New Number
(chapter, title,
Article, section)**

**Old Number
source)**

**Adoption or
Amendment
Date**

Ch. 87, Property Maintenance

Ch. 31A of 1965 Code (LL No. 2-1979)

2-12-79

§ 87-1	§ 31A-1	Amended at time of adoption of Code
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§ 87-2	§ 31A-2	
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§ 87-3	§ 31A-3	
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§ 87-4	§ 31A-4	
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§ 87-5	§ 31A-5	
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§ 87-6	§ 31A-6	
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§ 87-7	§ 31A-7	
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§ 87-8	§ 31A-8	Amended at time of adoption of Code
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§ 87-9	§ 31A-9	
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§ 87-10	§ 31A-10	Amended at time of adoption of Code
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§ 87-11	§ 31A-11	Amended at time of adoption of Code
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Ch. 91, Records, Public Access to		Adapted at time of adoption of Code
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§ 91-1

§ 91-2

§ 91-3

Ch. 96, Sewers

Ch. 34 of 1965 Code

11-2-70

§ 96-1	§ 34-1	
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§ 96-2	§ 34-2	
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§ 96-3	§ 34-3	
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§ 96-4	§ 34-4	Amended 5-11-87 by L.L. No. 4-1987; at
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time of adoption of
Code

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1-25-89

§ 1-2

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**New Number
(chapter, title,
Article, section)**

**Old Number
(source)**

**Adoption or
Amendment
Date**

§ 96-5

§ 34-5

Amended at time of
adoption of Code

§ 96-6

§ 34-6

§ 96-7

§ 34-7

Amended at time of
adoption of Code

§ 96-8

§ 34-8

§ 96-9

§ 34-9

Amended at time of
adoption of Code

§ 96-10

§ 34-10

Amended at time of
adoption of Code

§ 96-11

§ 34-11

Amended at time of
adoption of Code

Omitted

§ 34-12

Omitted

§ 34-13

Ch. 100, Signs

Ch. 35 of 1965
Code (LL No.
1-1982)

2-8-82

§ 100-1

§ 35-1

§ 100-2

§ 35-2

Amended at time of
adoption of Code

§ 100-3

§ 35-3

§ 100-4

§ 35-4

Amended 5-11-87 by
L.L. No. 2-1987

§ 100-5

§ 35-5

§ 100-6

§ 35-6

§ 100-7

§ 35-7

§ 100-8

§ 35-8

§ 100-9

§ 35-9

§ 35-10

Deleted at time of
adoption of Code
Added at time of
adoption of Code

§ 100-10

§ 100-11

§ 35-11

§ 1-2

§ 1-2

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 100-12	§ 35-12	Amended at time of adoption of Code 10-11-65
Ch. 104, Slaughterhouses	Ch. 37 of 1965 Code	
§ 104-1	§ 37-1	Amended at time of adoption of Code 12-12-77
§ 104-2	§ 37-2	
Ch. 108, Snowmobiles	Ch. 6 of 1965 Code (LL. No. 6-1977)	
§ 108-1	§ 6-1	Amended at time of adoption of Code
§ 108-2	§ 6-2A	
§ 108-3	§ 6-2B	Amended at time of adoption of Code
§ 108-4	§ 6-3	
§ 108-5	§ 6-4	
§ 108-6	§ 6-5	
§ 108-7	§ 6-6	
§ 108-8	§ 6-7	
Omitted	§ 6-8	
Omitted	§ 6-9	
Ch. 113, Streets and Sidewalks		
Art. I, General Provisions	Ch. 42 of 1965 Code	10-11-65; amended in its entirety at time of adoption of Code
§ 113-1	§ 42-1	
§ 113-2	§ 42-2	
§ 113-3	§ 42-3	

§ 113-4
§ 113-5

§ 42-4
§ 42-5

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**New Number
(chapter, title,
Article, section)**

**Old Number
(source)**

**Adoption or
Amendment
Date**

§ 113-6
§ 113-7
§ 113-8
§ 113-9
§ 113-10
§ 113-11
§ 113-12
§ 113-13
§ 113-14
§ 113-15
§ 113-16
§ 113-17
§ 113-18
§ 113-19
§ 113-20

§§ 42-6 and 42-7
§ 42-8
§ 42-9
§§ 42-10 and 42-11
§ 42-12
§ 42-13
§ 42-14
§ 42-15
§ 42-16
§§ 42-17 and 42-19
§ 42-18
§ 42-20
§ 42-21
§ 42-22

Art. II, Snow and
Ice Removal

Ch. 40 of 1965
Code

10-11-65

§ 113-21
§ 113-22
§ 113-23

§ 40-1
§ 40-2
§ 40-3

Amended at time of
adoption of Code
9-9-85

Art. III, Notification
of Defects

L.L. No. 3-1985

§ 113-24
§ 113-25
Omitted

First paragraph
Second paragraph
Third paragraph

Ch. 116. Subdivision
of Land

Ch. 41 of 1965
Code

7-10-67

§ 116-1

§ 41-1

Amended at time of

§ 116-2	§ 41-2	adoption of Code Amended at time of adoption of Code
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§ 1-2	GENERAL PROVISIONS	§ 1-2
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New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 116-3	§ 41-3	Amended at time of adoption of Code
§ 116-4	§ 41-4	
§ 116-5	§ 41-5	Amended at time of adoption of Code
§ 116-6	§ 41-6	Amended at time of adoption of Code
Ch. 119, Swimming Pools	Ch. 43 of 1965 Code (LL No. 5-1977)	6-27-77
§ 119-1	§ 43-1	
§ 119-2	§ 43-2	
§ 119-3	§ 43-3	
§ 119-4	§ 43-4	
§ 119-5	§ 43-5	
§ 119-6	§ 43-6	
§ 119-7	§ 43-7	
§ 119-8	§ 43-8	
§ 119-9	§ 43-9	Amended at time of adoption of Code
Omitted	§ 43-10	
Omitted	§ 43-11	
Ch. 122, Taxation Art. I, Utility Tax	Ch. 44 of 1965 Code (LL No. 1-1969)	5-5-69
§ 122-1	§ 44-1	Amended at time of adoption of Code
§ 122-2	§ 44-2	
§ 122-3	§ 44-3	
§ 122-4	§ 44-4	Amended at time of

§ 1-2 NORTH HORNELL CODE § 1-2

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 122-5	§ 44-5	
§ 122-6	§ 44-6	
§ 122-7	§ 44-7	
§ 122-8	§ 44-8	
§ 122-9	§ 44-9	
§ 122-10	§ 44-10	
§ 122-11	§ 44-11	
§ 122-12	§ 44-12	
§ 122-13	§ 44-13	
§ 122-14	§ 44-14	
Omitted	§ 44-15	
Omitted	§ 44-16	
Art. II, Senior Citizens Tax Exemption	Ch. 43A of 1965 Code (L.L. No. 1-1980)	8-11-80
§ 122-15	43A-1A and B	
§ 122-16		Added at time of adoption of Code
§ 122-17	§ 43A-1C	Amended at time of adoption of Code
§ 122-18	§ 43A-1D	
§ 122-19	§ 43A-1E	
§ 122-20	§ 43A-1F	
§ 122-21	§ 43A-1G	
§ 122-22	§ 43A-2	Amended at time of adoption of Code
Omitted	§ 43A-3	
Art. III, Alternative Veterans Exemption	L.L. No. 3-1984	9-27-84
§ 122-23	Sec. 1	
§ 122-24	Sec. 2	
Omitted	Sec. 3	

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, as distributed and renumbered in § 1-1 above, are intended as a

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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 North Hornell, and it is the intention of said Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-4 below.

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

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

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

The repeal of local laws and ordinances provided for in § 1-4 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal.

- A. Any right or liability established, accrued or incurred under any legislative provision of the Village of North Hornell prior to the effective date of this local law, or any action or proceeding brought for the enforcement of such right or liability.
- B. An offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Village of North Hornell, or any penalty, punishment or forfeiture which may result there from.
- 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 North Hornell.

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- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of North Hornell.
- E. Any local law or ordinance of the Village of North Hornell 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 North Hornell or any portion thereof.
- F. Any local law or ordinance of the Village of North Hornell 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 North Hornell or other instruments or evidence of the village's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The dedication of property.
- J. Any legislation relating to salaries.
- K. Any legislation dealing with vehicles and traffic.
- L. Any legislation dealing with zoning.
- M. All legislation adopted subsequent to May 9, 1988.

§ 1-6. Severability.

If any clause, sentence, paragraph, section, Article or part of this local law or of any local law, ordinance or resolution cited in the table in § 1-2 hereof, or any legislation included in this Code through supplementation, shall be adjudged by any court of competent

jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, Article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

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§ 1-9

§ 1-7. Copy of Code on file.

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

§ 1-8. Amendments to Code.

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

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

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

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GENERAL PROVISIONS

§ 1-12

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

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

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

§ 1-11. Penalties for tampering with Code.

Any person who, without authorization from the Village Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Village of North Hornell, or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Village of North Hornell 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 two hundred fifty dollars (\$250.) or imprisonment for a term of not more than fifteen (15) days, or both.

§ 1-12. Changes in previously adopted legislation.

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Village of North Hornell, as distributed and

designated in the table in § 1-2 hereof, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor non-substantive changes

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were made in one (1) or more of said pieces of legislation. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

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

- C. In addition to the changes set forth in Subsections A and B above, the following sections are hereby amended to delete references to disorderly conduct and/or disorderly persons, where applicable, and to change the penalty to a maximum fine of two hundred fifty dollars (\$250.) and/or maximum imprisonment of fifteen (15) days.²

§ 1-13. Incorporation of provisions into Code.

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

¹ Editor’s Note: In accordance with the provisions of § 1-12B, the following sections have been added or amended: § 7-3, 7-8A(2), 12-1, 12-4 and 12-5, Chs. 27 and 31, Art. I of Ch. 37, §§ 37-4, 42-3, 42-5, 42-6, 42-7 and 46-1, Ch. 49, §§ 52-1, 52-2A, 52-3A, 52-5A and C, 52-7A and B, 52-8A and C, 52-10, 52-13B(10), 52-16, 52-17B, 62-4, 62-5, 62-6, 62-7, 62-8, 62-9, 62-10, 62- 11, 62-12, 67-2, 71-1, 80-5A(5), 80-11, 83-2, 83-3C and D, 83-5, 83-7, 87-1, 87-8A, 87-10C and 87- 11, Ch. 91, §§ 96-4E and L(2), 96-5B, 96-7A, 96-10C(1), 96-11B, 100-2, 100-10, 108-2 and 108- 8, Art. I of Ch. 113, §§ 113-23A, 116-1, 116-2, 116-3B, C, D, E, F and G, 116-5, 116-6, 122-1, 122-4, 122-16, 122-17A, C and D and 122-22.

The following sections have been deleted: former §§ 29-3B(6) and 35-10 of the 1965 Code.

The complete text of these changes is on file in the Village Clerk’s office.

² Editor’s Note: In accordance with the provisions of § 1-12C, the following sections have been added or amended: §§ 37-5, 46-15, 59-4, 62-19, 67-3, 71-5, 80-15, 83-8, 96-9B, 100-12A, 104-2, 113-22, 119-9, 127-5 and 135-9. The complete text of these changes is on file in the Village Clerk’s office.

§ 1-14. When effective.

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

ARTICLE II**Legislation Enacted During Codification**

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

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

Chapter/Section	Adoption Date	Legislation
Chapter A147, Planning Board	12-12-88	Resolution

§ 7-1

ETHICS, CODE OF
Chapter 7

§ 7-1

ETHICS, CODE OF

§ 7-1. Intent.

§ 7-2. Effect on statutory provisions.

§ 7-3. Definitions.

§ 7-4. Conflict of interest.

§ 7-5. Standards of conduct.

§ 7-6. Penalties for offenses.

§ 7-7. Board of Ethics.

§ 7-8. Distribution of copies; appropriations.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 9-14-70 as LL No. 1-1970.¹ Sections 7-3 and 7-8A(2) amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

§ 7-1. Intent.

The Village Board of the Village of North Hornell recognizes that there are state statutory provisions mandating villages to establish rules and standards of ethical conduct for public officers and employees which, if observed, can enhance public confidence in local government. In the light of a tendency today on the part of some people to downgrade our local governments and to discredit our public servants and our free institutions generally, it appears necessary that every effort be made to assure the highest caliber of public administration of this village as part of our state's important system of local government. It is the purpose of this chapter to implement this objective through the establishment of standards of conduct, to provide for punishment of violation of such

standards and to create a Board of Ethics to render advisory opinions to the village's officers and employees as provided for herein.

¹Editor's Note: This legislation was included in the 1965 Code as Ch. 14A.

§ 7-2. Effect on statutory provisions.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts of interest provisions or procedures prescribed by statute of the State of New York and also in addition to common law rules and judicial decisions relating to the conduct of village officers to the extent that the same are more severe in their application than this chapter.

§ 7-3. Definitions.

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

VILLAGE — Any board, commission, district, council or other agency, department or unit of the government of the Village of North Hornell.

VILLAGE EMPLOYEE — Any officer or employee of the Village of North Hornell, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a “village employee” solely by reason of being a volunteer fireman or civil defense volunteer, except a Fire Chief or Assistant Fire Chief.²

§ 7-4. Conflict of interest.

No village employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest.

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

§ 7-5. Standards of conduct.

- A. No village employee shall accept other employment which will impair independence of judgment in the exercise of his official duties.
- B. No village employee shall accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.
- C. No village employee shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.
- D. No village employee shall engage in any transaction as representative or agent of the village with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
- E. A village employee shall not, by his conduct, give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties or that he is affected by the kinship, rank, position or influence of any party or person.
- F. Each village employee shall abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.

G. Each village employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

H. No village employee employed on a full-time basis, nor any firm or association of which such employee is a member, nor corporation, a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the village in which such employee serves or is employed.

I. Each village employee shall, to the extent that he is cognizant thereof, disclose any interest he may have in legislation before the Village Board of the Village of North Hornell.

J. No village employee, within two (2) years after the termination of his service or employment with the village, shall accept employment which will involve contacts with the village which can work to his special advantage by virtue of his prior contact and relationship with the village.

§ 7-6. Penalties for offenses.

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

§ 7-7. Board of Ethics.

A. There is hereby established a Board of Ethics consisting of five (5) members to be appointed by the Village Board of the Village of North Hornell, all of whom shall reside in the Village of North Hornell and who shall serve without compensation and at the pleasure of the Village Board of the Village of North Hornell. A majority of such members shall be persons other than village employees, but at least one (1) member shall be an elected or appointed village employee of the Village of North Hornell.

- B. The Board of Ethics established hereunder shall render advisory opinions to village employees on written request and, upon request of the Village Board, make recommendations to such Village Board as to any amendments of this chapter. The opinions of the Board of Ethics shall be advisory and confidential, and in no event shall the identity of the village employee be disclosed, except to authorized persons and agencies. Such opinions shall be on the advice of counsel employed by the Board of Ethics or, if none, of the Village Attorney.

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ETHICS, CODE OF

§ 7-8

- C. Such Board of Ethics, upon its formation, shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings.

§ 7-8. Distribution of copies; appropriations.

- A. Distribution of copies.

(1) Upon the adoption of this chapter, the Clerk of the Village of North Hornell shall cause a copy thereof to be distributed to every village employee of this village. Failure to distribute any such copy or failure of any village employee to receive such copy shall have no effect on the duty of compliance with this code nor the enforcement of provisions hereof. The Clerk of the Village Board shall further cause a copy of this chapter to be kept posted conspicuously in each public building under the jurisdiction of the village. Failure to so post this chapter shall have no effect on the duty of compliance herewith nor the enforcement of provisions hereof.

(2) Within thirty (30) days of the adoption of this chapter of any amendment thereto, the Clerk of the Village Board shall file a copy thereof in the office of the State Comptroller.³

- B. The Village Board may appropriate moneys from the general village funds for the maintenance of and for personnel services to the Board of Ethics established hereunder, but such Board of Ethics may not commit the expenditure of village moneys except within the appropriations provided therefore.

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

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§ 9-1

FIRE DEPARTMENT

§ 9-1

Chapter 9

FIRE DEPARTMENT

§ 9-1. Title; composition; purpose.

§ 9-2. Establishment of bylaws and rules.

§ 9-3. Fire Council.

§ 9-4. Membership.

§ 9-5. Approval of new members.

§ 9-6. Equipment and apparatus.

§ 9-7. Supplies and repairs.

§ 9-8. Access to buildings and apparatus.

§ 9-9. Supervision of members.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 8-14-89 as L.L. No. 2-1989. Amendments noted where applicable.]

§ 9-1. Title; composition; purpose.

- A. This organization shall be designated as the "North Hornell Volunteer Fire Company, Inc., of the Village of North Hornell, Steuben County, New York State."

- B. A fire police squad and a rescue squad shall be formed from members of the Fire Department. The Fire Council shall establish the duties and responsibilities of the two squads.

- C. It shall be the purpose of this department to protect and prevent the loss of life and property.

§ 9-2. Establishment of bylaws and rules.

Subject to approval by the Board of Trustees, the Fire Council prescribes bylaws and rules for the proper management of the affairs and the disposition of funds of the Fire Department and the admission, supervision, removal and discipline of members and officers of the department and defines their powers and duties.

§ 9-3. Fire Council.

- A. The Fire Council is the governing body of the Fire Department. The officers of the Council shall consist of the President, Vice-President, Secretary, Treasurer, Fire Chief, First Assistant Chief, Second Assistant Chief, Third Assistant Chief, Fourth Assistant Chief, Fifth Assistant Chief, Fire Police Captain and Fire Police Lieutenant and also includes three (3) elected general members who shall hold their offices for a period of one (1) year unless sooner removed by the Council.

- B. The term of the Fire Chief may not exceed five (5) one-year terms, and there shall be a waiting period of five (5) years before a former Chief may run for another term.

- C. Regular meetings of the Council shall be held on the third Tuesday of each month at 9:00 p.m. In case of a holiday, the Council may designate an alternate date during the month.

- D. The annual meeting shall be held on the first Tuesday in April. All Council officers shall be nominated and elected at the annual April meeting by a majority vote of the members present. Other rules as required governing the election of

Council officers shall be established in the bylaws of the Council, except those specifically covered in this chapter.

- E. Specific duties, responsibilities and qualifications of Council officers shall be established by the Council.

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§ 9-4

FIRE DEPARTMENT

§ 9-7

§ 9-4. Membership.

Membership of the Fire Department shall consist of those present members approved by the Village Board prior to the adoption of this chapter and those admitted in the future pursuant to § 9-5.

§ 9-5. Approval of new members.

Application for new members shall be screened for eligibility as specified in the Council bylaws. If application is approved, the Council shall recommend appointment by the Village Board of Trustees and the Town of Hornellsville Board. If the application is disapproved by the Council, the applicant shall be denied admission to the Department.

§ 9-6. Equipment and apparatus.

- A. All equipment and apparatus in present inventory and future acquisition, including the fire building, shall be the sole property of the Village of North Hornell for the specific use of the Fire Department.
- B. Only active members of the Department, including the ladies' auxiliary and persons authorized by the chief officer in charge, shall be permitted to ride on any apparatus and any member in charge of such apparatus shall be held accountable for the enforcement of this rule.
- C. No fire truck, apparatus, equipment or related accessories shall be used for any purpose other than emergencies and training, except with written permission of the appointed Village Fire Commissioners.

§ 9-7. Supplies and repairs.

All requests for supplies, additions repairs or improvements that are considered a budget responsibility of the village shall be submitted to the Village Fire Commissioners for approval. Emergency repairs may be made upon approval of the Chief.

§ 9-8. Access to buildings and apparatus.

Persons who are not members of the Department shall only be allowed access to the building when accompanied by an active member of the Department who shall be responsible for the acts or conduct of the visitor. The only exception to this rule will be those individuals to whom permission has been granted by the Council or the Village Board of Trustees.

§ 9-9. Supervision of members.

All members of the Fire Department shall be under the direct supervision of the Fire Chief. The Fire Chief will be under the direct supervision of the Village Board.

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PART II

GENERAL LEGISLATION

Chapter 12**LOCAL LAWS, ADOPTION OF**

- § 12-1. Public hearing required; notice.**
- § 12-2. Posting of proposed law; availability of copies.**
- § 12-3. Posting of adopted law.**
- § 12-4. Proof of publication of notice.**
- § 12-5. Numbering of laws.**

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 4-15-77 as LL No. 1-1977.¹ Sections 12-1, 12-4 and 12-5 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 12-1. Public hearing required; notice.²

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

§ 12-2. Posting of proposed law; availability of copies.

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

¹ Editor's Note: This legislation was included in the 1965 Code as Ch. 24.

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

§ 12-3. Posting of adopted law. [Amended 5-13-85 by L.L. No. 2-1985]

The Village Clerk shall forthwith, upon the adoption of a local law by the Board of Trustees, post a copy thereof in a conspicuous place in the Clerk's office.

§ 12-4. Proof of publication of notice.³

Proof of publication of the notice of public hearing required by this chapter and set forth herein shall be filed in the office of the Village Clerk.

§ 12-5. Numbering of laws⁴

Each local law shall be numbered consecutively, beginning with the No. 1, for each calendar year. When a local law is finally adopted, certified copies thereof, as required by § 27 of the Municipal Home Rule Law, shall be filed in the offices of the Village Clerk and the Secretary of State; the Village Clerk shall accordingly assign to such local law its appropriate number.

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

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

Chapter 27**BRUSH, GRASS AND WEEDS**

§ 27-1. Duties of owners and occupants.

§ 27-2. Notice to remove.

§ 27-3. Performance of work by village; assessment of costs.

§ 27-4. Penalties for offenses.

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

GENERAL REFERENCES

Property maintenance — See Ch. 87.

Trees. — See Ch. 127.

§ 27-1. Duties of owners and occupants.

A. The owners and occupants of land in the village shall cut, trim or remove brush, debris, waste materials, rubbish, grass, weeds or the like growing or located upon such land within the village, other than land used for agricultural purposes.

B. The owners and occupants of land within the village shall cut any and all noxious weeds, grass which is in excess of six (6) inches and/or other rank growths located upon such land.

§ 27-2. Notice to remove.

If the owner of land in the village is a resident, notice to so cut, trim or remove such brush, debris, waste materials, rubbish, grass, weeds or other materials shall be mailed to such owner at his post office address ten (10) days prior to the taking of action by the village authorities pursuant to § 27-3, and such notice shall be deemed sufficient. In the

event that the owner of such land is a nonresident of the village, then such notice shall be mailed to his last known address ten (10) days prior to the taking of action by the village authorities pursuant to § 27-3.

§ 27-3. Performance of work by village; assessment of costs.

Should the owner and/or occupant default in complying with the provisions of § 27-1, the village may cause such brush, debris, waste materials, rubbish, grass, weeds or other materials to be cut, trimmed or removed, and the total cost thereof may be assessed upon the real property on which such brush, debris, waste materials, rubbish, grass, weeds or other materials are found. Such cost shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected by the Village Treasurer in the manner provided by law for the collection of delinquent taxes.

§ 27-4. Penalties for offenses.

Any person who violates any provision of this chapter shall, upon conviction thereof, be subject to a fine not to exceed two hundred fifty dollars (\$250.) or to imprisonment for a term not to exceed fifteen (15) days, or both.

Chapter 31**BUILDINGS, UNSAFE**

- § 31-1. Purpose; authorization; applicability.**
- § 31-2. Definitions.**
- § 31-3. Inspection and report**
- § 31-4. Notice of determination of unfitness.**
- § 31-5. Compliance with notice required.**
- § 31-6. Failure to comply with notice; survey, abatement**
- § 31-7. Penalties for offenses.**

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

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 52.

Property maintenance — See Ch. 87.

§ 31-1. Purpose; authorization; applicability.

- A. Provision is made in this chapter for the removal or repair of buildings or structures in the village that, from any cause, may now be or shall hereafter become dangerous or unsafe to the public. The Board of Trustees of the village is authorized to proceed as provided in this chapter for the removal or repair of the same.
- B. Any buildings deemed unsafe as a result of fire or explosion shall be under the purview of § 52-6 of this Code.

§ 31-2. Definitions.

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

DANGEROUS or UNSAFE — Includes conditions of structures or buildings such as but not limited to the following:

- A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- B. Those which, exclusive of the foundation, show thirty- three percent (33%) or more of damage or deterioration of the supporting member or members or fifty percent (50%) of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the people of this village.
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, safety or general welfare of those living therein.
- F. Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
- G. Those having inadequate facilities for egress in cases of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.

§ 31-3. Inspection and report.

The Building Inspector of the village or such other person as is designated by the Village Board of Trustees is authorized to make an inspection and report concerning any dangerous or unsafe building or structure in the village.

§ 31-4. Notice of determination of unfitness.

After an inspection and report as provided in this chapter, the village shall cause to be served a notice on the owner of the property involved or the owners, executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the same property. Such notice is to be served either personally or by registered mail and shall contain a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous and shall further contain an order requiring the same to be made safe and secure or removed. If such service is made by registered mail, a copy of such notice shall be posted on the premises.

§ 31-5. Compliance with notice required.

A person served with a notice pursuant to this chapter shall commence and complete the securing or removal of buildings or structures within a time specified in the notice, which time shall not be less than fifteen (15) days from the date of serving of the notice.

§ 31-6. Failure to comply with notice; survey abatement

- A. In the event of the neglect or refusal of the person served with a notice pursuant to this chapter to comply with the same, the Building Inspector or such other person duly authorized by the Village Board of Trustees shall make a survey of the premises, together with a builder, engineer or architect to be named by the Village Board of Trustees and a builder, engineer or architect appointed by the person served with the notice. In the event of a refusal or neglect of the person so notified to appoint such builder, engineer or architect, the Village Board of Trustees shall designate two (2) builders, engineers or

- architects to make the survey. Upon completion of the survey, the surveyors shall make a report of the survey to the Village Board of Trustees. In the event that the building or structure shall be so reported as unsafe or dangerous, then an application shall be made by the village at a Special Term of the Supreme Court in the judicial district in which the property is located, not less than five (5) nor more than ten (10) days after the receipt of the survey report, for an order determining the building or other structure to be a public nuisance and directing that it be repaired or secured or taken down or removed and providing that the village carry out such direction subject to reimbursement as provided in Subsection D.
- B. A signed copy of the report of the surveyors shall be posted on the building or structure prior to the application at Special Term. The application to Special Term need not be on notice to any other parties.
 - C. The Village Board of Trustees is authorized to provide for compensation of such surveyors.
 - D. All costs and expenses incurred by the village in connection with proceedings to remove or secure hereunder, including the cost of actually removing the building or structure, shall be assessed against the land on which the building or structure is located.

§ 31-7. Penalties for offenses.

In addition to any other penalty authorized by this chapter, any person who violates any provision of this chapter shall, upon conviction thereof, be subject to a fine not to exceed two hundred fifty dollars (\$250.) or to imprisonment for a term not to exceed fifteen (15) days, or both.

Chapter 37

DOGS AND OTHER ANIMALS

ARTICLE I
Animals at Large

§ 37-1. Prohibitions.

§ 37-2. Penalties for offenses.

ARTICLE II
Dogs

§ 37-3. Restrictions.

§ 37-4. Issuance of appearance ticket.

§ 37-5. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell: Art I, 10-11-65 as Ch. 4 of the 1965 Code, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I); Art. II, 2-14-72.¹ Section 37-4 amended and § 37-5 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I
Animals at Large

[Adopted 10-11-65 as Ch. 4 of the 1965 Code; amended in its entirety 12-12-88 by L.L. No. 3-1988]

§ 37-1. Prohibitions.

No cattle, beast of burden, goat, sheep, swine, chickens or other fowl shall be permitted to be harbored or to run at large within the village.

¹ Editor Note: This legislation was included in the 1965 Code as Ch. 11.

§ 37-2. Penalties for offenses.

The person entitled to the control of any such animals so running at large in violation of this Article shall, upon conviction, be subject to a fine of not exceeding two hundred fifty dollars (\$250.) and/or imprisonment for a term not exceeding fifteen (15) days for each offense.

ARTICLE II

Dogs

[Adopted 2-14-72]

§ 37-3. Restrictions.

Dogs, whether licensed or not, shall be subject to the following restrictions:

- A. No person owning or having the custody and control of a dog shall permit such dog to be at large in the Village of North Hornell elsewhere than on the premises of the owner, except if it is on the premises of another person with the knowledge and assent of such other person.
- B. The owner or person having the custody and control of a dog in the said Village of North Hornell which is not on the premises of another person with the knowledge and assent of such person shall control and restrain such dog by a leash.
- C. The fact that a dog is at large in the Village of North Hornell elsewhere than on the premises of the owner shall be presumptive evidence that the dog has been permitted to be at large with the knowledge of the owner or person having custody and control of the dog.
- D. It shall be unlawful for any owner of or any person harboring any dog in the Village of North Hornell to permit or allow such dog to cause damage to or destruction of property or commit a nuisance upon the premises of a person other than the owner or person harboring such dog.
- E. No person shall have or keep or permit to be kept on any premises owned or occupied in whole or in part by such person within the corporate limits of the Village of North Hornell any dog which, by its howling, barking and whining, shall disturb or annoy other persons or constitute a public nuisance.

§ 37-4. Issuance of appearance ticket [Amended 12-12-88 by L.L. No. 3-1988]

Upon receipt of any complaint against the conduct of any particular dog, the village police officer or other designated dog control officer may issue an appearance ticket or, in lieu thereof, a uniform appearance ticket, or, in lieu thereof, a uniform appearance ticket and simplified information requiring the alleged owner or other person harboring said dog to appear in person before the Village or Town Court, and if such process is disregarded and the alleged owner or person harboring said dog fails to appear before the Court, the Court may take whatever action is authorized pursuant to the Criminal Procedure Law of the State of New York to secure such person's court appearance.

§ 37-5. Penalties for offenses. [Added 12-12-88 by L.L. No. 3-1988]

Whoever shall violate or fail to comply with any of the provisions of this chapter shall be fined not more than two hundred fifty dollars (\$250.) and/or be imprisoned for a term not to exceed fifteen (15) days. Each day that the violation continues shall constitute a separate offense.

ELECTRICAL STANDARDS

- § 42-1. Title.
- § 42-2. Purpose.
- § 42-3. Adoption of standards.
- § 42-4. Inspectors designated.
- § 42-5. Powers and duties of inspectors.
- § 42-6. Enforcement.
- § 42-7. Penalties for offenses.
- § 42-8. Construal of provisions.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 5-9-66.¹ Sections 42-3, 42-5, 42-6 and 42-7 amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 52.

Plumbing standards — See Ch. 83.

§ 42-1. Title.

This chapter shall be known as the “Electrical Ordinance of the Village of North Hornell, New York.”

¹ Editor’s Note: This legislation was included in the 1965 Code as Ch. 13.

§ 42-2. Purpose.

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

§ 42-3. Adoption of standards.²

All electrical installations heretofore mentioned shall be made in conformity with the requirements of the State Uniform Fire Prevention and Building Code except where the provisions of this chapter or any other local law or ordinance of the Village of North Hornell shall differently prescribe, in which event compliance with the provisions of such local law or ordinance shall be recognized as proper compliance with this chapter. The requirements of the State Uniform Fire Prevention and Building Code shall be those known as “National Fire Protection Association Pamphlet No. 70,” as approved and adopted by the American National Standards Association.

§ 42-4. Inspectors designated.

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

§ 42-5. Powers and duties of inspectors.³

It shall be the duty of the inspector to report in writing to the Board of Trustees, whose duty it shall be to enforce all the provisions of this chapter, all violations of or deviations from or omissions of the electrical provisions of the State Uniform Fire Prevention and

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

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

Building Code and of all local laws and ordinances. The inspector shall make inspections and reinspections of electrical installations in and on properties in the Village of North Hornell upon his own initiative or upon request of the village officials of the Village of North Hornell. The inspector is authorized to make inspections and reinspections of electrical wiring installations, devices, appliances and equipment. It shall be the duty of the inspector to furnish written reports to the proper officials of the Village of North Hornell, with copies to be furnished to the owners and lessees thereof, in the event of any violations, deviations or omissions.

§ 42-6. Enforcement.⁴

It shall be the function of the Board of Trustees to enforce all provisions of this chapter in the event of any violation of this chapter or any violations of the State Uniform Fire Prevention and Building Code or of other local laws and ordinances; in the event a person is found guilty under this chapter and fails to take necessary steps to correct the same, each day on which such violation continues shall constitute a separate offense subject to the same penalty provided for herein.

§ 42-7. Penalties for offenses.⁵

Any person, firm or corporation who shall violate any of the provisions of this chapter or any rule or regulation made pursuant thereto shall be subject to a fine not to exceed one thousand dollars (\$1,000.) and/or imprisonment for a term not to exceed one (1) year.

§ 42-8. Construal of provisions.

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

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

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

FENCES AND HEDGES

- § 46-1. Definitions.
- § 46-2. Approval required.
- § 46-3. Application for permit; issuance; display.
- § 46-4. Height limitations.
- § 46-5. Location restrictions.
- § 46-6. Materials and composition.
- § 46-7. Prohibited fences.
- § 46-8. Chain link fences.
- § 46-9. Entrances and gates.
- § 46-10. Facing of fence; fence posts.
- § 46-11. Security fences.
- § 46-12. Erection within property line.
- § 46-13. Visibility at intersections.
- § 46-14. Fees.
- § 46-15. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 10-12-87 as L.L. No. 7-1987. Sections 46-1 and 46-15 amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

Fire prevention and building construction — See Ch. 52.

Junk and storage yards — See Ch. 67.

Property maintenance — See Ch. 87.

Swimming pools — See Ch. 119.

Zoning — See Ch. 140.

§ 46-1. Definitions.

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

DECORATIVE FENCES — Fencing enclosing gardens and/ or shrubbery totally contained within the property limits, not exceeding thirty-six (36) inches in height

FENCE — Any structure, regardless of composition, except a living fence or temporary enclosure for playpen use, that is erected or maintained for the purpose of enclosing a piece of land or dividing a piece of land into distinct portions.

FRONT YARD — Applies to that portion of the yard in front of the rear building line of any building. All corner properties adjacent to a public street, alley or highway shall also be considered as “front yard” for the purposes of this chapter.¹

HEIGHT — The distance measured from the average grade to the top of the fence.²

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

§ 46-2. Approval required.

No fence, wall or other type of construction, except decorative fencing, shall be erected without the approval of the Building Inspector.

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

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

§ 46-3. Application for permit; issuance; display.

- A. Any person or persons, corporation, firm or association intending to erect a fence shall, before any work is commenced, make application to the Building Inspector on a form provided by the Building Inspector. Said application shall be accompanied by a plan or sketch showing the proposed location of any fence and the materials proposed to be used therein, which must be in accordance with this chapter and any other pertinent local law regulating construction within the village, and shall be accompanied by an appropriate fee.
- B. Upon approval by the Building Inspector, a permit shall be issued, which will be in effect for a period of one (1) year from the date thereon.
- C. Said permit shall be available on the job during the progress of the work so that it may be inspected by proper village officials.

§ 46-4. Height limitations. [Amended 10-12-1992 by L.L. No. 2-1992]

No fence shall be more than six (6) feet in height at the rear of homes or buildings in any zoning district, which fence shall not extend forward of the rear building line of any existing or proposed building. No other fence or portions of a fence shall be higher than forty-two (42) inches, except that chain link fence may be forty-eight (48) inches.

§ 46-5. Location restrictions.

Any fence erected under this chapter shall be placed at least six (6) inches from any property line. Any fence erected in a front yard shall be placed at least one (1) foot back from the front line and/or property line. If no sidewalks are in place, then the fence shall be set back a minimum of one (1) foot from the village right-of-way.

§ 46-6. Materials and composition.

Any fence, wall or similar structure, as well as shrubbery, which unduly cuts off light or air, which may cause a nuisance, a fire hazard, a dangerous condition, an obstruction to men and equipment for combating fires or which may affect public safety is hereby expressly prohibited. Further, no fence shall be erected in a front yard or along a public right-of-way unless the fence is uniformly less than fifty percent (50%) solid.

§ 46-7. Prohibited fences.

The following fences and fencing materials are specifically prohibited.

- A. Barbed wire.
- B. Short, pointed fences less than forty-two (42) inches in height.
- C. Canvas fences.
- D. Cloth fences.
- E. Electrically charged fences.
- F. Poultry fences.
- G. Turkey wire.
- H. Temporary fences, such as snow fences.
- I. Expandable fences and collapsible fences, except during construction of a building.

§ 46-8. Chain link fences.

All chain link fences erected shall be erected with the closed loop at the top of the fence.

§ 46-9. Entrances and gates.

All entrances or gates shall open into the property.

§ 46-10. Facing of fence; fence posts.

Any fence, wood, stockade, chain link or other type of fence, shall have the smooth side or finished side facing to the outside of the property owner installing the fence. Fence posts will be placed on the inside of the fence.

§ 46-11. Security fences.

Notwithstanding the provisions of this chapter, the Building Inspector may issue a permit for the construction of security fences for commercial and industrial properties upon due application to and approval by the Building Inspector of the Village of North Hornell. The Building Inspector may deny such application if it is found that the application for such fence is not appropriate and is unnecessary. Upon such denial, the applicant may appeal the Building Inspector's decision to the Zoning Board of Appeals of the Village of North Hornell by notice to the same within thirty (30) days of such denial. In the event that said Zoning Board substantiates the denial of the Building Inspector, the applicant may resort to proper legal proceedings according to the statutes of the State of New York.

§ 46-12. Erection within property line.

All fences or walls must be erected within the property line, and none shall be erected so as to encroach upon a public right-of-way or interfere with vehicular or pedestrian traffic or interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on private or public property.

§ 46-13. Visibility at intersections.

The Building Inspector shall have the authority to direct, in writing, the removal, trimming or modification of any shrubs, bushes, plants, trees or flowers or other vegetation, fence, wall or hedge or other structure on private or public property wherever the same shall interfere with adequate visibility of operators of motor vehicles at street intersections, driveways or curbs. Any person who shall refuse or neglect to comply within fifteen (15) days with the written direction of the Building Inspector shall be guilty of a violation of this chapter and shall be subject to its penalties.

§ 46-14. Fees.

The Village Board of Trustees shall set applicable fees for the permit.

§ 46-15. Penalties for offenses.³

Any person, firm or corporation, or his or her or its agent, servant, workman or employee, violating any of the provisions of this chapter shall be punishable by a fine not exceeding two hundred fifty dollars (\$250.) and/or imprisonment for a term not exceeding fifteen (15) days. Each day's continuance of a violation after notice to cease shall be deemed a separate and distinct offense and shall be punishable accordingly.

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

FIREARMS AND FIREWORKS

§ 49-1. Use of certain firearms restricted.

§ 49-2. Fireworks.

§ 49-3. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 10-11-65 as Ch. 18 of the 1965 Code; amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

§ 49-1. Use of certain firearms restricted.

- A. No person shall discharge a gun loaded with shell or cartridge or any air gun, spring gun or other instrument or weapon in which the propelling force is a spring or air, except a duly authorized peace officer or a member of a duly organized rifle, gun or pistol club while such member is engaged in practice or competition on a range approved by the Chief of Police or officer in charge of the North Hornell Police Department.

- B. No person shall carry loaded within the boundaries of the Village of North Hornell a gun loaded with shell or cartridge, except a duly authorized peace officer or a person authorized under the provisions of § 400.00 of the Penal Law of the State of New York.

§ 49-2. Fireworks.

No fireworks or other form of pyrotechnics shall at any time be discharged within the corporate limits of the Village of North Hornell, except that a public display of fireworks may be permitted under proper and sufficient supervision, by written permit of the Board of Trustees as provided in § 405.00 of the Penal Law.

§ 49-3. Penalties for offenses.

Any person who shall violate any provisions of this chapter and any person who aids, abets or assists therein shall, upon conviction thereof, be punished by a fine of not more than two hundred fifty dollars (\$250.) and/or imprisonment for a term not to exceed fifteen (15) days. If any person who shall violate any provisions of this chapter shall be under the age of sixteen (16) years, any police officer shall confiscate any gun owned or possessed by said person.

FIRE PREVENTION AND BUILDING CONSTRUCTION

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Fire Prevention

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- § 52-2. Administrative office designated.
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ARTICLE II

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- § 52-10. Applicability.
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- § 52-16. Certificate of occupancy.
- § 52-17. Abatement; violations and penalties.
- § 52-18. Additional remedies.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell: Art I, 6-19-84 as L.L. No. 1-1984; Art II, 6-19-84 as L.L. No. 2-1984. Sections 52-1, 52-2A, 52-3A, 52-5A and C, 52-7A and B, 52-8A and C, 52-10, 52-13B(10), 52-16A and

**52-17B amended at time of adoption of Code; see Ch. 1, General Provisions, Art I.
Other amendments where applicable.]**

GENERAL REFERENCES

Unsafe buildings — See Ch. 31.
Electrical standards - See Ch. 42.
Fences and hedges — See Ch. 46.
Flood damage prevention — See Ch. 55.
Plumbing standards - See Ch. 83
Property maintenance — See Ch. 87.
Signs — See Ch. 100.
Subdivision of land — See Ch. 116.
Zoning — See Ch. 140.

ARTICLE I

Fire Prevention

[Adopted: 6-19-84 as L.L. No.1-1984]

§ 52-1. Applicability.¹

This Article shall provide for the administration and enforcement of the fire prevention provisions of the New York State Uniform Fire Prevention and Building Code, hereinafter referred to as the “State Fire Prevention Code,” and shall establish duties, responsibilities and powers in connection therewith.

§ 52-2. Administrative officer designated.

- A. There is hereby designated a public official to be known as the “Fire Inspector,” to administer and enforce the State Fire Prevention Code.²
- B. The Fire Inspector shall be appointed by the Mayor with the approval of the Village Board for a term of four (4) years, except the first term of office shall be of the required number of years so that it shall expire at the end of the term of office of the Mayor then in office. The salary shall be fixed by the Board of Trustees.

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.

- C. The Fire Inspector shall:

- (1) Issue permits and monitor compliance therewith.

- (2) Conduct inspections.
- (3) Issue violation orders.
- (4) Issue orders relative to buildings which are an imminent danger to life and public safety as a result of fire or explosion.
- (5) Maintain official records of all permits, inspection reports, recommendations, complaints and violation orders.
- (6) Provide a report to the Village Board monthly on the activities of his office.

§ 52-3. Rules and regulations.

- A. The Village Board may adopt rules and regulations for the administration and enforcement of the State Fire Prevention Code.
- B. The Village Board shall publish all rules and regulations at least three (3) days prior to the effective date thereof in a newspaper of general circulation within the Village of North Hornell.

§ 52-4. Permit provisions.

- A. Upon payment of the fee as prescribed in the schedule of fees adopted by the Village Board, permits shall be issued by and bear the name and signature of the Fire Inspector and shall specify:

- (1) The activity or operation for which the permit is issued.
- (2) The address or location where the activity or operation is to be conducted.
- (3) The name and address of the permittee.

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

- (4) The permit number and date of its issuance.
- (5) The period of permit validity.

(6) Other information as required by the Fire Inspector.

- B. Permits shall not be transferable, and any change in activity, operation, location, ownership or use shall require a new permit.
- C. Permits shall continue until revoked or for a period of time designated at the time of issuance. An extension of the permit time period may be granted, provided that a satisfactory reason can be shown for failure to start or complete the work or activity authorized within the required time period.
- D. Permits shall be obtained for the following:
 - (1) Combustible fibers: to store, handle or use combustible fibers in quantities in excess of one hundred (100) cubic feet, except agricultural products on a farm.
 - (2) Combustible materials to store combustible materials, including but not limited to empty combustible packing cases, boxes, barrels or similar containers, rubber tires, baled cotton, rubber, cork or other similar materials, in excess of two thousand five hundred (2,500) cubic feet gross volume on any premises.
 - (3) Compressed gases.
 - (a) To store, handle or use at normal temperature and pressures more than:
 - [1] Two thousand (2,000) cubic feet of flammable compressed gas;
or
 - [2] Six thousand (6,000) cubic feet of nonflammable compressed gas.
 - (b) To store, handle or use any quantity of liquefied natural or hydrogen gas.

(4) Cryogenics: to store, handle or use cryogenic fluids, except cryogenics used as a motor fuel and stored in motor vehicle tanks, as follows:

- (a) Production, sale or storage of cryogenic fluids.
- (b) Storage or use of flammable cryogenic fluids, cryogenic oxidizers or liquefied oxygen in excess of ten (10) gallons.

(5) Explosive ammunition and blasting agents.

- (a) To manufacture, possess, store, sell or otherwise dispose of explosives and blasting agents.
- (b) To use explosives or blasting agents.
- (c) To operate a terminal for handling explosives or blasting agents.
- (d) No permit shall be required for the possession of smokeless propellant, black powder or small arms primers or percussion caps within the quantity limits provided in the State Fire Prevention Code, provided that the above items are for personal noncommercial use.

(6) Flammable and combustible liquids.

- (a) To store, handle or use flammable liquids in excess of six and one-half (6 1/2) gallons inside dwellings or in excess of ten (10) gallons inside any other building or other occupancy or in excess of sixty (60) gallons outside of any building. This provision shall not apply to liquids in the fuel tank of a motor vehicle, aircraft, portable or stationary engine, boat or portable heating plant, nor to paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes.
- (b) To store, handle or use combustible liquids in excess of twenty-five gallons inside a building or in excess of sixty (60) gallons outside of a building.

- (c) A permit shall be obtained for the initial installation of an oil burner and a fuel oil tank used in connection therewith. A permit shall be required for the replacement of a fuel oil tank connected to an oil burner.
 - (d) For processing, blending or refining of flammable or combustible liquids.
- (7) Flammable finishing: for spraying, coating or dipping operations utilizing flammable or combustible liquids.
- (8) Fumigation and thermal insecticidal fogging: to conduct fumigation or thermal insecticidal fogging operations.
- (9) Hazardous chemicals.
- (a) To store or use more than fifty-five (55) gallons of corrosive liquids or more than fifty (50) pounds of oxidizing materials or more than ten (10) pounds of organic peroxides or more than fifty (50) pounds of nitromethane or one thousand (1,000) pounds or more of ammonium nitrate, ammonium nitrate fertilizers and fertilizer mixtures containing sixty percent (60%) or more ammonium or any amount of toxic material or poisonous gas.
 - (b) To store, handle or use any quantity of air-reactive, water-reactive or unstable materials.
- (10) Liquefied petroleum gas: for each installation of liquefied petroleum gas employing a container or an aggregate of interconnected containers having a capacity of one hundred (100) pounds or more.
- (11) Lumberyards: to operate a lumberyard.
- (12) Organic coatings: to perform organic coating operations utilizing more than one (1) gallon of organic coating on any working day.
- (13) Tents and air-supported structures: to erect a tent with side walls with a floor size greater than twelve by fifteen (12 x 15) feet or an air-supported structure.

- E. Consolidated permits. When more than one (1) permit is required for the same property or premises, a single permit may be issued listing all materials or operations covered. Revocation of a portion or portions of such consolidated permit, for specific hazardous materials or operations, shall not invalidate the remainder.
- F. Location of permits. Permits shall be kept on the property or premises covered by the permit or carried by the permit holder.
- G. Revocation of permits. Permits may be suspended or revoked when it is determined there is a violation of a condition under which the permit was issued or there has been misrepresentation or falsification of material facts in connection with the permit application or a condition of the permit.

§ 52-5. Inspections.

- A. The Fire Inspector shall conduct periodic inspections for compliance with the provisions of the State Fire Prevention Code. Such inspections may be made at any reasonable time⁴
- B. If entrance to make an inspection is refused or cannot be obtained, the Fire Inspector may apply for a warrant to make an inspection to any court of competent jurisdiction.
- C.⁵ Buildings shall be subject to periodic inspection for compliance with the State Fire Prevention Code in accordance with the following schedule:
 - (1) All areas of public assembly defined in the State Fire Prevention Code, all buildings or structures containing areas of public assembly and the common areas of multiple dwellings: every three (3) months; all buildings or structures open to the general public: every six (6) months; all other buildings: every twelve (12) months.
 - (2) Notwithstanding any requirements of this subsection to the contrary, no regular, periodic inspections of occupied dwelling units shall be required; provided, however, that

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

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

this shall not be a limitation on inspections conducted at the invitation of the occupant or where conditions on the premises threaten or present a hazard to public health, safety or welfare.

§ 52-6. Removal of dangerous buildings or structures.

- A. A building or structure or part thereof which is an imminent danger to life and safety of the public as a result of a fire or explosion is hereby declared to be a public nuisance.
- B. Whenever the Fire Inspector finds a building or structure or part thereof to be an imminent danger to life and safety of the public as a result of a fire or explosion, the inspector may cause it to be demolished and removed or may cause work to be done in and about the building or structure as may be necessary to remove the danger.
- C. The Fire Inspector may require the occupants of any such building or structure or part thereof to vacate the premises forthwith. No person shall use or occupy such building or structure or part thereof until it is made safe. Except for the owner, no person shall enter premises which have been ordered vacated unless authorized to perform inspections, repairs or to demolish and remove such building or structure or part thereof.
- D. All costs and expenses incurred by the Village of North Hornell in connection with any work done to remove the danger or in connection with the demolition and removal of any such building or structure shall be assessed against the land on which such building or structure is located, and a bill for such expenses shall be presented to the owner of the property, or if the owner cannot be ascertained, then such bill shall be posted in a conspicuous place on the premises. Such assessment shall be and constitute a lien upon such land. If the owner shall fail to pay for such expenses within ten (10) days after the bill is presented or posted, a legal action may be brought to collect such assessment or to foreclosure such lien. As an alternative to the maintenance of any such action, the Fire Inspector may file a certificate of the actual expenses incurred as aforesaid, together with a statement

identifying the property in connection with which the expenses were incurred and the owner thereof, with the Assessor, who shall in the preparation of the next assessment roll assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as is provided by law for the collection and enforcement of real property taxes in the Village of North Hornell.

§ 52-7. Compliance required; violation orders; abatement.

- A. A person owning, operating, occupying or maintaining property or premises within the scope of the State Fire Prevention Code shall comply with all provisions thereof and all orders, notices, rules, regulations or determinations issued in connection therewith.⁶
- B. Whenever the Fire Inspector finds that there has been a violation of the State Fire Prevention Code, or any rule or regulation adopted pursuant thereto, a violation order shall be issued to the person or persons responsible.⁷
- C. Violation orders shall be in writing, shall identify the property or premises, shall specify the violation and remedial action to be taken and shall provide a reasonable time limit for compliance.
- D. Violation orders may be served by personal service, by mailing by registered or certified mail or by posting a copy thereof in a conspicuous place on the premises and by mailing a copy thereof to the premises on the same day as posted, addressed to the person responsible.
- E. In case the owner, lessor, occupant or the agent of any of them shall fail, neglect or refuse to remove, eliminate or abate the violation within the time specified in the violation order, a request to take appropriate legal action shall be made to the Mayor of the Village of North Hornell.

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

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

§ 52-8. Penalties for offenses.

- A. Any person who fails to comply with the State Fire Prevention Code or any rules or regulations adopted pursuant thereto shall be liable for a fine not exceeding one thousand dollars (\$1,000.) and/or imprisonment for a term not exceeding one (1) year. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.⁸

- B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

- C. An action or proceeding in the name of the Village of North Hornell may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provisions of the State Fire Prevention Code or any rules or regulations adopted pursuant thereto or a violation order, or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law.⁹

§ 52-9. Reports.

- A. The Fire Chief and Fire Inspector shall keep each other apprised of violations of all fire prevention rules and regulations they encounter.

- B. The Fire Inspector shall inform the Fire Chief of permits issued.

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

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

ARTICLE II
Building Construction
[Adopted 6-19-84 as L.L. No. 2-1984]

§ 52-10. Applicability.¹⁰

This Article provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code, hereinafter referred to as the “State Construction Code.” Buildings constructed in the Village of North Hornell shall be built, maintained and repaired in conformity with the State Construction Code.

§ 52-11. Administrative officer designated.

- A. There is hereby designated in the Village of North Hornell a public official to be known as the “Building Inspector,” who shall be appointed by the Mayor with the approval of the Village Board. The term of office shall be four (4) years, except the first term, which shall be of the required number of years so that it shall expire at the end of the term of office of the Mayor then in office. The salary shall be fixed by the Board of Trustees.

- B. In the absence of the Building Inspector or in the case of his inability to act for any reason, the Mayor shall have the power, with the consent of the Village Board, to designate a person to act on behalf of the Building Inspector and to exercise all the powers conferred upon him by this Article.

- C. The Building Inspector shall not engage in any activity inconsistent with his duties, nor shall he, during the term of his employment, be engaged directly or indirectly in any building business or in the furnishing of labor, materials, supplies or appliances for or the supervision of the construction, alteration, demolition or maintenance of a building or the preparation of plans or specifications thereof within the Village of North Hornell, excepting that this provision shall not prohibit him from engaging in any such activities in connection with the construction of a building or structure owned by him for his own personal use and occupancy or for the use and occupancy of members of his immediate family and not constructed for sale.

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

D. Duties and powers of Building Inspector.

- (1) Except as otherwise specifically provided by law, ordinance, rule or regulation or except as herein otherwise provided, the Building Inspector shall administer and enforce all of the provisions of laws, ordinances, rules and regulations applicable to the plans, specifications or permits for the construction, alteration and repair of buildings, structures and signs and the installation and use of materials and equipment therein and the location, use and occupancy thereof.
- (2) He shall receive applications, approve plans and specifications and issue permits for the erection and alteration of buildings or structures or parts thereof and shall examine the premises for which such applications have been received, plans approved or such permits have been issued for the purpose of ensuring compliance with laws, ordinances, rules and regulations governing building construction or alterations.
- (3) He shall issue in writing all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during the construction and to ensure compliance during the entire course of construction with the requirements of such laws, ordinances, rules and regulations. Notices or orders may be served upon the property owner or his agent by personal service or certified mail and by posting the same upon a conspicuous portion of the premises to which the notice applies.
- (4) He shall make all inspections which are necessary or proper for the carrying out of his duties, except that he may accept written reports of inspection from other competent authority or from generally recognized and authoritative service and inspection bureaus or agencies.
- (5) He shall issue certificates of occupancy.
- (6) He shall participate in the enforcement of other North Hornell laws and ordinances in the manner directed by the Village Board.

§ 52-12. Reports.

The Building Inspector shall provide a report to the Village Board on a monthly basis of all business coming under his purview, including permits and certificates issued or denied, orders and notices promulgated, inspections and tests made and appeals or litigation pending or concluded.

§ 52-13. Building permits.

- 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 Building Inspector for each such building or structure, except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature.

- B. Application contents. Application for a building permit shall be made to the Building Inspector on forms provided by him 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, and 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 owner agrees to construct in conformity with all applicable state and village laws.

- (7) A statement that the applicant consents to permit the Building Inspector or any other person employed to assist in building inspection to enter the premises for inspection without a search warrant.
- (8) Such other information as may reasonably be required by the Building Inspector to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances, rules and regulations.
- (9) The application shall be signed by the owner or his authorized agent. When the application is signed by an agent, the owner shall provide an affidavit authorizing the agent to act.
- (10) Each application for a building permit shall be accompanied by detailed 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, distance from lot lines, the relationship of structures on adjoining property, distance from adjoining streets, walks and alleys, and, where required by the Building Inspector, 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 7302, as amended, of Article 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 Building Inspector may waive the requirement for filing plans and specifications for minor alterations and issue a building permit so stating.¹¹
- (11) Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Building Inspector and approval received prior to the commencement of such change of work.

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

- C. Permit fees. The Village Board shall fix the fees for building permit. The fee is payable to the Village Clerk when the application is submitted for approval. In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of fifty percent (50%) of the fee paid, provided that no work has commenced.
- D. Action period. The Building Inspector shall approve or disapprove permit applications within thirty (30) days of their receipt if the permit application is in order. If this is not possible, he shall inform the applicant and the Mayor.
- E. Permit display. Building permits shall be prominently displayed at the construction site.
- F. Commencement of work. If the construction under a building permit is not commenced within twelve (12) months of the date of approval, the permit is null and void.
- G. Revocation of building permit. The Building Inspector may revoke a building permit in the following instances:
- (1) Where he finds that there has been a false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based;
 - (2) Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law;
 - (3) Where he finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications; or
 - (4) Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Building Inspector.

§ 52-14. Stop orders.

Whenever the Building Inspector has reasonable grounds to believe that work on any building or structure is being prosecuted 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 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 maybe 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 by certified mail at the address set forth in the application for permission for the construction of such building.

§ 52-15. Completion of work.

- A. All exterior construction details will be completed and all construction equipment and materials will be removed from the grounds around the construction site within:
 - (1) Six (6) months after the date of issuance of the building permit for building addition or renovation projects.
 - (2) Twelve (12) months after the date of issuance of the building permit for new construction.

- B. In cases with extenuating circumstances, the Board of Trustees reserves the right to extend the above time periods upon written recommendation of the Building Inspector.

- C. Persons in violation of this section will be fined ten dollars (\$10.) for every day they are in violation. The Building Inspector will determine compliance or violation. The fine will be assessed to the person or persons listed on the building permit.

§ 52-16. Certificate of occupancy.

No land shall be occupied or used or changed in use and no building presently in existence or hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Building Inspector that the building and the proposed use thereof or the proposed use of the land comply with the Code of the Village of North Hornell and the New York State Uniform Fire Prevention and Building Code.

- A. If a building permit has been issued, the Building Inspector will issue a certificate of occupancy when all construction has been completed and has been found by the Inspector to be in accordance with the State Uniform Fire Prevention and Building Code.¹²

- B. If a change in use of a building or land is to be accomplished without construction requiring a building permit, the owner or his duly authorized agent may apply to the Building Inspector for a certificate of occupancy giving full details of the requested use. The Building Inspector will issue the certificate of occupancy after he and the Fire Inspector have determined by inspection that the building or land involved complies with state and local fire and construction laws and ordinances.

- C. Upon request, the Building Inspector may issue a temporary certificate of occupancy for a building or structure or part thereof before the entire work covered by the building permit has been completed, provided that such portion or portions may be occupied safely without endangering life or the public health or welfare. A temporary certificate of occupancy shall remain effective for a period not exceeding three (3) months from its date of issuance. For good cause the Building Inspector may allow a maximum of two (2) extensions for periods not exceeding three (3) months each.

- D. The Village Board shall fix the fee for a certificate of occupancy issued in accordance with Subsections B and C.

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

§ 52-17. Abatement; violations and penalties.

- A. Abatement. 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.

- B. Penalties. Every agent., architect, building contractor, owner, tenant or other person having charge of any building or land who commences, takes part in or assists in any violation of any of the provisions of the State Construction Code, this Article or any rules, regulations or orders issued pursuant thereto or who constructs, maintains or uses any building or structure or premises in, upon or by which any provision of this Article is violated shall, for each and every day that said violation continues, be subject to a fine not exceeding one thousand dollars (\$1,000.) and/or imprisonment for a term not exceeding one (1) year. Each and every day a violation of this Article is committed or permitted to exist shall constitute a separate offense after notice to cease or remedy such violation.¹³

§ 52-18. Additional remedies.

Whenever the Mayor of the village shall certify that any building or any part thereof or any lands are being erected or used in violation of the provisions of this Article, the Village Attorney is authorized to institute all action and proceeding, either legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this Article.

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

FLOOD DAMAGE PREVENTION

- § 55-1. Findings.
- § 55-2. Purposes.
- § 55-3. Objectives.
- § 55-4. Definitions.
- § 55-5. Applicability.
- § 55-6. Basis for establishing areas of special flood hazard.
- § 55-7. Interpretation; conflict with other laws.
- § 55-8. Penalties for offenses.
- § 55-9. Warning and disclaimer of liability.
- § 55-10. Local administrator designated.
- § 55-11. Development permit required.
- § 55-12. Powers and duties of local administrator.
- § 55-13. General standards.
- § 55-14. Specific standards.
- § 55-15. Floodways.
- § 55-16. Variance procedure.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 5-11-87 as L.L. No. 1-1987.¹ Amendments noted where applicable.]

¹ Editor's Note: This legislation was included in the 1965 Code as Ch. 54, Art. II.

§ 55-1. Findings

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

§ 55-2. 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.

§ 55-3. Objectives.

The objectives of this chapter are:

- A. To protect human life and health.
- B. To minimize expenditure of public money for costly flood control projects.
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. To minimize prolonged business interruptions.
- E. To 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. To 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. To provide that developers are notified that property is in an area of special flood hazard.
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 55-4. Definitions.

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

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

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

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

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

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

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

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

CELLAR — See “basement.”

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

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

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

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

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

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

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

FLOODWAY — See “regulatory floodway.”

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

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

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

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

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

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

MOBILE HOME — 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 this chapter.

ONE-HUNDRED-YEAR FLOOD — See “base flood.”

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

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 55-12B of this chapter.

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

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

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

SUBSTANTIAL IMPROVEMENT Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to

commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which is solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

§ 55-5. Applicability.

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

**§ 55-6. Basis for establishing areas of special flood hazard.
[Amended 9-11-89 by L.L. No. 3-1989]**

The areas of special flood hazard have identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “Flood Insurance Study Village of North Hornell, New York, Steuben County,” dated January 17, 1986, with Flood Insurance Rate Maps enumerated on Map Index No. 361477 0001A, dated January 17, 1986, and with accompanying Flood Boundary and Floodway Maps enumerated on Map Index No. 361477 0001, dated January 17, 1986. The above documents are hereby adopted and declared to be a part of this chapter and are filed at the Village Hall, West Maplewood Avenue, North Hornell, New York.

§ 55-7. Interpretation; conflict with other laws.

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

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

§ 55-8. Penalties for offenses.

No structure 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 two hundred fifty dollars (\$250.) or imprisoned for not more than fifteen (15) days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the village from taking such other lawful action as is necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under § 55-16 will be declared noncompliant and notification will be sent to the Federal Emergency Management Agency.

§ 55-9. 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 North Hornell, 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.

§ 55-10. Local administrator designated.

The Building Inspector is hereby appointed local administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 55-11. Development permit required.

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 55-6. Application for a development permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

- A. Application stage. The following information is required, where applicable:
- (1) The elevation, in relation to mean sea level, of the proposed lowest floor, including basement or cellar, of all structures.
 - (2) The elevation, in relation to mean sea level, to which any nonresidential structure will be floodproofed.
 - (3) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 55-13.
 - (4) A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 55-14.

- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- B. Construction stage. Upon placement of the lowest floor or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

§ 55-12. Powers and duties of local administrator.

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

- A. Permit application review. The local administrator shall:
- (1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.
 - (2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.

- (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
 - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permit applications for compliance with the provisions of § 55-13E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 55- 6, basis for establishing areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 55-13D(4), in order to administer § 55-14, Specific standards and § 55-15, Floodways.
- C. Information to be obtained and maintained. The local administrator shall:
 - (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
 - (2) For all new or substantially improved floodproofed structures:
 - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (b) Maintain the floodproofing certifications required in §§ 55-13 and 55-14.
 - (3) Maintain for public inspection all records pertaining to the provisions of this chapter, including variances, when granted, and certificates of compliance.

D. Alteration of watercourses. The local administrator shall:

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.
- (2) Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood- carrying capacity is not diminished.

E. Interpretation of FIRM boundaries.

- (1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.
- (2) Base flood elevation data established pursuant to § 55-6 and/or Subsection B above, when available, shall be used to accurately delineate the area of special flood hazard.
- (3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazard when base flood elevations are not available.

F. Stop-work orders.

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall subject the violator to the penalties described in § 55-8 of this chapter.
- (2) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall subject the violator to the penalties described in § 55-8 of this chapter.

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

H. Certificates of compliance.

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof, hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure, until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (2) All other development occurring within the designated flood hazard area will have, upon completion, a certificate of compliance issued by the local administrator.
- (3) All certifications shall be based upon the inspections conducted subject to Subsection G above and/or any certified elevations hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 55-13. General standards.

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

A. Anchoring.

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

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments, including proposals for manufactured home parks and subdivisions, greater than either fifty (50) lots or five (5) acres.

E. Encroachments.

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazard as set forth in § 55-12A(3). This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 55-12B or Subsection D(4) above and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.
- (3) In all areas of special flood hazard where floodway data is provided or available pursuant to § 55-12B, the requirements of § 55-15, Floodways, shall apply.

§ 55-14. Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 55-6, Basis for establishing areas of special flood hazard, and § 55-12B, Use of other base flood and floodway data, the following standards are required:

- A. Residential construction. New construction and substantial improvements of any residential structure shall:
 - (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.

- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- B. Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
- (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
- (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(2) If the structure is to be floodproofed:

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

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

C. Construction standards for areas of special flood hazard without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation as may be determined in § 55-12B or two (2) feet above the highest adjacent grade where no elevation data is available.

- (1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

§ 55-15. Floodways.

Located within areas of special flood hazard are areas designated as “floodways” (see definition in § 55-4). The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 55-6 and 55- 12B, all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

§ 55-16. Variance procedure.

A. Appeals Board.

- (1) The Zoning Board of Appeals as established by the village shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.
- (3) 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.
- (4) 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:
 - (a) The danger that materials may be swept onto other lands to the injury of others.
 - (b) The danger to life and property due to flooding or erosion damage.
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (d) The importance of the services provided by the proposed facility to the community.
 - (e) The necessity to the facility of a waterfront location, where applicable.

- (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (g) The compatibility of the proposed use with existing and anticipated development.
 - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
 - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- (5) Upon consideration of the factors included in Subsection A(4)(a) through (1) above and the purpose of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. **[Amended 9-11-89 by L.L. No. 3-1989]**
- (6) The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

B. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in Subsections A(4)(a) through (1) above have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the contributing structures procedures set forth in the remainder of this section.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
 - (a) The criteria of Subsections B(1), (4), (5) and (6) of this section are met.
 - (b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (a) A showing of good and sufficient cause.
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from such lowest floor elevation.

Chapter 59

GARAGE SALES

§ 59-1. Definitions.

§ 59-2. Permit required; exemptions.

§ 59-3. Restrictions and requirements.

§ 59-4. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 2-12-79 as L.L. No. 1-1979.¹ Section 59-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Signs — See Ch. 100.

Zoning — See Ch. 140.

§ 59-1. Definitions.

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

GARAGE SALE — Any public sale of personal property within the village.

§ 59-2. Permit required; exemptions.

- A. It shall be unlawful for any person or persons to conduct a garage sale in the Village of North Hornell without first obtaining a permit and complying with the regulations set forth in § 59-3 of this chapter.

¹Editor's Note: This legislation was included in the 1965 Code as Ch. 19A.

- B. Charities, churches, school organizations and other not-for-profit organizations are exempted from the requirements of this chapter.

§ 59-3. Restrictions and requirements.

Garage sales in the Village of North Hornell shall be regulated in the following manner:

- A. Hours. Garage sales shall not commence before 10:00 a.m. and must terminate by sundown.
- B. Number. No person shall conduct more than three (3) garage sales on his premises in any one (1) calendar year. Any one (1) sale is limited to three (3) consecutive days.
- C. Merchandise. Garage sales shall offer only used, unwanted items of personal property owned by the resident of the property where the sale is held. No new merchandise shall be offered for sale, nor may merchandise from other sources be brought in and offered for sale.
- D. Signs.
 - (1) Garage sales may be advertised through the newspaper or other news media. A sign not greater in size than three by three (3 x 3) feet may be installed on the property where the sale is being conducted.
 - (2) No sign shall be placed on the public right-of-way or on property other than where the sale is being conducted. No lighted sign shall be used.
 - (3) The sign shall be displayed only during the sale and shall be promptly removed after the sale.
- E. Zoning. It is not the intention of this chapter to change or amend the zoning regulations of the village.²
- F. Permit

² Editor's. Note: See Ch. 140, Zoning.

- (1) It shall be unlawful for any person or persons to conduct any sale commonly known as a “garage sale” without first having received a permit.
- (2) Upon application either in person, by mail or by telephone, the Clerk is authorized to issue such a permit, which must be prominently posted at the site of the sale. **[Amended 5-11-87 by L.L. No. 6-1987]**
- (3) The permit shall set forth the name, address and date of sale.
- (4) There shall be no fee for said permit.

§ 59-4. Penalties for offenses³

Whoever shall violate or fail to comply with any of the provisions of this chapter shall be fined not more than two hundred fifty dollars (\$250.) and/or be imprisoned for a term not to exceed fifteen (15) days. Each day that the violation continues shall constitute a separate offense.

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

Chapter 62

GARBAGE, RUBBISH AND REFUSE

- § 62-1. Definitions.
- § 62-2. Enforcing agency.
- § 62-3. Compliance required.
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- § 62-16. Covering of vehicles.
- § 62-17. Additional collection regulations.
- § 62-18. Storage and parking of collection vehicles.
- § 62-19. Penalties for offenses.
- § 62-20. Additional remedies.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 6-27-77 as L.L. No. 4-1977.¹ Sections 62-4 and 62-19 amended and §§ 62-5, 62-6, 62-7, 62-8, 62-9, 62-10, 62-11 and 62-12 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Junk and storage yards — See Ch. 67.

Property maintenance — See Ch. 87.

§ 62-1. Definitions.

For the purpose of this chapter, the terms used herein are defined as follows:

ASHES — The cold residue from combustion of any type of solid fuel, such as wood, coal, coke, charcoal, paper and/or any similar substance.

GARBAGE — Any waste material in the process of or subject to decomposition or decay incident to ordinary domestic or business use or purpose and shall include, among other things, kitchen refuse, animal or vegetable matter, decayed and decomposing substances.

GARDEN REFUSE — Small tree branches, hedge, bush and vine trimmings, stalks of vegetables and plants, grasses, weeds and similar substances and/or materials found in residential yards.

HEAVY TRASH — Household items only.

OCCUPANT — The owner, agent, tenant, lessee, caretaker or any other person in charge of any premises affected by this chapter, whichever classification may be appropriate and effective for its enforcement.

PERSON — Any individual, partnership, corporation, firm, aggregation or association of persons.

¹Editor's Note: This legislation was included In the 1965 Code as Ch. 20.

SUITABLE RECEPTACLE — A receptacle as herein defined, having a closely fitted cover or lid, so constructed as to prevent spillage or leakage of the contents. Such receptacles shall be kept in a clean condition.

TRASH and RUBBISH — All miscellaneous materials such as rags, paper products, cardboard, cartons, leather goods, rubber, bottles, tin cans, broken glass, crockery and/or any similar materials or substances; but shall not include logs, earth, sand, bricks, mortar or other substances which may accumulate from building operations.

§ 62-2. Enforcing agency.

The Village Board shall be the enforcement authority charged with the responsibility of enforcing the provisions of this chapter.

§ 62-3. Compliance required.

No ashes, trash, rubbish, garden refuse and garbage shall be collected or disposed of except in accordance with the provisions of this chapter.

§ 62-4. License required for collection.²

The collection, removal and disposal of ashes, trash, rubbish, garden refuse and garbage within the jurisdiction of the Village of North Hornell shall be done by approved collection agencies which have applied for and received licenses in compliance with regulations set forth by the Village Board. Requirements shall be in accordance with the provisions of this chapter and any supplemental rules and regulations, provisions of the state law, State Board of Health rules and regulations and the legislation of the village.

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

§ 62-5. Form of license.³

The Village Board shall have the authority to designate the form of the license.

§ 62-6. Display of license.⁴

- A. The owner shall post the license in a conspicuous place on each garbage truck operating within the Village of North Hornell, and the driver shall present the same, upon request, to any member of the Village Board.
- B. Failure to post and/or present the license upon request shall be presumptive evidence that the garbage truck is unlicensed.

§ 62-7. Term of license.⁵

The Village Clerk shall issue yearly licenses. The term of said yearly licenses shall be from the first day of June through the 31st day of May, unless sooner suspended or revoked by the Village Board.

§ 62-8. Fees.⁶

The license fee for each garbage contractor shall be fifteen dollars (\$15.).

§ 62-9. Filing of application.⁷

Applications for licenses shall be filed with the Village Clerk upon forms to be provided by the Clerk. Applications for renewal of licenses shall be similarly filed with the Village Clerk upon forms to be provided by the Clerk.

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

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

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

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

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

§ 62-10. Additional licensing regulations.⁸

- A. The Village Board shall have the authority to establish such rules and regulations for the issuing of licenses as the Village Board, in its discretion, may deem to be in the best interest of the Village of North Hornell.
- B. In addition to the above:
- (1) No license shall be issued until the vehicle for which application is made has been first visually examined and inspected by the Village Clerk or his designee.
 - (2) No license shall be issued until the vehicle for which application is made has been duly licensed by the State of New York, including state inspected, if so required.
 - (3) Each vehicle for which application is made shall bear the name, address and telephone number of the licensee on the exterior of both the driver's and passenger's doors of said vehicle.
 - (4) No license shall be issued unless the applicant demonstrates to the satisfaction of the Village Board that he is qualified under the terms and provisions of this chapter. In addition, no license shall be renewed unless the licensee can demonstrate to the satisfaction of the Village Board that he has satisfactorily fulfilled all of the obligations imposed upon him under the prior license.
 - (5) All vehicles used by the licensee for the purpose of pickup, collection and/or removing of garbage, trash or other refuse placed on the curbs of the streets of said village in accordance with the local laws of the Village of North Hornell shall be so equipped and adapted for the purposes aforesaid and, in addition, contain a permanent or removable metal cover of such type and construction that the loading thereof can be performed with as little exposure of the contents as is consistent with the efficient collection of the aforesaid materials and prevent the falling off and scattering of such materials on the streets and highways during the collection and transportation thereof. Such vehicles shall also be designated by sign, lettering or otherwise as garbage and/or rubbish

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

vehicles. Said vehicles shall also, as part of their equipment, carry sufficient shovels, brooms and other tools as may be necessary for the cleaning up of

any materials spilled or dropped during the collection or transportation thereof.

- (6) No license shall be issued unless the licensee is capable of providing, and does in fact so provide, the pickup and collection of trash as well as the pickup and collection of garbage, and no license shall be issued unless the licensee has the capability of providing, upon request, and does in fact so provide upon request, dumpsters.
- (7) The Village Board deems it to be in the best interest of the village to provide for and direct the orderly and regular pickup, collection and removal of garbage. Therefore, the following pickup, collection, removal and transportation schedule is hereby declared:
 - (a) Licensees must provide garbage and/or other refuse pickup, collection and removal services on each and every Monday throughout the year and shall also provide the same on each Friday throughout the months of June, July, August and September. In addition to the same, the hours of the pickup, collection, removal and transportation are hereby specifically limited to between the hours of 7:00 a.m. and 9:00 p.m.
 - (b) Trash shall and must be collected and removed, in accordance with the rules and regulations of the village, between the hours of 7:00 a.m. and 9:00 p.m. on the last Thursday of each month.
- (8) The licensee shall, in accordance with the rules and regulations of the Village of North Hornell, dispose of all collected materials outside of said village. Said village shall in no way be responsible for the manner of disposition of such materials.

- (9) The licensee shall comply with the provisions of the Labor Law of the State of New York as to hours and wages and all other provisions applicable to the

type of work set forth in the within specifications. He shall also comply with requirements of the Workers' Compensation Law of the State of New York in the event that the same is applicable herein, and he shall also comply with requirements of any other local, state or federal law directly applicable to him or his garbage collection business.

- (10) The licensee will be required to carry and maintain a public liability policy for property damage and bodily injury in the amount of at least five thousand dollars (\$5,000.) for property damage and at least fifty thousand dollars (\$50,000.) for injury to any one (1) person and one hundred thousand dollars (\$100,000.) for any one (1) accident resulting in connection with the work to be performed as herein provided. Said policy of insurance shall be deposited in escrow with the Clerk of the Village of North Hornell, New York. The licensee will also hold said village harmless from any and all claims that may arise as the result of the licensee operating within the Village of North Hornell.
- (11) Licensees are required to furnish to the Village Clerk a bond for the faithful performance of their work for at least the duration of the license period, in an amount to be decided upon by the Village Board; however, said amount shall not be more than the sum of the gross revenue of each licensee's business within the village. This provision may be waived by the Village Board upon written evidence that the licensee will rebate to his customers an amount of money equal to any default or failure on the licensee's part to fulfill his contract with his customers.
- (12) The licensee shall, in addition to the foregoing, also comply with any local law of the Village of North Hornell and the Health Department of the county and state relating to the collection, removal and disposal of ashes, garbage, refuse and rubbish and any other rule or regulation of said village and county and state pertaining thereto.

- A. No license shall be issued unless the licensee has affirmed in writing that he will indemnify the Village Clerk, the Village Board and the Village of North Hornell from any and all claims that may arise as a result of the licensee's activities within the Village of North Hornell, including but not limited to acts of negligence, gross negligence, omission or commission.
- B. The licensee must agree that he is solely responsible for the selection of his employees and that the Village of North Hornell shall be and is in no way responsible for the selection or retention of said employees and that said employees are in the sole and absolute control of the licensee.

§ 62-12. Suspension and revocation of license.¹⁰

The Village Clerk may suspend or revoke any license where the licensee has failed to comply with any of the provisions hereof. Upon written notice of suspension or revocation, the licensee must turn in his license to the Village Clerk. Should the holder of the license that has been revoked or suspended believe that the suspension or revocation is improper, said individual may appeal to the Village Board for a hearing, which hearing shall be open to the public.

§ 62-13. Collection regulations.

A. Containers regulated.

- (1) The owner, agent, lessee, tenant and/or occupant of every dwelling and other premises shall provide and keep on such premises sufficient and suitable receptacles for the receiving and holding of the substances and/or materials referred to herein.

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

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

- (2) All receptacles shall be of metal or plastic sufficiently strong for collection purposes; they shall be watertight and shall have close-fitting metal or plastic covers.
- (3) All receptacles shall be set by the occupant at the rear of his property, and it shall be unlawful to place receptacles, refuse, etc., at the curblineline or in front of the premises at any time except on the day of collection.
- (4) Plastic trash bags may be substituted for metal containers. These bags must be securely tied and of sufficient strength to allow being picked up without tearing or breaking.
- (5) Paper shall be securely and properly tied in bundles or other packages in a manner to prevent any scattering while waiting for or during collection.

B. Collection rules.

- (1) Acts prohibited. It shall be unlawful for any person to place or store any of the substances and/or materials referred to in this chapter in any type of containers whatsoever other than the type of receptacles or location herein specified.

§ 62-14. Dumping restricted.

No ashes, vegetables, garbage, cinders, shavings, paper, dirt, broken glassware, crockery, bottles or rubbish of any kind whatsoever shall be carted to, dumped or deposited upon any property in the Village of North Hornell, except as herein provided.

§ 62-15. Litter from vehicles.

No person or persons shall operate any vehicle upon any street in the village which shall allow any of the waste, refuse and vegetable matter to escape from such vehicle and be cast or deposited upon any street, sidewalk, crosswalk, public place or private property in said village.

§ 62-16. Covering of vehicles.

Every vehicle operated upon any public street in the village for refuse collection shall be so constructed or so covered as to prohibit any waste or refuse from escaping therefrom and being deposited upon a sidewalk, street crosswalk, public place or private property in the village.

§ 62-17. Additional collection regulations.

The Village Board may, by resolution, establish additional rules and regulations covering the collection and disposal of ashes, trash, refuse, garden refuse and garbage.

§ 62-18. Storage and parking of collection vehicles.

No vehicles used for refuse collection purposes shall be stored or parked within the village limits.

§ 62-19. Penalties for offenses.¹¹

Any person violating any of the provisions of this chapter, as the same may be from time to time amended, for which no other penalty is provided, shall incur a fine of not more than two hundred fifty dollars (\$250.) and/or imprisonment for a term not to exceed fifteen (15) days for each offense.

§ 62-20. Additional remedies.

Nothing herein contained shall prevent the Village Board from seeking injunctive relief to prevent violations of the provisions of this chapter, and said remedies shall be considered to be in addition to such other remedies as are specified in this chapter.

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

JUNK- AND STORAGE YARDS

§ 67-1. Junkyards prohibited.

§ 67-2. Restrictions upon storage yards; definitions.

§ 67-3. Penalties for offenses.

[**HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 10-11-65 as Ch. 22 of the 1965 Code. Sections 67-2 and 67-3 amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.**]

GENERAL REFERENCES

Fences and hedges — See Ch. 46.

Garbage, rubbish and refuse — See Ch. 62.

Property maintenance — See Ch. 87.

Storage of vehicles — See Ch. 135.

Zoning — See Ch. 140.

§ 67-1. Junkyards prohibited.

No junkyard shall be operated or maintained within the corporate limits of this village.

§ 67-2. Restrictions upon storage yards; definitions.¹

- A. No storage yard shall be erected, maintained or operated within the corporate limits of the village which shall be accessible to children and shall contain dangerous or combustible materials, things or articles unless said yard is properly enclosed with adequate and sufficient fencing of sufficient height and strength to prevent entrance thereto as shall be prescribed by the Village Board. For more specific provisions regarding fences, see Chapter 46, Fences and Hedges.

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

- B. For the purposes of this chapter, a “storage yard” shall be a yard maintained by the owner thereof for the purpose of storage of personal and/or family items, whereas a “junkyard” shall be a yard operated or maintained for the purpose of maintaining or accumulating dismantled, abandoned, discarded or inoperative items or materials for sale to a third party.

§ 67-3. Penalties for offenses.²

A violation of any of the provisions of this chapter shall subject the offending party to a fine not to exceed two hundred fifty dollars (\$250.) and/or imprisonment for a term not to exceed fifteen (15) days for each offense.

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

Chapter 71

LICENSING REGULATIONS

§ 71-1. Issuance conditioned upon payment of fee.

§ 71-2. Contents of license; expiration date.

§ 71-3. Revocation.

§ 71-4. Record of licenses issued.

§ 71-5. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 10-11-65 as Ch. 23 of the 1965 Code. Sections 71-1 and 71-5 amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

GENERAL REFERENCES

Garbage, rubbish and refuse — See Ch. 62

Peddling and soliciting — See Ch. 80.

§ 71-1. Issuance conditioned upon payment of fee.¹

The Mayor or his designee shall grant all licenses, which shall be signed by him and countersigned by the Village Clerk, but the Village Clerk shall not countersign the same until the license fee payable thereon shall have paid to him, and he shall immediately pay the same over to the Treasurer and take his receipt therefor.

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

§ 71-2. Contents of license; expiration date.

Each license shall specify the object and length of time for which it is granted and shall expire, except those for public exhibitions, performances and concerts and also except as hereinafter provided, on the first day of January each year.

§ 71-3. Revocation.

Any license may be revoked by the Board of Trustees, which revocation shall be in writing and filed with the Village Clerk, and a copy thereof shall be served by the Clerk upon the licensee either personally or by mail, whereupon such license shall be of no force and effect.

§ 71-4. Record of licenses issued.

The Village Clerk shall keep a register of all licenses granted, in which shall be stated the name of the licensee, the number and date of the license and the time and purpose for which it was granted.

§ 71-5. Penalties for offenses.²

Any person, persons, firm or corporation violating the provisions of this chapter or of legislation requiring licenses shall be liable for and forfeit and pay a fine not to exceed two hundred fifty dollars (\$250.) and/or imprisonment for a term not to exceed fifteen (15) days for each offense.

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

PEDDLING AND SOLICITING

- § 80-1. Title.
- § 80-2. Purpose.
- § 80-3. Definitions.
- § 80-4. License required.
- § 80-5. Exemptions.
- § 80-6. Application for license.
- § 80-7. Grant of license.
- § 80-8. Records.
- § 80-9. Fees.
- § 80-10. Restrictions.
- § 80-11. Registration by residents not desiring visits by hawkers or peddlers.
- § 80-12. Revocation of license.
- § 80-13. Special provisions for magazine sales.
- § 80-14. Appeals upon denial or revocation of license.
- § 80-15. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 10-11-65 as Ch. 21 of the 1965 Code. Sections 80-5A(5) and 80-15 amended and § 80-11 added at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

GENERAL REFERENCES

Licensing regulations — See Ch. 71.

8001

§ 80-1

NORTH HORNELL CODE

§ 80-3

§ 80-1. Title.

This chapter shall be known and may be cited as the “Hawking and Peddling Ordinance.”

§ 80-2. Purpose.

This chapter is enacted for the purpose of regulating itinerant merchandising in order that the peace, health, safety, welfare and good order in the village and of its inhabitants shall not be endangered or unduly disturbed.

§ 80-3. Definitions.

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

ESTABLISHED PLACE OF BUSINESS — A permanent building, store or depository in which or where the person transacts business and deals in the goods, wares or commodities he hawks or peddles in the ordinary and regular course of business.

HAWKER and PEDDLER — Includes, unless otherwise herein provided, any person who engages in merchandising any goods, wares, commodities or services by going from house to house, place of business to place of business or in any public street or public place or by temporarily occupying a room, building or other premises therefore.

MERCHANDISING — The selling, bartering or trading of, or offering to sell, barter or trade, any goods, wares, commodities or services.

PERSON — Includes any individual, firm, partnership, corporation, unincorporated association and principal or agent thereof.

TEMPORARY OCCUPANCY — A store, room, building, tent, enclosure or structure of any kind intended to be occupied for the period of time necessary to hawk or peddle the merchandise or products therein housed initially without the intent to replenish or restock such goods, wares and merchandise sold therein. In all prosecutions for a violation of this chapter, the intent of the defendant to conduct an established place of business shall be a material fact and the burden of proving such intent shall be upon the defendant in such prosecution.

§ 80-4. License required.

Merchandising any goods, wares, commodities or service within the Village of North Hornell without first having obtained a license therefore from the Clerk of the village is hereby prohibited, unless such merchandising is at the personal request of the person solicited.

§ 80-5. Exemptions

- A. The provisions of this chapter shall not apply to the following:
- (1) An honorably discharged soldier, sailor or marine who is crippled as a result of injuries received while in the naval or military service of the United States.
 - (2) Any person soliciting at the express invitation of the person solicited or serving an established customer.
 - (3) A wholesaler selling articles to dealers or merchants who have an established place of business within the village.
 - (4) A truck gardener or farmer who himself or through his employees vends, sells or disposes of products of his own farm or garden.
 - (5) A child regularly attending any public or parochial or private school or a representative of any established church maintaining a place of worship or a member of a veteran's organization or a member of a fraternal organization or civic group. Any person coming within the provisions of this exemption shall only hawk or peddle in connection with an authorized activity of the organization of which such person is a member or the school which such person attends.¹

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

(6) Auction sales held pursuant to law by a sheriff or other officer authorized by law to conduct such sale.

B. This chapter shall not apply so as to interfere unlawfully with interstate commerce.

§ 80-6. Application for license.

A. Every applicant for a license is required to submit to the Village Clerk a written application supplying, under oath, the following information:

- (1) The name of the applicant.
- (2) The applicant's permanent home residence.
- (3) The name and address of the firm represented, if any.
- (4) The length of time for which the license is required.
- (5) A description of the goods, wares or commodities to be offered for sale, together with a true invoice of their amount, quality and value.
- (6) The applicant's number of arrests or convictions for crimes and the nature thereof.

B. To the application must be appended a letter of authorization from the firm which the applicant purports to represent.

§ 80-7. Grant of license.

Upon receipt of the application and of the license fee and if reasonably satisfied with the applicant's qualifications, the Village Clerk shall issue a license to the applicant, specifying the particular business authorized and the location wherein it may be conducted. This license shall be nontransferable and shall be in the continuous possession of the licensee while engaged in the business licensed. The license shall be produced upon the demand of any village official or prospective buyer.

§ 80-8. Records.

- A. The Village Clerk shall keep a record of the applications, the determinations thereon and of all licenses issued in accordance with this chapter. The record shall contain the name and residence of the person licensed the location of the business, the amount of the license fee paid and the date of revocation of all licenses revoked.
- B. All licenses hereunder shall expire one (1) year from the date of issuance, except that a license issued for a shorter period than one (1) year shall expire at the expiration of the period for which it is issued.

§ 80-9. Fees.

The license fees for all licenses issued hereunder are hereby fixed as follows: twenty-five dollars (\$25.) per year or five dollars (\$5.) per day or fraction thereof.

§ 80-10. Restrictions.

A licensed hawker or peddler shall:

- A. Not willfully misstate the quantity or quality of any article offered for sale.
- B. Not willfully offer for sale any article of any unwholesome or defective nature.
- C. Not call attention to his goods by blowing a horn, by ringing a bell other than a house doorbell, by shouting or crying or by any loud or unusual noise.
- D. Not frequent any street in an exclusive nature so as to cause a private or public nuisance.
- E. Keep the vehicle and/or receptacles used by him in the furtherance of his licensed business in a sound, clean and sanitary condition.

- F. Keep his edible articles offered for sale well protected from dirt, dust and insects.

- G. Not stand or permit the vehicle used by him to stand in one (1) place in any public place or street for more than ten (10) minutes or in front of any premises for any time if the owner of or the lessee of the ground objects.
- H. Not sell confectionery or ice cream within two hundred fifty (250) feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.

§ 80-11. Registration by residents not desiring visits by hawkers or peddlers.²

- A. Any resident of the Village of North Hornell not wanting to be visited or called upon by hawkers or peddlers for the sale of goods, wares or merchandise may register at the office of the Village Clerk on a list of registrants of the Village of North Hornell who do not desire to be visited or solicited at their homes, in the following manner:
 - (1) Said resident or residents shall either personally appear or, on forms supplied by the Village Clerk, register with the Village Clerk, advising that said resident or residents do not want hawkers or peddlers to call at their homes.
 - (2) The Village Clerk shall keep on file at all times a registration book showing the names and addresses of the residents of the Village of North Hornell who have registered as not wanting hawkers or peddlers to call at their homes.
 - (3) Said residents, in addition, shall be furnished a sticker by the Village Clerk, which may be affixed to the front door of the resident's principal residence advising that no hawking and peddling can be done.

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

- B. Every applicant shall personally read said list of residents of the Village of North Hornell who are registered as not wanting to be approached or contacted for the sale of goods, wares or merchandise and will sign an affidavit that said list has been reviewed by the applicant, and the applicant shall obtain from the Village Clerk a photo static copy of said list.

§ 80-12. Revocation of license.

A license may be summarily revoked by the Village Clerk by reason of a violation of the terms of the license, the violation of any municipal ordinance, state or federal statute or falsification in applying for a license. Written notice of such revocation, stating the terms thereof, shall be personally served upon the licensee or mailed to the address given in the application. Upon the filing of such notice of revocation in the Village Clerk's office, with affidavit of service by mailing, such license shall be revoked. A hearing upon the revocation of the license shall be granted the license if said licensee shall request such a hearing as hereinafter provided.

§ 80-13. Special provisions for magazine sales.

- A. No person hawking, peddling or soliciting the sale of magazines or other periodicals shall visit a private residence for the purpose of hawking, peddling or soliciting except after procuring a license hereunder, unless such person has been personally invited to such private residence by the owner or occupant thereof.
- B. The license issued to a person hawking, peddling or soliciting the sale of magazines or other periodicals shall, in addition to the other requirements hereby imposed, have the photograph of the licensee affixed thereto and to the application. Such photograph shall have been taken within thirty (30) days next preceding the application for such license.
- C. Before a license issued to a person for the purpose of hawking, peddling or soliciting the sale of magazines or other periodicals shall be valid, it shall be countersigned by the Chief of Police of the Village of North Hornell.

- D. The Chief of Police of the Village of North Hornell is hereby empowered to refuse to countersign any license issued pursuant to the provisions of this section if in his opinion the applicant's character does not justify the issuance thereof or if the issuance of a license to the applicant would not be in the interest of the peace, health, safety, welfare and good order of the village and its inhabitants.

§ 80-14. Appeals upon denial or revocation of license.

In the event of the revocation of a license pursuant to the provisions of § 80-12 hereof or in the event of the denial of a license to any applicant by the Clerk or the refusal of the Chief of Police to countersign a license, the applicant may request a hearing within a period of thirty (30) days after such revocation, refusal or denial. Such requests shall be in writing and shall be made to the Village Board of the Village of North Hornell and filed with the Village Clerk within the period provided herein. The Village Board shall hear such applicant's request for a review of the determination of the Village Clerk or the Chief of Police at the next regularly scheduled meeting of the said Village Board following the filing of the application for review with the Village Clerk. The Village Board may grant a license to the applicant if it should determine that the refusal on the part of the Clerk or the Chief of Police was arbitrary or otherwise in error. If the Village Board, after such hearing, shall determine that the decision of the Village Clerk or Chief of Police was not arbitrary and was justified under the circumstances, the Board shall refuse such license. The decision on any hearing shall be rendered by the Village Board in writing within forty-five (45) days after the hearing thereof and shall be entered in the minutes of the Village Board.

§ 80-15. Penalties for offenses. ³

Any person who shall act as a hawker or peddler, as herein defined, without a license or who shall violate any of the provisions of this chapter or who shall continue to act as a hawker or peddler subsequent to the revocation of his license shall, upon conviction thereof, be subject to a fine not to exceed two hundred fifty dollars (\$250.) and/or an imprisonment for a term not to exceed fifteen (15) days per day on which such violation occurs.

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

Chapter 83

PLUMBING STANDARDS

- § 83-1. Title.
- § 83-2. Adoption of standards.
- § 83-3. Plumbing permits.
- § 83-4. Plumber's license required; exceptions.
- § 83-5. Certificate of competency; examinations; fees.
- § 83-6. Plumbing Inspector.
- § 83-7. Final inspection.
- § 83-8. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 11-14-66.¹ Sections 83-2, 83-3C and D, 83-5, 83-7 and 83-8 amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

GENERAL REFERENCES

- Electrical standards - See Ch. 42.
- Fire prevention and building construction — See Ch. 52.
- Licensing regulations — See Ch. 71.
- Property maintenance — See Ch. 87.
- Sewer — See Ch. 96.

§ 83-1. Title.

This chapter and the regulations herein contained or adopted shall be known and may be cited as the “Plumbing Code of the Village of North Hornell.”

¹Editors Note: This legislation was included in the 1965 Code as Ch. 29.

§ 83-2. Adoption of standards.²

The latest edition of the State Uniform Fire Prevention and Building Code applicable to plumbing is, by reference, incorporated herein and shall, together with any additional provisions which the village may hereafter impose, constitute the Plumbing Code of the Village of North Hornell.

§ 83-3. Plumbing permits.

- A. No person, firm or corporation shall commence the installation, alteration or removal of any plumbing system in whole or in part, or cause the same to be done, without first obtaining a separate plumbing permit from the Village Clerk for each such installation, alteration or removal, except that no plumbing permit shall be required for the performance of ordinary repairs.

- B. Application for a plumbing permit shall be made to the Village Clerk on forms provided by the Village of North Hornell and shall contain the following information:
 - (1) The location of the building in which the work is to be done.
 - (2) The valuation of the proposed work.
 - (3) The full name and address of the owner and of the applicant and the names and addresses of their responsible officers, if any of them are corporations.
 - (4) A brief description of the nature of the proposed work.
 - (5) The name, business address and telephone number of the plumber who will do the work³

- C. Inspections and tests. Before any plumbing work is concealed, it shall be subjected to all tests called for in the plumbing standards of the State Uniform Fire Prevention and Building Code, in the presence of the Plumbing Inspector, and no plumbing work shall be concealed or put into use until the tests have been made and all requirements of said code have been complied with and the Inspector has given his approval.⁴

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

³Editor's Note: Former Subsection B(6) dealing with licensing, which immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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

- D. Standards. All plumbing work shall conform in all respects to the plumbing standards of the State Uniform Fire Prevention and Building Code and such additional standards and requirements as the Village of North Hornell may now or hereafter impose.⁵
- E. The Village Board may by resolution fix the fee for plumbing and drainage work. **[Amended 5-11-87 by L.L. No. 3-1987]**

§ 83-4. Plumber's license required; exceptions. [2-8-71]

- A. No person shall engage in the business of plumbing within the Village of North Hornell unless he shall be a licensed plumber.
- B. This section shall not apply to a property owner granted a special permit to perform plumbing work at his legal residence under the following provisions:
 - (1) The intention to perform plumbing work by the property owner must be indicated on the application for permit.
 - (2) It shall be the responsibility of the property owner performing plumbing work to assume all inspection costs resulting from nonconforming work or materials.
 - (3) All plumbing work performed under a special permit must be confined to the property of the owner.

§ 83-5. Certificate of competency; examinations; fees.⁶

- A. Any plumber desiring to work in the Village of North Hornell must present a certificate of competency or, in lieu thereof, qualify after examinations administered by the Village Plumbing Inspector.

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

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

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

- B. Upon approval and payment of a fee of fifteen dollars (\$15.), the plumber shall be given a license to practice for one (1) year. The license may be renewed for an additional fifteen dollars (\$15.).

§ 83-6. Plumbing Inspector.

- A. The position of Plumbing Inspector of the Village of North Hornell is hereby created, and the official named to said office shall be known as the “Plumbing Inspector.”
 - (1) The Plumbing Inspector shall be appointed for a term of two (2) years by resolution of the Board of Trustees of the Village of North Hornell, which Board shall fix his rate of compensation.
 - (2) The Plumbing Inspector charged with the enforcement of this chapter shall not be personally liable while acting for said village, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as the result of any act required or permitted in the discharge of his official duties.
- B. To be eligible for appointment to the office of Plumbing Inspector, an applicant shall have had experience in the field of building construction and plumbing. He shall have no interest whatever, directly or indirectly, in the sale or manufacture of any material, process or device entering into or used in or in connection with plumbing or in the performance of plumbing work.
- C. The Plumbing Inspector, in the discharge of his official duties and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour for any proper purpose.

§ 83-7. Final inspection. ⁷

Upon the completion of plumbing or drainage work for which a permit was issued under the Plumbing Code, the Plumbing Inspector shall inspect said work and shall issue a certificate of approval of said work if the work has been done in accordance with the Plumbing Code and other legislation applicable thereto.

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

§ 83-8. Penalties for offenses.⁸

Any person, firm or corporation who knowingly commits or causes or assists in the commission of any violation of any of the provisions of this chapter or who maintains any building or premises upon which any violation shall exist shall be liable, on conviction thereof, to a fine not exceeding two hundred fifty dollars (\$250.) and/or imprisonment for a term not exceeding fifteen (15) days. Each and every day a violation of this chapter is committed or permitted to exist shall constitute a separate offense after notice to cease or remedy such violation.

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

PROPERTY MAINTENANCE

- § 87-1. Compliance required.
- § 87-2. Definitions.
- § 87-3. Applicability.
- § 87-4. Open areas and parking spaces.
- § 87-5. Business units.
- § 87-6. Buildings and structures.
- § 87-7. Infestation and screening.
- § 87-8 Littering refuse.
- § 87-9. Responsibility of occupants.
- § 87-10. Responsibility of owner.
- § 87-11. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 2-12-79 as L.L. No. 2-1979.¹Sections 87-1, 87-8A, 87-10C and 87-11 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass, and weeds — See Ch. 27.
Unsafe buildings — See Ch. 31.
Fences and hedges — See Ch. 46.
Fire prevention and building construction — See Ch. 52.
Garbage, rubbish and refuse — See Ch. 62.
Junk and storage yards — See Ch. 67.
Storage of vehicles — See Ch. 135.

¹Editor's Note: This legislation was included in the 1965 Code as Ch. 31A.

§ 87-1. Compliance required.²

All commercial and industrial premises within the Village of North Hornell, whether improved or vacant, shall be maintained in conformity with the provisions of this chapter so as to assure the desirable character of the property.

§ 87-2. Definitions.

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

BUSINESS UNIT — A building or combination of buildings and the lot on which the same is located, used wholly or in part for commercial purposes, including but not limited to offices, places of public assembly, shopping centers, supermarkets, retail stores, warehouses, manufacturing or fabrication plants, gasoline stations and other business uses.

COURT — An open and unoccupied space on a lot and enclosed on at least three (3) sides by the walls of a building.

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

INFESTATION — The presence of insects, rodents, vermin or other pests.

JUNKED VEHICLE — Any vehicle, including a trailer, which is without a currently valid license plate or plates and is in either a rusted, wrecked, discarded, dismantled, partly dismantled, inoperative or abandoned condition.

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

LOT — Plot, tract, premises or parcel of land with or without buildings or structures located thereon, as surveyed and apportioned for sale or other purposes.

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

REFUSE — All putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, street cleanings, dead animals, junked vehicles and solid market and industrial wastes.

RUBBISH — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

UNOCCUPIED HAZARD — Any building or part thereof which remains unoccupied for a period of more than two (2) years with either doors, windows or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than two (2) years.

YARD — An open space on the same lot with a building and located between the building line and the lot line which the particular building line faces.

§ 87-3. Applicability.

The provisions of this chapter shall supplement local laws, codes or regulations existing in the Village of North Hornell and the other statutes and regulations of municipal authorities having jurisdiction applicable thereto. Where a provision of this chapter is found to be in conflict with any provision of a local law, ordinance, code or regulation, the provision or requirement which is more restrictive or which establishes the higher standard shall prevail.

§ 87-4. Open areas and parking spaces.

- A. Surface and subsurface water shall be appropriately drained to protect the buildings and structures and to prevent the development of stagnant ponds. Gutters, culverts, catch basins, drain inlets, storm water sewers or other satisfactory drainage systems shall be utilized where necessary. No roof, surface or sanitary drainage shall create a structural, safety or health hazard by reason of construction, maintenance or manner of discharge.

- B. Fences and other minor construction shall be maintained in a safe and substantial condition.

- C. Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled and necessary repairs or replacement carried out.
- D. Yards, courts and vacant lots shall be kept clean and free of physical hazards, rodent harborage and infestation. They shall be maintained in a manner that will prevent dust or other particles from being blown about the neighborhood. Open wells, cesspools or cisterns shall be securely closed or barricaded from access by the public.
- E. Heavy undergrowth and accumulation of plant growth which are detrimental to health shall be eliminated. Any trees or portions thereof located on private property and constituting a hazard to persons or property shall be removed.
- F. A junked vehicle may not be parked, stored or left in the open.

§ 87-5. Business units.

- A. Business units, as defined herein, shall at all times be maintained in compliance with the provisions of this chapter regulating open spaces, buildings or structures and littering.
- B. No outside storage or accumulation of garbage, crates, rubbish, refuse or debris shall be permitted at any time, and all such garbage, crates, rubbish, refuse or debris shall be kept inside the building or buildings on the premises or in an acceptable enclosure and shall be regularly collected and removed from the premises.
- C. No shopping baskets, carts or wagons shall be left unattended or standing in open areas, and such shopping baskets, carts or wagons shall be collected at the close of business each day by the occupant of such unit and removed to the interior of the building or buildings.

- D. No mobile refrigeration unit shall be operated on the premises after the closing of the business conducted thereon, unless such mobile refrigeration unit is electrically operated.
- E. All fences and planting areas installed on the premises shall be maintained by the owner of the property. Such maintenance shall include but not be limited to the maintenance and cutting of lawns and the replacement and/or repair of fences which may become in disrepair.

§ 87-6. Buildings and structures.

- A. All exterior exposed surfaces not inherently resistant to deterioration shall be repaired, coated, treated or sealed to protect them from deterioration or weathering.
- B. Floors, walls, ceilings, stairs, furnishings and fixtures of buildings shall be maintained in a clean, safe and sanitary condition. Every floor, exterior wall, roof and porch or appurtenance thereto shall be maintained in a manner so as to prevent the collapse of the same or injury to the occupants of the building or to the public.
- C. The foundation walls of every building shall be maintained in good repair and shall be structurally sound.
- D. Exterior walls, roofs and all occupants around doors, windows, chimney and other parts of a building shall be so maintained as to prevent water from entering the building and to prevent undue heat loss from occupied areas. Materials which have been damaged or show evidence of dry rot or other deterioration shall be repaired or replaced and refinished in a workmanlike manner. Exterior walls, roofs and other parts of the building shall be free from loose and unsecured objects and material and improperly secured objects and material. Such objects or materials shall be removed, repaired or replaced.
- E. The owner of a vacated building shall take such steps and perform such acts as may be required of him from time to time to ensure that the building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property or to the public.
- F. Buildings and structures shall be maintained in such a condition that they shall not become unoccupied hazards as defined in this chapter. All graffiti or defacing shall be removed and the surface finish restored within a five-day period.

- G. All signs and lighting systems shall be maintained in a completely operable, clean and safe condition.

§ 87-7. Infestation and screening.

- A. Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall conform to generally accepted practice.

- B. Where the potential for rodent or vermin infestation exists, windows and other openings in basements and cellars shall be appropriately screened with wire mesh or other suitable materials.

§ 87-8. Littering; refuse.

- A. Commercial and industrial premises, whether improved or vacant, shall be maintained free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.³

- B. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse in accordance with the provisions of applicable codes.⁴

§ 87-9. Responsibility of occupants.

An occupant of the premises shall be responsible for compliance with this section in regard to the following:

- A. Limiting the occupancy of that part of the premises which he occupies or controls to the maximum permitted by the Village Code.

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

⁴Editor's Note: See Ch. 62, Garbage, Rubbish and Refuse.

- B. Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.
- C. Maintenance of all plumbing, cooking and refrigeration fixtures and appliances, as well as other building equipment and storage facilities in that part of the premises which he occupies or controls, in a clean and sanitary condition and providing reasonable care in the operation and use thereof.
- D. Keeping exits from his building clear and unencumbered.
- E. Disposal of garbage and refuse into provided facilities in a clean and sanitary manner, in accordance with the provisions of the village.
- F. Extermination of insects, rodents or other pests within his premises.
- G. Maintenance of yards, lawns and courts in a clean, sanitary and safe condition and free from infestation insofar as said occupant occupies or controls said yards, lawns and courts or any parts thereof.
- H. The installation and removal of required screens.
- I. Keeping his domestic animals and pets in an appropriate manner and under control.
- J. Elimination of all prohibited uses from that part of the premises which he occupies, controls or has accessibility thereto.

§ 87-10. Responsibility of owner.

- A. Owners of premises shall be responsible for compliance with the provisions of this chapter and shall remain responsible therefore regardless of the fact that this chapter may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

- B. Owners and operators of buildings shall be responsible for the proper installation, maintenance, condition and operation of service facilities and for furnishing adequate heat and hot water supply where they have contracted to do so.
- C. Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the village as executor, administrator, trustee, guardian, operator or agent, such person shall be deemed and taken to be the owner or owners of said property within the true intent and meaning of this chapter and shall be bound to comply with the provisions of this chapter to the same extent as the record owner; and notice to any such person of any order or decision of the Mayor or his designee shall be deemed and taken to be a good and sufficient notice as if such person or persons were actually the record owner or owners of such property. In instances where an occupant is responsible or shares responsibility with the owner for the existence of one (1) or more violations of this chapter, said occupant shall be deemed and taken to be an owner within the true intent and meaning of this chapter.

§ 87-11. Penalties for offenses. ⁶

Any person violating any of the provisions of this chapter shall be liable to a penalty of not more than one thousand dollars (\$1,000.) and/or imprisonment for a term not to exceed one (1) year. Each day a condition in violation of this chapter exists shall constitute a separate violation of this chapter.

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

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

Chapter 91

RECORDS, PUBLIC ACCESS TO

§ 91-1. Designation of records access officer.

§ 91-2. Days and hours for inspection of records.

§ 91-3. Fees.

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

§ 91-1. Designation of records access officer.

The Village Clerk is hereby designated as the records access officer for the Village of North Hornell.

§ 91-2. Days and hours for inspection of records.

Village records may be examined at the office of the Village Clerk from 9:00 a.m. to 12:00 noon, Monday through Friday.

§ 91-3. Fees.

The fees for copies of records shall be twenty-five cents (\$0.25) per photocopy not in excess of nine by fourteen (9 x 14) inches or the actual cost of reproducing any other record, except when a different fee is otherwise prescribed by statute.

Chapter 96

SEWERS

- § 96-1. Definitions and word usage.
- § 96-2. Use of public sewers required.
- § 96-3. Private sewage disposal.
- § 96-4. Building sewers, connections and fees.
- § 96-5. Sewer extensions.
- § 96-6. Use of the public sewers.
- § 96-7. Protection from damage.
- § 96-8. Powers and authority of inspectors.
- § 96-9. Penalties for offenses.
- § 96-10. Sewer service charge.
- § 96-11. Licensing requirements.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 11-2-70.¹ Sections 96-4E, 96-5B, 96-7A, 96-9B, 96-10C(1), and 96-11B amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

GENERAL REFERENCES

Plumbing standards — See Ch. 83.
Subdivision of land — See Ch. 116.
Zoning — See Ch. 140

¹Editor's Note: This legislation was included in the 1965 Code as Ch. 34.

§ 96-1. Definitions and word usage.

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

ASTM — American Society for Testing and Materials.

BOD (denoting “biochemical oxygen demand”) — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20° C.), expressed in milligrams per liter (mg/l).

BUILDER — Any person, persons or corporation that undertakes to construct, either under contract or for resale, any habitable building.

BUILDING SEWER DRAIN — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer lateral, beginning five (5) feet outside the inner face of the building wall.

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

CONTRACTOR ---- Any person, firm or corporation approved by the Village Board to do work in the village.

DEVELOPER — Any person, persons or corporation that undertakes to construct more than one (1) housing unit on a given tract or land subdivision.

ENGINEER — The professional engineer retained as Village Engineer for the Village of North Hornell.

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

INDUSTRIAL WASTES — The liquid wastes from industrial processes.

LIVING UNIT — A self-contained apartment or a portion of a private dwelling occupied by a person or persons living independently and separately from the other occupants of the building.

MUNICIPAL LATERAL — That portion of the building sewer lateral extending from the public sewer to the property line, said “municipal lateral” being a part of the public sewer.

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

NYSDOT — New York State Department of Transportation.

OWNER — Any individual, firm, company, association, society, person or group having title to real property.

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

pH — The logarithm of the reciprocal of the concentration of hydrogen ions in grams (ionic weights) per liter of solution.

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

PROPERTY LINE — The inner sidewalk line or the actual property line on the equivalent lateral whenever the building sewer connects with the public sewer in a public street, and the edge of a sewer right-of-way in those instances where the building sewer connects to the public sewer in a right-of-way.

PUBLIC SEWER — A sanitary sewer within the street or highway limits, easements or other rights-of-way which is under the control of the village.

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

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

SEWER — A pipe or conduit for transporting sewage.

STORM SEWER or STORM DRAIN — A pipe or conduit which transports storm- and surface waters and drainage but excludes wastewater and industrial wastes.

SUPERINTENDENT — The Superintendent of Public Works of the Village of North Hornell or his authorized deputy, agent or representative.

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

VILLAGE — The Village of North Hornell, New York.

VILLAGE BOARD or BOARD OF TRUSTEES — The duly elected Board of Trustees of the Village of North Hornell or its authorized deputy or representative.

WASTE WATER — A combination of the water-carried wastes from residents, business buildings, institutions and industrial establishments.

WASTEWATER TREATMENT PLANT — Any arrangement of devices and structures used for treating wastewater.

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

B. “Shall” is mandatory; “may” is permissive.

§ 96-2. Use of public sewers required.

A. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner upon public or private property within the village or in any area under the jurisdiction of said village any human or animal excrement, garbage or other objectionable waste. Exceptions may be granted by the Village Board to an owner or lessee acting in the normal course of farm or garden operations but only after specific application by such owner or lessee and upon such conditions as the Village Board may impose.

- B. It shall be unlawful to discharge to any watercourse, either directly or through any storm sewer, within the village or in any area under the jurisdiction of the village, any wastewater, industrial wastes or other polluted waters. Use of separate storm sewers and sanitary sewers is mandatory for all future construction in the village.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.
- D. The owner of any house, building or property used for human occupancy, employment, recreation or public purpose, situated within the village and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the village, is hereby required, at his expense, to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within ninety (90) days after the date of official notice to do so, provided that said public sewer is located within one hundred (100) feet of the property line. The initial hookup to the new sewers in 1971 shall be within six (6) months of official notice.

§ 96-3. Private sewage disposal.

- A. Where a public sanitary sewer is not available under the provisions of § 96-2D, the building sewer lateral shall be connected to a private wastewater disposal system complying with the requirements of the New York State Department of Environmental Conservation dealing with septic tank installations.
- B. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 96-2D, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be abandoned, emptied in a sanitary manner and filled with suitable material.

- C. No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the authorized representative of the New York State Department of Environmental Conservation.

§ 96-4. Building sewers, connections and fees.

- A. No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Village Board.

- B. With respect to structures not serviced by the initial public sewer construction, there shall be two (2) classes of building sewer permits: one for residential and commercial service and one for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the village. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Engineer. The Village Board shall fix a permit, tap-in and inspection fee for sewer connections to any residential or other building in the village. **[Amended: 5-11-87 by L.L. No. 4-1987]**

- C. A separate and independent building sewer lateral shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. Where building sewers are to serve multiple-dwelling structures, there shall be provided at least one (1) separate building sewer lateral for each group of six (6) living units.

- D. Existing building sewer laterals may be used only when they are found, on examination and testing by the Superintendent, to meet all requirements of this chapter.

- E. The building sewer lateral shall be tar-coated extra-heavy cast-iron soil pipe, asbestos-cement house connection piping or PVC. All material shall conform to the standards for plumbing material listed in the New York State Uniform Fire Prevention and Building Code. Joints shall be tight and waterproof. Any part of the building sewer lateral that is located within ten (10) feet of a water service pipe shall be constructed of cast-iron soil pipe. Cast-iron pipe may be required by the Superintendent where the building sewer lateral is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer lateral shall be of cast-iron soil pipe; except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the Superintendent Building sewer lateral pipe shall have a maximum length of ten (10) feet between joints.²

- F. The size and slope of the building sewer lateral shall be subject to the approval of the Superintendent, but in no event shall the diameter be less than four (4) inches, nor shall the slope of the pipe be less than one-eighth (1/8) inch per foot.

- G. No building sewer lateral shall be laid parallel to and within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost, but in no event shall be less than three (3) feet. The building sewer lateral shall be laid at a uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. The ends of building sewer laterals which are not connected to the building drain of the structure for any reason shall be sealed against infiltration by a suitable watertight stopper, plug or other approved means.

- H. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater or industrial wastes carried by such drain shall be lifted by approved mechanical means and discharged to the building sewer lateral.

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

- I. All excavations required for the installation of a building sewer lateral shall be open trench work unless otherwise approved by the Superintendent. Pipe laying and backfill shall be performed in accordance with Sections 3 through 6 of ASTM Specification C-12, except that no backfill shall be placed until the work has been inspected and except that trench width measured at the top of the installed pipe shall not exceed twenty-four (24) inches.

- J. All joints and connections shall be made gastight and watertight. No cement joints will be permitted. The transition joint between cast-iron pipe and other pipe material shall be made with special adaptors and joint materials approved by the Superintendent.
 - (1) Pre-molded gasket joints for hub and plain end cast-iron pipe shall be used and shall be a neoprene compression-type gasket, which shall be a pre-molded one-piece unit designed for joining the cast-iron hub and plain soil pipe and fittings. The assembled joint shall be sealed by compression of the gasket between the exterior surface of the spigot and the interior surface of the hub. The joint shall be assembled following the manufacturer's recommendations, using acceptable lubricant and special pipe-coupling tools designed for that purpose. The plain spigot end shall be forced into the hub end of the pipe for the full depth, of the hub itself. Lubricant shall be a bland, flax-base, nontoxic material and shall not chemically attack the gasket material.
 - (2) Asbestos-cement pipe joints shall follow the manufacturer's recommendations, using properly designed couplings and rubber gaskets pursuant to the published information relating thereto.

- K. The connection of the building sewer lateral into an existing public sewer shall be made at the property line. Except as provided under § 96-5B and C, if the municipal sewer lateral located in the street or right-of-way has not previously been provided, such will be constructed from the existing public sewer to the property line by the Village Department of Public Works upon submittal of a proper request by the property owner and upon deposit of the appropriate permit fee. All costs and expenses incident to the installation and connection of the length of building sewer lateral from the municipal sewer lateral to the owner's building shall be borne by the owner. The owner shall indemnify the village from any loss or damage that may directly or indirectly be occasioned by his

installation of the building sewer lateral. The method of connection of the building sewer lateral to the public sewer (at the property line) will be dependent upon the type of pipe material used and in all cases shall be approved by the Superintendent of Public Works.

L. Inspections.

- (1) The applicant for the building sewer permit shall notify the Superintendent when the building sewer lateral is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.
- (2) When trenches are opened for the laying of building sewer pipes, such trenches shall be inspected by the Superintendent before the trenches are filled, and the person performing such work shall notify the Superintendent when the installation of the building sewer is completed. The filling of a trench before inspection is made will subject the person to whom a permit is issued to penalty as set forth in § 96-9B.

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

N. When any building sewer lateral is to serve a school, hospital or similar institution or public building or is to serve a complex of industrial or commercial buildings, or, in the opinion of the Superintendent, will receive wastewater or industrial wastes of such volume or character that frequent maintenance of said building sewer is anticipated, then such building sewer shall be connected to the public sewer through a manhole. The Superintendent shall determine if and where this type of connection to the public sewer is required. Connections to existing manholes shall be made as directed by the Superintendent. If required, a new manhole shall be installed in the public sewer pursuant to § 96-5D and the building sewer lateral connection made thereto as directed by the Superintendent.

§ 96-5. Sewer extensions.

- A. All extensions to the sanitary sewer system owned and maintained by the village shall be properly designed in accordance with the Recommended Standards for Sewage Works as adopted by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers and in strict conformance with all requirements of the New York State Department of Health. Plans and specifications for sewer extensions shall be submitted to and approval obtained from the Engineer and the New York State Department of Health before construction may proceed. The design of sewers must anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.
- B. Sewer extensions, including individual building sewer laterals from the public sewer to the property line, may be constructed by the village under public contract if, in the opinion of the Village Board, the number of properties to be served by such extension warrants its cost. Under this arrangement the property owner shall pay for and install the building sewer lateral from the property line to his residence or place of business in accordance with the requirements of § 96-4. Property owners may propose sewer extensions within the incorporated village by drafting a written petition, signed by a majority of the benefiting property owners, and filing it with the Village Board. The cost of such extensions may be assessed to the benefited property owners in any manner determined by the Village Board.³

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

C. If the village does not elect to construct a sewer extension under public contract, the property owner, builder or developer may construct the necessary sewer extension if such extension is approved by the Village Board in accordance with the requirements of Subsection A above. He or they must pay for the entire installation, including all expenses incidental thereto. Each building sewer installed must be installed and inspected as previously required and inspection fees as determined by the Village Board shall be paid. Design of sewers shall be as specified in Subsection D hereof. The installation of the sewer extension must be subject to periodic inspection by the Engineer and the expenses for this inspection shall be paid for by the owner, builder or developer. The Engineer's decisions shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass the exfiltration test required in Subsection E hereof before it is to be used. The cost of sewer extensions thus made shall be absorbed by the developers or the property owners, including all building sewers.

D. Sewer design shall be in accordance with the following provisions.

- (1) Pipe material shall be either asbestos cement conforming to ASTM Specification C-428, Type II; extra-strength vitrified clay conforming to ASTM Specification C-200; or reinforced concrete conforming to ASTM Specification C-76. No standard strength clay pipe or non-reinforced concrete pipe shall be used.
- (2) Minimum internal pipe diameter shall be eight (8) inches.
- (3) Joints for each kind of pipe shall be designed and manufactured such that O-ring gaskets of the snap-on type are employed. Gaskets shall be continuous, solid, natural or synthetic rubber and shall provide a positive compression seal in the assembled joint such that the requirements of Subsection E hereof are met. Joint preparation and assembly shall be in accordance with the manufacturer's recommendations.
- (4) Wye-branch fittings shall be installed for connection to building sewers in accordance with § 96-4C.

(5) Trench widths

- (a) Trench widths as measured just above the crown of the pipe shall not exceed the following:

Pipe Diameter (inches)	Trench (feet)	Width (inches)
8	3	3
10	3	6
12	3	9
14	4	0

- (b) If the trench widths are found, during inspections, to exceed the limits in the above table, the sewer pipe shall be encased with a min. of six inches of concrete or a higher strength class pipe shall be used. Pipe shall be firmly and evenly bedded on a minimum of three inches of No. 1A or No. 1 crushed stone (NYSDOT Specification). Pipe thickness and field strength shall be calculated on the following criteria:

[1] Safety factor: one and five-tenths (1.5).

[2] Load factor: one and seven tenths (1.7).

[3] Weight of soil: one hundred twenty (120) pounds per cubic foot.

[4] Wheel loading: sixteen thousand (16,000) pounds.

- (c) Utilizing the above information, design shall then be made as outlined in Chapter IX of the Water Pollution Control Federation Manual of Practice No. 9, Design and Construction of Sanitary and Storm Sewers.

- (d) Manholes shall be constructed at all changes in slope or alignment or at intervals not exceeding four hundred (400) linear feet. The manholes shall be constructed with a poured three-thousand-pound-per-square-inch concrete base twelve (12) inches thick, steel-troweled concrete or mortar bench walls and inverts and pre-cast four-foot-diameter concrete manhole

barrel sections with concentric tapered top section, as specified by ASTM C-478. The manhole frame and cover shall be the standard design of the village and shall be set with no less than two (2) courses of brick underneath to allow for later adjustment in elevation. All joints shall be sealed against infiltration. No manholes shall be constructed with steps or ladder rungs. Minimum clear openings in all manholes shall be twenty-four (24) inches.

- E. All sewers shall satisfy requirements of a final exfiltration test before they will be approved and sewage flow accepted from them by the village. This test consists of filling the pipe with water to provide a head of at least five (5) feet above the top of the pipe or five (5) feet above groundwater, whichever is higher, at the highest point of the pipeline under test and then measuring the loss of water from the line by the amount which must be added to maintain the original level. In this test, the line must remain filled with water for at least twenty-four (24) hours prior to the taking of measurements. Exfiltration shall be measured by the drop of water level in a standpipe with closed bottom end or in one of the sewer manholes available for convenient measuring.
- (1) When a standpipe and plug arrangement is used in the upper manhole of a line under test, there must be some positive method of releasing entrapped air in the sewer prior to taking measurements. The test length intervals for either type of test shall be as ordered or approved but in no event shall they exceed one thousand (1,000) feet. In the case of sewers laid on steep grades, the length of line to be tested by exfiltration at any one time may be limited by the maximum allowable internal pressure on the pipe and joints at the lower end of the line. The test period wherein the measurements are taken shall not be less than two (2) hours in either type of test.
 - (2) The total leakage of any section tested shall not exceed the rate of one hundred (100) gallons per mile of pipe per twenty-four (24) hours per inch of nominal pipe diameter. For purposes of determining the maximum allowable leakage, manholes shall be considered as sections of forty-eight-inch-diameter pipe five (5) feet long. The equivalent leakage allowance shall be four and five-tenths (4.5) gallons per manhole per twenty-four (24) hours for forty-eight-inch-diameter manholes. If leakage exceeds the

specified amount, the necessary repairs or replacements required shall be made to permanently reduce the leakage to within the specified limit and the tests shall be repeated until the leakage requirement is met

- F. All sewer extensions constructed at the property owner's, builder's or developer's expense, after final approval and acceptance by the Engineer, shall become the property of the village and shall thereafter be maintained by the village. Said sewers and their acceptance by the village shall be guaranteed against defects in materials or workmanship for eighteen (18) months. The guaranty shall be in a form provided for by the village. At the sole discretion of the village, a completion bond or certified check may be demanded as part of the guaranty.

- G. No builder or developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities within the village unless a suitable and approved method of waste disposal is proposed. All new developments shall be provided with an approved system of sanitary sewers unless otherwise permitted by the Village Board and New York State Department of Environmental Conservation or its authorized representative.

§ 96-6. Use of the public sewers.

- A. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, swimming pool water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

- B. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a watercourse approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the Superintendent, to a storm sewer or natural outlet.

- C. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following-described waters or wastes to any public sewer:
- (1) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150° F.) [sixty-five degrees centigrade (65° C.)].
 - (2) Any waters or wastes which contain grease or oil or other substance that will solidify or become discernibly viscous at temperatures between thirty-two and one hundred fifty degrees Fahrenheit (32° and 150° F.).
 - (3) Any waters or wastes containing either soluble fats, wax, grease or oils, whether emulsified or not, exceeding an average of fifty (50) milligrams per liter [four hundred seventeen (417) pounds per million gallons].
 - (4) Any gasoline, benzene, naphtha, fuel oil, mineral oil or other flammable or explosive liquid, solid or gas.
 - (5) Any noxious or malodorous gas, such as hydrogen sulfide, sulfur dioxide or nitrous oxide, or other substance which, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
 - (6) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be subject to the review and approval of the Superintendent.
 - (7) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, cardboard, wood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, beer or distillery slops, whey, chemical residues, cannery waste, bulk solids or any other solid or viscous substance capable of causing obstruction to the flow of the sewers or other interference with the proper operation of the sewage works.

- (8) Any waters or wastes, acid and alkaline in reaction, having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewage works. Free acids and alkalis must be neutralized at all times within a permissible pH range of six point zero (6.0) to nine point five (9.5).
- (9) Any cyanides in excess of two (2) milligrams per liter as CN.
- (10) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Engineer in compliance with applicable state or federal regulations.
- (11) Any waters or wastes that for a duration of fifteen (15) minutes have a concentration greater than five (5) times that of normal wastewater as measured by suspended solids and BOD and/or which are discharged continuously at a rate exceeding one thousand (1,000) gallons per minute except by special permit. Normal wastewater shall be construed to fall within the following ranges:

Constituents	Permissible Range (milligrams per liter)
Suspended solids	180 to 350
BOD	140 to 300
Chlorine requirements	5 to 15

- (12) Any storm water, roof drains, spring water, cistern or tank overflow, footing drain, discharge from any vehicle wash rack, or the contents of any privy vault, septic tank or cesspool, or the discharge or effluent from any air-conditioning machine or refrigeration unit.
- (13) Any waters or wastes containing high BOD, a toxic or poisonous substance, a high chlorine demand or suspended solids in sufficient quantity to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters or the effluent of the City of Hornell wastewater treatment plant. Such toxic substances shall

be limited to the average concentrations listed hereinafter in the wastewater as it arrives at the treatment plant, and at no time shall the hourly concentration at the wastewater treatment plant exceed three (3) times the average concentration. If concentrations listed are exceeded, individual establishments will be subject to control by the Engineer in volume and concentration of wastes discharged.

**Limits of Toxic Substances in Sewage
As It Arrives at the Treatment Plant**

Substance	Limits (milligrams per liter)
Iron, as Fe	1.5
Chromium, as Cr (hexavalent)	0.2
Copper, as Cu	0.7
Chlorine requirements	20.0
Phenol	10.0
Cyanide, as CN	0.4
Cadmium, as Cd	1.0
Zinc, as Zn	1.0
Nickel, as Ni	7.0

- D. Grease, oil and sand traps shall be provided when the above set limits for those substances are exceeded or when in the opinion of the Engineer they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients, except that such shall not be required for private living quarters or dwelling units. All traps shall be of a type and capacity approved by the Engineer and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil traps shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

- E. Where installed, all grease, oil and sand traps shall be maintained by the owner, at his expense, in continuously efficient operation at all times and shall be readily accessible and open to inspection by the Superintendent of Public Works at any time.
- F. The admission into the public sewers of any waters or wastes having a five-day biochemical oxygen demand greater than three hundred (300) milligrams per liter, or containing more than three hundred fifty (350) milligrams per liter of suspended solids, or containing more than fifteen (15) milligrams per liter of chlorine requirement, or containing any quantity of substances having the characteristics described in Subsection C, or having an average daily flow greater than two percent (2%) of the average daily sewage flow of the village, shall be subject to the review and approval of the Engineer. Where necessary, in the opinion of the Engineer, the owner shall provide, at his expense, such pretreatment as may be necessary to reduce the biochemical oxygen demand to three hundred (300) milligrams per liter and the suspended solids to three hundred fifty (350) milligrams per liter by weight or reduce the chlorine requirements to fifteen (15) milligrams per liter or reduce objectionable characteristics or constituents to within the maximum limits provided for in Subsection C, or control the quantities and rates of discharge of such waters or wastes. Plans, specifications and any other pertinent information relating to proposed pretreatment facilities shall be submitted for the approval of the Engineer and of the New York State Department of Environmental Conservation, and no construction of such facilities shall be commenced until said approvals are obtained in writing. Failure to comply with one (1) or more of the remedial procedures as required by the Engineer will constitute a violation of this chapter.
- G. Where pretreatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

- H. When required by the Engineer, the owner of any property served by a building sewer lateral carrying industrial wastes shall install a suitable control manhole in the building sewer lateral to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Engineer. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
- I. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in Subsections C and F shall be determined in accordance with Standard Methods for the Examination of Water and Wastewater, upon suitable samples taken at the control manhole provided for in Subsection H. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.
- J. No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the village and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the village for treatment, subject to payment therefor by the industrial concern.
- K. All of the preceding standards are to apply at the point where the industrial wastes are discharged into the public sanitary sewerage system, and any chemical or mechanical corrective treatment required must be accomplished to practical completion before the wastes reach that point. The laboratory methods used in the examination of all industrial wastes shall be those set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association. However, alternate methods for the analysis of industrial wastes may be used, subject to mutual agreement between the Village Board and the producer of such wastes. The frequency and duration of the sampling of any industrial waste shall not be less than once every three (3) months for a twenty-four-hour period. However, more frequent and longer periods may be required at the discretion of the Village Board.

§ 96-7. Protection from damage.

- A. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the village sewage works. Any person violating this provision shall be subject to the penalties set forth in the Penal Law.⁴

- B. A contractor must present a certificate of insurance showing suitable liability Insurance before a permit will be issued for construction of building sewers, sewer extensions or private wastewater disposal.

§ 96-8. Powers and authority of inspectors.

- A. The Superintendent, the Engineer and other duly authorized employees of the village bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter.

- B. At such time as work requiring inspections by the provisions of this chapter has been completed and is ready for such inspection, the property owner, builder or developer shall notify the Superintendent and request such inspection, which shall be done as promptly as possible.

- C. In the event that such work is not ready for inspection or for any other reason may not be approved by the inspecting officer, the property owner, builder or developer shall be notified that such work has not been approved and the reason therefor and at the same time shall be notified that no further inspection of such work will be made until the property owner, builder or developer has paid to the Village Clerk the sum of twenty-five dollars (\$25.) to cover the extra expense and cost to the village. In the event of further disapproval of the same work, a further payment shall be made by the property owner, builder or developer in accordance with the above schedule before a further inspection shall be made.

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

§ 96-9. Penalties for offenses.

- A. Any person found to be violating any provision of this chapter, except § 96-7A, shall be served by the village with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

- B. Any person, individual, firm, corporation or partnership who fails to comply with the provisions of this chapter, other than those provisions pertaining to the payment of charges for services established herein, shall, upon conviction thereof, be subject to a fine not exceeding two hundred fifty dollars (\$250.) and/or imprisonment for a term not exceeding fifteen (15) days. The continued violation of any provision of any section of this chapter, other than those provisions pertaining to the payment of charges for services established herein, shall constitute a separate offense for each and every day such violation of any provision hereof shall continue.⁵

- C. As an alternative, upon violation of this chapter, the proper authorities of the village, in addition to other remedies, may institute any appropriate action or proceedings, including an injunction to prevent such unlawful use, construction or maintenance of cesspools, septic tanks, wastewater disposal systems, pipes or drains, to restrain, correct or abate such violation or to prevent the occupancy of any building, structure or land where said violations of this chapter are found.

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

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

§ 96-10. Sewer service charge.

- A. The primary source of the revenues for retiring debt services, capital expenditures, operation and maintenance of the public sewage works shall be a sewer service charge assigned to owners of property located within the corporate limits of the village.
- B. Sewer service charge rates shall be determined by the Board of Trustees on a year-to-year basis. In general, charges will be calculated from an equivalent unit schedule based on criteria listed below for all normal strength wastewater.
- (1) If any commercial or industrial users contribute waste-water exceeding the strength of "normal wastewater" as defined in § 96-6C, a surcharge shall be imposed in accordance with Subsections C and D. Sewer service charges will be computed and billed at regular intervals throughout each calendar year, as established by the Board of Trustees.
- (2) Criteria for equivalent units; type of property; number of units.
- (a) House.
- [1] One (1) single-family residence equals one (1) unit
[2] In multiple-family dwellings, each living unit equals one (1) unit.
- (b) Apartment building. Each living unit in an apartment building
- [1] With one (1) bedroom equals one-half (1/2) unit.
[2] With two (2) bedrooms equals three-fourths (3/4) unit.
[3] With over two (2) bedrooms equals one (1) unit.
- (c) Hospital. Each one and one-fourth (1/4) hospital beds equals one (1) unit.
- (d) School. Each fifteen (15) pupils-and/or staff equals one (1) unit.

(e) Medical center. The medical center equals one-third (1/3) unit each office.

(f) Vacant lots.

[1] Each equivalent vacant lot where sewers are available equals one-third (1/3) unit.

[2] Each equivalent vacant lot where sewers are not available equals one-sixth (1/6) unit. [Developable land not occupied by buildings and not being farmed will be divided into equivalent lots. Each equivalent vacant lot is a plot of land up to one hundred (100) feet wide by up to one hundred fifty (150) feet deep.]

(g) Farmland. Farmland under cultivation in areas where sewers are available [each ten (10) acres] equals one (1) unit. Farmland under cultivation in areas where sewers are not available [each ten (10) acres] equals one-half (1/2) unit.

(h) Commercial or industrial establishments. Each commercial or industrial establishment, including but not limited to laundromats, restaurants, gasoline stations, etc., connected to sewers [each increment of consumed water, at three hundred fifty (350) gallons per day] equals one (1) unit.

C. The sewer charge assigned to any property owner who contributes industrial wastes to the public sewers or who contributes a combination of wastewater and industrial wastes to the public sewers shall be determined as follows:

(1) A surcharge shall be added to the sewer service charge for any waste which exceeds the standards set up in § 96-6. The charge shall depend on the strength and character of the industrial waste finally admitted to the public sewer. The surcharge amount shall be established by the Board of Trustees.⁶

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

- D. A special sewer service charge shall be assigned to any industrial firm or organization or school inside or outside of the village, by virtue of the volume, strength or unusual characteristic of its waste alone, which would overload or upset the capacity or efficiency of the sewage works or any part thereof if such waste entered the public sewer, or whose waste disposal situation is such that it would be in the public interest to waive the requirements of Subsections B, C, D and E of this section. The Board of Trustees, after appropriate study and advice from the Engineer, shall assign a special sewer charge to the industrial firm, corporation or school by separate agreement with said firm. The applicable portions of the preceding sections, as well as the equitable rights of the public, shall be the basis for such an arrangement.
- E. The Board of Trustees reserves the right, from time to time, to change sewer service charges originally or previously assigned to any property owner.
- F. The sewer service charge assigned to any property owner who is not connected to the public water supply shall be established by the Board of Trustees. Such sewer service charge shall be based on the estimated or measured volume of wastewater contributed to the public sewers by such property owner.
- G. The sewer service charge assigned to any property owner with both a public and private water supply whose contribution of wastewater to the public sewers exceeds the volume of public water consumed by that owner, as evidenced by his water bill, shall be established by the Board of Trustees. The basis for determining such sewer service charge shall be the estimated or measured volume of wastewater entering the public sewers.
- H. All property owners outside the village limits who, by their own request, are served by sanitary sewers must pay a sewer service charge established by the Board of Trustees.
- I. Each sewer charge levied pursuant to this chapter is hereby made a lien on the premises, and if the same is not paid within thirty (30) days after it shall be due and payable, it shall be certified to the Treasurer of the village, who shall place the same on the real property tax for the year with interest and penalties allowed by law, and be collected as other village taxes are collected.

- J. Those property owners who, thirty (30) days after bills have been rendered for the services described herein and at the rates prescribed herein, have not paid their bills shall be deemed to be delinquent and the service to their premises may be discontinued, and such service may not be restored until proper settlement of the delinquent customer's account has been made, together with any additional costs which might have been incurred by the village in the discontinuing or restoring of the delinquent customer's service.

§ 96-11. Licensing requirements.

- A. Each and every plumber, contractor or excavator or other person, firm or corporation, other than the property owner himself, will be required to have a license issued by the Clerk of the village before he will be permitted to do any work in the village insofar as this chapter is concerned.

- B. If the property owner desires to install the building sewer lateral from the outside face of his building wall to the municipal lateral at the property line, he may do so as long as he follows this chapter and the completed installation is inspected and approved as outlined in § 96-8.⁷

- C. If, in the opinion of the Board of Trustees of the village, the work performed by the contractor within the village violates the provisions of this chapter or any other ordinance of the village, or if the contractor's work is, in the opinion of the Village Board, substandard, then in that event the Village Board may revoke the license for the contractor to do work in the village.

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

Chapter 100

SIGNS

- § 100-1. Legislative intent.
- § 100-2. Definitions.
- § 100-3. General regulations.
- § 100-4. Business signs; directional outdoor advertising signs.
- § 100-5. Application for permit.
- § 100-6. Permit required; fees.
- § 100-7. Issuance of permit.
- § 100-8. Removal of signs.
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- § 100-10. Political signs.
- § 100-11. Applicability; construal.
- § 100-12. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 2-8-82 as L.L. No. 1-1982.¹ Sections 100-2 and 100-12A amended and § 100-10 added at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 52.

Garage sales - See Ch. 59.

Zoning - See Ch. 140.

¹ Editor's Note: This legislation was included in the 1965 Code as Ch. 35.

§ 100-1. Legislative intent

The intent of this chapter is to promote and protect public health, welfare and safety by regulating and restricting existing and proposed signs and advertising devices of all kinds. It is intended to promote public safety, protect property values, create a more attractive economic climate and enhance the scenic and natural beauty of the village.

§ 100-2. Definitions.

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

BUSINESS SIGN — Any sign related to a business or profession conducted or to a commodity or service sold or offered upon the premises where such sign is located.

DIRECTIONAL SIGN — Any sign that directs attention to the location of a local service.

DIRECTORY SIGN — A series of rectangular signs mounted one above another between two (2) vertical supporting upright posts, each sign of the same width and length.

ERECT — To build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any sign, and shall also include the painting of exterior wall signs and the use of any vehicle or other substitute for a sign.

FACE SIGN — A sign mounted flush with the face of the building fronting on the public street designated as its official address.

FREESTANDING SIGN — Any sign and sign-support structure that is not attached to or part of a building, and shall include a planter sign.

FRONT OR FACE OF A BUILDING — The outer surface of a building which is visible from any private or public street, highway or driveway, including window display areas.

ILLUMINATED SIGN — Any sign lighted by electricity, gas or other artificial light, including reflective or phosphorescent light, paint or tape.²

LIGHTING DEVICE — Any light, string or groups of lights located or arranged so as to cast illumination on or from a sign.

NONCONFORMING SIGN — Any sign which lawfully exists at the time of enactment of this chapter or any amendment thereto and which does not conform to the regulations and restrictions imposed herein as a result of such enactment or amendment.³

OUTDOOR ADVERTISING SIGN — Any sign unrelated to a business or profession conducted or a commodity or service sold or offered upon the premises where such sign is located.

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

PORTABLE OR MOBILE SIGN — Any sign that is designed and intended to be transported from place to place and is not permanently affixed to the ground or to a building.

PROJECTING SIGN — Any sign which extends from the exterior of any building.

ROOF SIGN — Any sign constructed on or supported by the roof of any building or structure.

SIGN — Any material, structure or part thereof or any device attached to a structure or painted or represented thereon, composed of lettered or pictorial matter or upon which lettered or pictorial matter is placed when used or located out of doors or on the exterior of any building for the display of an advertisement, notice, directional matter or name, and includes sign frames, billboards, signboards, illuminated signs, pennants, fluttering devices, projecting signs or ground signs.

TEMPORARY SIGN — Any sign which is intended to advertise community or civic projects, real estate for sale or lease or other special events on a temporary basis.

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

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

§ 100-3. General regulations.

- A. No sign, except for those referred to as “temporary signs,” may be erected without the approval of the Village Board of the Village of North Hornell and a sign permit issued by the Building Inspector.
- B. Proof of the property owner’s approval must accompany all requests for a sign permit.
- C. All signs shall be securely attached to a building or a structurally sound support, and their display surface shall be kept neatly painted and in good repair at all times.
- D. No illuminated signs or outdoor illumination shall direct light in a way which would create a traffic hazard or nuisance or be unreasonably detrimental to adjoining or neighborhood residences illuminated signs shall conform to the regulations of the National Board of Fire Underwriters. The source of illumination shall be suitably shielded to eliminate glare and annoyance to passersby or adjacent property. Signs may not be illuminated between the hours of 10:00 p.m. and 7:00 a.m.
- E. No projecting sign shall be erected or maintained from the front or face of a building a distance of more than eighteen (18) inches. In no event may a sign overhang or project onto any public right-of-way except as provided for in this chapter.
- F. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or similar fluttering devices.
- G. No sign shall consist of animated or moving parts or be constructed in a movable or portable form.
- H. No sign shall be attached to fences, utility poles or trees.
- I. No sign shall be located between the sidewalk and curb or between the sidewalk and roadway where curbs do not exist.
- J. No sign shall be erected in such a manner as to confuse or obstruct the view of any traffic sign, signal or device.
- K. Signs advertising a temporary situation may be displayed during the duration of those services or until the final day of the event such signs will be limited to village business, political, charitable, social and educational functions and real estate sales, lease or rental signs.

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- L. No signs, except directional or traffic signs, shall be permitted on public streets or rights-of-way.

§ 100-4. Business signs; directional outdoor advertising signs.

- A. Business signs. Permitted business signs may display the name of the business, type of business, service or product sold within and a symbol or trademark. These signs may be illuminated.

- (1) Signs identifying the name of a residential development or subdivision shall be permitted at each major entrance to the area. Such signs shall be no higher than six (6) feet above the ground and shall not exceed twenty-four (24) square feet in area.
- (2) Signs identifying a permitted home occupation shall not exceed one (1) square foot in area.
- (3) Signs incidental to places of worship, libraries, museums, social clubs and societies shall not exceed nine (9) square feet in area.
- (4) Signs identifying a business other than a home occupation shall not exceed twelve (12) square feet in area when located within a residential area or one-half (1/2) square foot for each linear foot of structure frontage when located within a commercial or industrial zone.
- (5) No sign shall exceed six (6) feet in height above the ground level.
- (6) The following signs are prohibited in the Village of North Hornell:
 - (a) Revolving, moving, flashing or blinking signs or signs that appear to be in motion.
 - (b) Signs attached to light standards or utility poles and their supports.
 - (c) Portable signs.
 - (d) Roof signs.

- (7) Multiple-use buildings. Signs at a single location where more than one (1) Business or service operates under separate ownership or management shall be governed by the following regulations:
- (a) One (1) face sign designating the major or primary use of the building not to exceed twenty-four (24) square feet, plus that described under Subsection A(7)(b).
 - (b) All other business or services shall be designated on one (1) directory-type sign and shall relate solely to the business, service or profession conducted on the premises and shall advertise only the type of establishment and/or service or the trade names of the establishment. Directory-type signs shall not exceed six (6) feet in height from ground level or six (6) feet in width.
- (8) Single-use buildings shall have not more than one (1) sign. The size of the sign shall be as in Subsection A (4). **[Added 5-11-87 by L.L. No. 2-1987]**

B. Directional outdoor advertising signs. These signs may be illuminated.

- (1) Directional signs. These signs may contain only the name of the business and the location from the sign's geographical position. Such signs may not exceed three (3) square feet in area.
- (2) Billboards or other non-specified signs are not permitted.

§ 100-5. Application for permit.

All applications for a permit shall be made in writing upon the forms prescribed and provided by the Building Inspector and shall meet the standards set forth below:

A. All applications shall contain the following information:

- (1) Name, address and telephone number of the applicant.
- (2) The location of the building, structure or land to which or upon which the sign is to be erected.

- (3) A detailed drawing or blueprint showing a description of the construction details of the sign and showing the lettering and/or pictorial matter composing the sign, the position of lighting or other extraneous devices and a location plan showing the position of the sign or any building or structures, including any private or public street or highway.
 - (4) Written consent of the owner of the building, structure or land to which or on which the sign is to be erected in the event that the applicant is not the owner thereof.
- B. All applications shall be forwarded to the Village Board for its review, and before rendering its decision, said Board shall:
- (1) Review the design, size and location of the proposed sign to determine whether the proposed sign is in violation of any of the regulations or restrictions set forth in this chapter.
 - (2) Grant approval, including any reasonable conditions, or reject the application and provide reasons for rejecting the application.
 - (3) In the event that an application must be rejected because the proposed sign does not comply with one (1) or more regulations or provisions of this chapter, the Village Board shall refer the application to the Zoning Board of Appeals for its review and consideration. The Village Board may submit an advisory opinion to the Zoning Board of Appeals on such application at any time prior to the public hearing thereon.
- C. Upon a referral by the Village Board as aforesaid, the Zoning Board of Appeals shall schedule a public hearing on such application within sixty (60) days. Said Board shall have the authority to vary or modify the application of any of the regulations or provisions of this chapter relating to the use, construction, alteration, design, size and location of the proposed sign in such a manner as shall not be contrary to the spirit of this chapter and the public safety and welfare of the Village of North Hornell. Variations or modifications may be authorized upon

finding that there are practical difficulties in applying a strict or literal interpretation of this chapter and that any resulting modifications are the minimum necessary to allow the proposed sign. In all such cases, the Zoning Board of Appeals shall render its final decision within sixty (60) days after the public hearing, and it shall be the duty of the Zoning Board of Appeals to attach such conditions or restrictions to its decision as may be required to effect compliance with the spirit and intent of this chapter.

§ 100-6. Permit required; fees.

A. After approval of the design, size and location of any sign as aforesaid, no person shall erect any sign as defined herein without first obtaining a permit from the Building Inspector and payment of fees as set forth in the fee schedule in Subsection B of this section.

B. Fees.

(1) Before receiving a sign permit, the owner of the sign and/or the owner of the property or his agent shall pay the following fee:

(a) Larger than twelve (12) square feet: twenty-five dollars (\$25.).

(b) Less than twelve (12) square feet: ten dollars (\$10.).

(c) Temporary permit: five dollars (\$5.) plus like deposit to assure removal, which deposit is to be refunded when removal is found to be satisfactory.

(2) Such fees apply to all signs, even if shown on the original plans, and are in addition to any and all other fees provided for by the village.

§ 100-7. Issuance of permit.

It shall be the duty of the Building Inspector, upon the filing of the application for said permit, to examine all of the data submitted to him with the application and, if necessary, the building or premises upon which it is proposed to erect the sign or other advertising structure. If it shall appear that the proposed sign is in compliance with all of the requirements of this chapter and other laws of the Village of North Hornell and has been approved as to design, size and location by the Village Board or the Zoning Board of Appeals as provided for in § 100-5, the Building Inspector shall issue a permit for the erection of the proposed sign. If the sign authorized under any such permit has not been completed within six (6) months from the date of the issuance of such permit, the permit shall become null and void but may be renewed within ten (10) days from the expiration date; provided, however, that circumstances have not arisen in the intervening time period which would result in Village Board disapproval.

§ 100-8. Removal of signs.

- A. The Building Inspector shall notify the owner of any sign which no longer serves the purpose for which the permit was granted or which is unsafe, insecure or is a menace to public or which has been erected or installed in violation of this chapter or which is not maintained in accordance with this chapter, in writing, to remove or correct the unsatisfactory condition of said sign within thirty (30) days from the date of such notice.
- B. Upon the failure to comply with such notice within the prescribed time, the Building Inspector is hereby authorized to remove or cause the removal of such sign and shall charge all costs and expenses incurred in said removal to the owner of the sign and/or the owner of the land or building on which such sign is located.
- C. The Building Inspector may cause any sign which is a source of immediate peril to persons or property to be removed summarily upon written notice to that effect. Failure to comply within five (5) days of such notice will serve as an authorization to the Building Inspector to remove or cause the removal of such sign, with all costs and expenses charged as provided for above.

§ 100-9. Revocation of permit.

The Building Inspector may revoke any sign permit after inspection in the event that there is any false statement or misrepresentation as to a material fact in the application upon which the permit was based or if the sign is not erected in accordance with the permit.⁴

§ 100-10. Political signs.⁵

Temporary political signs announcing political candidates seeking public office, political parties and/or political and public issues contained on a ballot shall be subject to the following:

A. Number.

- (1) Private property. There shall not be more than one (1) temporary political sign for each building lot
- (2) Public right-of-way. There shall be no limit on the permitted number of temporary political signs displayed. However, the permittee of such signs to be located in the public right-of-way shall deposit with the Building Inspector the sum of fifty dollars (\$50.), as specified in Subsection E.

B. Area.

- (1) Private property. On private property, temporary political signs shall not exceed an aggregate gross surface area of twenty (20) square feet.
- (2) Public right-of-way. In the public right-of-way, each temporary political sign shall not exceed an aggregate gross surface area of two (2) square feet.

⁴Editor's Note: Former § 35-10, Preexisting and nonconforming signs, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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

C. Location.

- (1) Private property. On private property, temporary political signs may be located in any required yard.
- (2) Public right-of-way. Subject to the determination of the Building Inspector in accordance with public safety requirements, temporary political signs may be located in public rights-of-way but not across, over or extending onto the paved portion of any public roadway. Temporary political signs located in a public right-of-way shall not be located closer than three hundred (300) feet apart. Temporary political signs located in a public right-of-way shall be erected or installed in such a manner as to not interfere with or obstruct access, activity or vision along any such public right-of-way. Further, such signs shall not be attached to or placed on traffic signals, utility poles, trees or other similar vegetation.

D. Height. Temporary political signs shall not project higher than fifteen (15) feet as measured from the base of the sign or the grade of the nearest adjacent roadway, whichever is higher.

E. Special conditions.

- (1) Timing. Temporary political signs may be erected or maintained for a period not to exceed sixty (60) days prior to the date the primary or election to which such signs are applicable is scheduled to occur, and shall be removed within seven (7) days following such election.
- (2) Deposit. While no permit fee shall be required for temporary political signs, the permittee of such signs to be located in the public right-of-way shall deposit with the Building Inspector the sum of fifty dollars (\$50). Along with this deposit, a signed agreement stating that in the event that such temporary political signs are not removed within seven (7) days following the date of the election to which the signs are applicable, the moneys so deposited shall be used to reimburse the village for costs incurred by it in removing the signs.

§ 100-11. Applicability; construal.

This chapter is applicable within the Village of North Hornell and shall be construed as an exercise of the powers of such municipality to regulate, control and restrict the use of buildings, structures and land for outdoor advertising purposes, displays, signs and other advertising devices in order to promote the health, protection and preservation of the property of the municipality and its inhabitants for the benefit of trade and all matters related thereto.

§ 100-12. Penalties for offenses.

- A. In addition to the sanctions provided for in § 100-8, any person, firm or corporation committing an offense against any provision of this chapter or who constructs, maintains or erects any sign which is in violation of this chapter shall, for each and every day that said violation continues, be subject to a fine of not more than two hundred fifty dollars (\$250.) and/or imprisonment for a term not to exceed fifteen (15) days. Each and every day a violation of this chapter is committed or permitted to exist shall constitute a separate offense after notice to cease or remedy such violation.⁶

- B. Whenever the Mayor of the village shall certify that any sign is in violation of the provisions of this chapter, the Village Attorney is authorized to institute all action and proceedings, either legal or equitable that may be appropriate or necessary for the enforcement of the provisions of this chapter.

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

Chapter 104
SLAUGHTERHOUSES

§ 104-1. Prohibitions.

§ 104-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 10-11-65 as Ch. 37 of the 1965 Code. Section 104-2 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 104-1. Prohibitions.

It shall be unlawful for any person or persons to erect, keep or have within the limits of this village any slaughterhouse or place where animals are killed for market.

§ 104-2. Penalties for offenses.¹

Any person violating any provision of this chapter shall be subject to a fine not to exceed two hundred fifty dollars (\$250.) and/or imprisonment for a term not to exceed fifteen (15) days for each offense.

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

Chapter 108

SNOWMOBILES

- § 108-1. Intent.
- § 108-2. Compliance with statutory provisions.
- § 108-3. Definitions.
- § 108-4. Hours of operation.
- § 108-5. Operation on private property.
- § 108-6. Operation on public property.
- § 108-7. Emergencies.
- § 108-8. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 12-12-77 as L.L. No. 6-1977.¹ Sections 108-2 and 108-8 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 131.

§ 108-1. Intent.

The purpose of this chapter is to protect the public health, welfare and safety by regulating the operation of snowmobiles within the Village of North Hornell in a manner which will assure their proper and safe use and minimize any detrimental effects of such use on the environment.

¹ Editor's Note: The legislation was included in the 1965 Code as Ch. 6.

§ 108-2. Compliance with statutory provisions.²

The operation of all snowmobiles, except as herein provided, and the use of all terms, definitions and word usages shall be in accordance with Article 21 and 25 of the New York State Parks, Recreation and Historic Preservation Law.

§ 108-3. Definitions.

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

VILLAGE — The Village of North Hornell.

§ 108-4. Hours of operation.

No person shall be allowed to operate a snowmobile between the hours of 10:00 p.m. and 8:00 a.m. within the village limits.

§ 108-5. Operation on private property.

No snowmobile shall be operated on private property other than land owned by the operator or his immediate family unless written consent for such operation is given by the owner of such property.

§ 108-6. Operation on public property.

Operation of snowmobiles on public property within the village limits is strictly prohibited during any and all hours. This includes sidewalks, school grounds, park grounds and all village streets.

§ 108-7. Emergencies.

In an emergency when travel by motor vehicles because of snow is impossible and such emergency has been publicly declared by the Village Mayor or the Village Board, then the operation of snowmobiles shall be permitted to serve the immediate needs of the public. Such use shall be in full accordance with the New York State Snowmobile Law.

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

§ 108-8. Penalties for offenses.³

Any person violating any of the provisions of this chapter shall be punished, upon conviction, by a fine not exceeding one hundred dollars (\$100.) or imprisonment for a term not exceeding fifteen (15) days, or both, for each violation. Each day that a violation or failure to comply with any provision of this enactment or any regulation promulgated hereunder by the Board of Trustees occurs shall constitute a separate and distinct offense.

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

Chapter 113

STREETS AND SIDEWALKS

ARTICLE I

General Provisions

- § 113-1. Moving of buildings.**
- § 113-2. Gates.**
- § 113-3. Display of wares.**
- § 113-4. Poles and wires.**
- § 113-5. Garbage, rubbish and refuse.**
- § 113-6. Sidewalk construction and repair.**
- § 113-7. Driveways.**
- § 113-8. Signs.**
- § 113-9. Encroachments.**
- § 113-10. Posts, blocks and other monuments.**
- § 113-11. Building materials in streets.**
- § 113-12. Street excavations.**
- § 113-13. Injuries to pavement.**
- § 113-14. Restoration of conditions.**
- § 113-15. Guarding excavations.**
- § 113-16. Interference.**
- § 113-17. Cellarways.**
- § 113-18. Numbering of buildings.**
- § 113-19. Surface water.**
- § 113-20. Penalties for offenses.**

ARTICLE II

Snow and Ice Removal

§ 113-21. Duty to remove.

§ 113-22. Penalties for offenses.

§ 113-23. Performance of work by village.

ARTICLE III

Notification of Defects

§ 113-24. Prior notice required.

§ 113-25. Records.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell: Art. I, 10-11-65 as Ch. 42 of the 1965 Code, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I); Art. II, 10-11-65 as Ch. 40 of the 1965 Code; Art. III, 9-9-85 as L.L. No. 3-1985. Sections 113-22 and 113-23A amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Fence and hedges — See Ch. 46.

Garbage, rubbish and refuse — See Ch. 62.

Peddling and soliciting — See Ch. 80.

Signs — See Ch. 100.

ARTICLE I

General Provisions

[Adopted 10-11-65 as Ch. 42 of the 1965 Code; amended in its entirety at time of adoption of Code¹]

§ 113-1. Moving of buildings.

No person shall move or cause to be moved a building into, across or along any street without the permission of the Board of Trustees.

§ 113-2. Gates.

No gate shall hereafter be made or hung so as to open and swing over any sidewalk, nor shall any such gate heretofore made or hung be allowed to stand open over any sidewalk.

§ 113-3. Display of wares.

No person shall, without the permission of the Board of Trustees, erect or establish in or within any street or public ground any booth or stand for the purpose of selling or exposing for sale any goods, wares or merchandise.

§ 113-4. Poles and wires.

No person or persons, firm, corporation or association shall hereafter string or set any telegraph, telephone or other wire or wires or place or set any poles for the stringing of the same unless such person or persons, firm, corporation or association shall first obtain a permit so to do from the Board of Trustees.

§ 113-5. Garbage, rubbish and refuse.

No person shall place or cause to be placed, throw or cause to be thrown, deposit or cause to be deposited any ashes, dirt, grass, stone or other rubbish or other refuse in or upon any street or any part thereof or fill up or obstruct any gutter.

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

§ 113-6. Sidewalk construction and repair.

- A. The Board of Trustees may require the construction and repair of sidewalks upon any public street wholly at the expense of the owner or occupants of the adjoining land and may prescribe the manner of doing such work and the kind of materials to be used therein, and in such case, notice specifying the place, the manner and the time, not less than ten (10) days in the case of a new walk or not less than twenty- four (24) hours in the case of repairs, within which the sidewalk is required to be constructed or repaired shall be served upon such owner or occupants.

- B. If any owner or occupant shall not construct or repair the sidewalk as required by the notice, the Board of Trustees may cause the same to be so constructed or repaired and assess the expense thereof upon the adjoining land, and the same shall be collected in the same manner and at the same time as other village taxes.

- C. No sidewalk shall hereafter be constructed in any public street except under the direction and approval of the Board of Trustees, nor shall any sidewalk hereafter be constructed in any public street other than of concrete, brick or stone without permission of the Board of Trustees.

- D. Any person intending to construct any sidewalk shall first, and at least twenty- four (24) hours before so doing, give notice to the village, stating the location and kind of material to be used.

§ 113-7. Driveways.

- A. No dirt, plank, sluice pipe or other material shall be placed in or over any gutter of any street for the purpose of a driveway or an approach to or from any yard or lot without first obtaining permission and except under the direction of the Board of Trustees.

- B. The Board of Trustees may at any time cause the owner to remove or repair any such approach or may remove the same.

§ 113-8. Signs.

No person or occupant of any building shall put up or place, or suffer to remain when so placed, any sign so that the same shall project into, over or across any street or sidewalk.

§ 113-9. Encroachments.

- A. Building encroachments. No person shall erect or cause to be erected any building, plaza, steps, fence or other structure so as to encroach upon any street, lane, alley or public place.

- B. Fence encroachments. Any fence, building or other structure which shall encroach in whole or in part upon any of the streets, alleys, lanes or public grounds in said village is hereby declared a nuisance, and upon previous notice in writing, in ten (10) days, to the owner thereof by the Board of Trustees, he shall remove or abate the same, and all the expenses thereof shall be charged against the person or property of anyone so offending.

§ 113-10. Posts, blocks and other monuments.

- A. No person shall place or cause to be placed any pole, post, lamppost, water fountain or other similar objects in or upon any street without first obtaining a permit so to do and the location of same from the Board of Trustees.

- B. Nothing in this section shall be construed to prevent the Trustees from causing the change of location or the removal of such materials.

§ 113-11. Building materials in streets.

- A. No person shall place or cause to be placed, or suffer to remain when so placed, any stones, brick, lumber or other materials for building in or upon any street or public place without permission of the Board of Trustees.

- B. In case such permission is given, the materials must be so placed as not to prevent travel on more than one-third (1/3) of the width of the street or roadway and must be placed on the side of the street nearest to the building where the same are to be used and must be so placed as not to obstruct the gutter; and during every night such materials shall so remain, the persons placing them or causing them to be so placed shall keep a lamp or lamps continually lighted near such material so as to clearly and distinctly cast light upon both ends of the pile nearest the center of the street. The Board of Trustees, by a majority vote, may revoke such permission.

§ 113-12. Street excavations.

- A. Any person who shall take up any sidewalk or pavement or dig up any street or make any excavation therein shall, before doing such work, serve or cause to be served upon the Board of Trustees a written notice of the time when and the place where such work is to be done.
- B. A written notice shall be personally served upon said Board of Trustees at least twenty-four (24) hours before said time, and such work shall be done only under the supervision of the Board of Trustees, and when finished, such sidewalk, pavement or street shall be left in as good condition as before such work was done.

§ 113-13. Injuries to pavement.

- A. Any person who shall intentionally injure any pavement, sidewalk, sewer, catch basin, crosswalk, drain, gutter or any part thereof, or who shall, without permission of the proper authorities, dig or make or cause to be dug or made any hole or excavation in any sidewalk or street, or who shall unlawfully hinder or obstruct any person employed by said village in constructing any public work shall be in violation of this chapter.
- B. The permission hereinbefore referred to, when the same shall not have been refused by the proper authorities, may be granted by the Board of Trustees.

§ 113-14. Restoration of conditions.

Whenever any excavation shall be made in any street by any person whomsoever and the street where such excavation shall be made shall be left in a condition deemed by the Board of Trustees not so substantial or permanent as before such excavation, the Board of Trustees may cause a written notice to be served upon the offending party, requiring such party within a time specified in such notice to restore that portion of the street made defective by him to its former good circumstances or perfect condition.

§ 113-15. Guarding excavations.

- A. All persons making or having charge of any excavation in any street, during the whole of every night such excavation shall remain open and uncovered, shall fence in the same and cause lighted lamps or lanterns to be placed and kept so as to cast their light thereon so as to properly warn all persons of such excavation.

- B. Any person who shall have charge of the construction of any culvert, sewer, vault or cistern, well or cellar entrance in any street, lane or alley in said village, and those employed by him, shall, during the whole of every night while such culvert, sewer, vault or cistern, well or cellar entrance shall remain open and exposed, cause the same to be securely fenced in and cause a lighted lamp or a lantern to be so placed and kept that the light therefrom shall be cast upon such culvert, sewer, vault or cistern, well or cellar entrance.

§ 113-16. Interference.

No person shall alter, change or in any manner interfere with the gutters, curbs, sidewalks or streets without the consent of the Board of Trustees.

§ 113-17. Cellarways.

No person or persons, firm or corporation shall build, construct or maintain any cellarway or waterway opening into the sidewalk of street without the consent of the Board of Trustees, and all persons having stairways or cellarways projecting or opening into the sidewalk or street shall guard the same within a suitable and sufficient fence to be approved by the Board of Trustees.

§ 113-18. Numbering of buildings.

All buildings on the streets of the village must be plainly numbered with the numbers assigned respectively by the Board of Trustees.

§ 113-19. Surface water.

No person shall conduct or allow to be conducted from any building owned by him, through any pipe, gutter, trough, spout or otherwise, any water upon any sidewalk, nor shall such water be conducted across any sidewalk unless the same shall be made to run in a pipe or covered groove below the walk; nor shall any roof or eaves project over any sidewalk unless there shall be an eaves trough so placed under the same as to prevent the water from falling on the walk.

§ 113-20. Penalties for offenses.

Any person who violates any provision of this Article shall, upon conviction thereof, be subject to a fine not to exceed two hundred fifty dollars (\$250.) and/or imprisonment for a term not to exceed fifteen (15) days.

ARTICLE II

Snow and Ice Removal

[Adopted 10-11-65 as Ch. 40 of the 1965 Code]

§ 113-21. Duty to remove.

Every owner or the person in charge of any house, building, church or public ground shall keep the sidewalk in front of the same clear and free from obstruction and shall clear such sidewalk of snow and ice in the forenoon each day after the same shall be accumulated thereon.

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STREETS AND SIDEWALKS

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§ 113-22. Penalties for offenses. ²

Any person violating any of the provisions of this Article shall, upon conviction thereof, be subject to a fine not to exceed two hundred fifty dollars (\$250.) and/or imprisonment for a term not to exceed fifteen (15) days.

§ 113-23. Performance of work by village.

- A. In case the snow and ice above mentioned shall not be removed as herein provided, it shall be the duty of the Board of Trustees to cause such accumulated snow or ice to be removed.³

- B. The Village Clerk shall enter a statement of the expense of the work performed, which statement shall contain a recital of the place or location and a description of the lot, land or building; the name of the owner, if the name shall be known to him; also the name of the occupants or persons having charge thereof, which account or statement is to be verified by the Board of Trustees to the effect that it believes it to be true. Such statement or the substance thereof shall be enacted in the minutes of the Board of Trustees, and the amount of such expense shall be therein stated to be a lien or charge upon the lot, land or building so described, and the same shall be assessed upon the owner of the property and added to the amount of the next annual village tax.

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

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

Notification of Defects
[Adopted 9-9-85 as L.L. No. 3-1985]

§ 113-24. Prior notice required.

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

§ 113-25. Records.

The Village Clerk shall keep an index record, in a separate book, of all written notices which the village shall receive of the existence of such defective, unsafe, dangerous or obstructed condition or of such snow or ice, which records shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person by whom the notice is received.

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- § 116-1. **Terms and definitions.**
- § 116-2. **Subdivision policy.**

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- § 116-3. **Subdivision procedure.**
- § 116-4. **Sketch plan.**
- § 116-5. **Minor subdivisions.**
- § 116-6. **Preliminary plat for major subdivisions.**
- § 116-7. **Subdivision plat for major subdivisions.**

ARTICLE III
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- § 116-8. **Improvements and performance bond.**
- § 116-9. **Modification of design of improvements.**
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- § 116-12. **Final approval and filing.**

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Modification of Zoning Regulations

- § 116-16. **Authorization.**
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Flow Chart for Subdivision Review Process

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 11-13-89 as L.L. No. 5-1989.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 113.

Zoning — See Ch. 140.

¹ Editor's Note: This local law superseded former Ch. 116, Subdivision of Land, adopted 7-10-67, as amended.

ARTICLE I
General Provisions

§ 116-1. Terms and definitions.

- A. Terms. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future tense, and the singular includes the plural; the word “lot” includes the words “plot” and “parcel”; the word “building” includes the word “structure”; the word “shall” is intended to be mandatory.

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

BUILDING — Any structure which is permanently affixed to the land, has one (1) or more floors and roof and is intended for the shelter, housing or enclosure of persons or chattel.

CLERK OF THE PLANNING BOARD — That person who shall be designated to perform the duties of the Clerk of the Planning Board for all purposes of these regulations or, if none, the Village Clerk.

CLUSTER DEVELOPMENT — A development of residential lots, each containing less than the minimum lot area required for the zone within which such development occurs, but maintaining the overall density limitations imposed by said minimum lot area through the provision of open space as part of the subdivision plan.

COLLECTOR STREET — A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

COMMUNITY — The Village of North Hornell.

DEAD-END STREET or CUL-DE-SAC — A street or portion of a street with only one (1) vehicular traffic outlet.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to construction or altering of buildings or other

structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance to farm roads.

DWELLING — Any building or portion thereof designed to be used as a residence or sleeping place of one (1) or more persons.

- (1) SINGLE-FAMILY — A detached residential dwelling unit designed for and occupied by one (1) family only.
- (2) TWO-FAMILY — A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.
- (3) MULTIPLE-FAMILY — A residential building designed for or occupied by three (3) or more families with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING UNIT — One (1) room or rooms connected together constituting a separate, independent housekeeping establishment containing independent bathing, cooking and sleeping facilities and physically separated from any other rooms or dwelling units which may be in the same structure.

EASEMENT — Authorization by a property owner for the use by another, and for a specific purpose, of any designated part of his property.

HEALTH AUTHORITY — A legally designated health authority or his authorized representative of the Village of North Hornell.

INTERNAL STREET — A private way which affords principal means of access to abutting individual lots and community service buildings.

LOADING SPACE, OFF-STREET PARKING — Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled.

LOT — A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces are herein required. Such “lot” shall front on any approved public highway and may consist of:

- (1) A single lot of record.
- (2) A portion of a lot of record.
- (3) A combination of complete lots of record, of complete lots of record and portions of lots of record or of portions of lots of record.
- (4) A parcel of land described in metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of these regulations.

LOT, CORNER — A parcel of land at the junction of and fronting on two (2) intersecting streets.

LOT, FRONTAGE — The front of a lot shall be construed to be the portion nearest the highway. For the purposes of determining yard requirements on corner lots and through lots, all sides of the lot adjacent to highways shall be considered frontage, and yards shall be provided as indicated under “yards” in these regulations.

LOT OF RECORD — The distance between the two (2) side lot lines measured at the required setback line.

LOT WIDTH — The distance between the two (2) side lot lines measured at the required setback line.

MAJOR STREET — A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

MAJOR SUBDIVISION — Any subdivision not classified as a minor subdivision, including, but not limited to, subdivisions of five (5) or more lots or any size subdivision requiring any new street or the extension of municipal facilities.

MINOR STREET — A street intended to serve primarily as an access to abutting properties.

MINOR SUBDIVISION — Any subdivision containing not more than four (4) lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Master Plan or Zoning Ordinance, if such exists, or these regulations.

MUNICIPAL PARKS — Parks and playgrounds established and operated by the Village of North Hornell.

PARK — A municipal park or private outdoor recreation area, existing or proposed.

PERSON — Includes any individual or group of individuals, corporation, partnership, association or any other organized group of persons.

PLANNED UNIT DEVELOPMENT — An area of land, in which a variety of housing types and/or related commercial and industrial facilities are accommodated in a preplanned environment under more flexible standards than would normally apply under these regulations, the approval of which involves requirements in addition to those of the standard subdivision, such as building design and landscaping.

PLANNING BOARD or BOARD — The Planning Board of the Village of North Hornell.

PRELIMINARY PLAT — A drawing or drawings clearly marked “preliminary plat,” showing the layout of a proposed subdivision, as specified in § 116-34 of these regulations, submitted to the Planning Board for approval prior to submission of the plat in final form, and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

SETBACK — The minimum allowable distance from the street line or a lot line to the part of the structure nearest the line, measured at right angles to the line, not including cornices, or open piazzas, porches or entrance steps.

SIDE YARD — An open unobstructed space on the same lot with a building, between the building and the side line of the lot, extending from the front setback to the rear yard.

SKETCH PLAN — A sketch of a proposed subdivision showing the information specified in Article I, § 116-4 of these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objective of these regulations.

SPECIAL PERMIT USE — A use which, because of its unique characteristics, requires individual consideration in each case by the Planning Board before a permit therefor may be issued.

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

STREET — Includes streets, roads, avenues, lanes or other traffic ways between right-of-way lines.

STREET PAVEMENT — The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH — The width of the right-of-way, measured at right angles to the center line of the street.

STRUCTURE — Includes anything constructed, erected or placed, the use of which requires temporary or permanent location or support of the soil or in the soil, and which is attached to anything on the soil.

SUBDIVIDER — Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

SUBDIVISION — The division of any parcel of land into two (2) or more lots, plots, sites or other divisions of land for immediate or future sales or for building development in such a way as to create one (1) or more new streets.

SUBDIVISION PLAT — A drawing, in final form, showing a proposed subdivision containing all information or details required by law and by these regulations, to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk or Register.

SURVEYOR — A person licensed as a land surveyor by the State of New York.

§ 116-2. Subdivision policy.

- A. It is declared to be the policy of the Village of North Hornell to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the village.
- B. This means, among other things:
 - (1) That land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
 - (2) That proper provision shall be made for drainage, water supply, sewage and other needed improvements.
 - (3) That all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties.
 - (4) That the proposed streets shall compose a convenient system conforming to the Official Map, if such exists; and shall be properly related to the proposals shown on the concept plan; and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire fighting equipment to buildings.
 - (5) That proper provision shall be made for open spaces for parks and playgrounds.

- C. Pursuant to such policies, the development of land subdivisions in the Village of North Hornell shall be in accordance with the following procedures, standards and requirements.

ARTICLE II

Procedures and Requirements

§ 116-3. Subdivision procedure.

Whenever any subdivision of land is proposed to be made and before any contract for the sale of, or any offer to sell, any lots in such subdivision or any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply, in writing, for approval of such proposed subdivision in accordance with the following procedures.

§ 116-4. Sketch plan.

- A. Submission of sketch plan. Any owner of land shall, prior to subdividing or resubdividing land, submit to the Secretary of the Planning Board, at least ten (10) days prior to a regular meeting of the Board, two (2) copies of a sketch plan of the proposed subdivision, which shall comply with the requirements of § 116-32, for the purposes of classification and preliminary discussion.

- B. Discussion of requirements and classification.
 - (1) The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.

 - (2) Classification of the sketch plan is to be made at this time by the Planning Board as to whether it is a minor subdivision or major subdivision as defined in these regulations. The Board may require, however, when it deems it necessary for protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major

subdivisions. If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined below in § 116-5 of

this Article. If it is classified as a major subdivision, the subdivider shall then comply with procedures outlined below in §§ 116-6 and 116-7.

- C. Study of sketch plan. The Planning Board shall determine whether the sketch plan meets the purposes of these regulations and shall, where it deems it necessary, make specific recommendations, in writing, to be incorporated by the applicant in the next submission to the Planning Board.

§ 116-5. Minor subdivisions.

A. Application and fee.

- (1) Within six (6) months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plat. Failure to do so shall require resubmission of the sketch plan to the Planning Board for reclassification. The plat shall conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in § 116-33.

- (2) All applications for plat approval for minor subdivision shall be accompanied by a fee of two dollars (\$2.).

- (3) Five (5) copies of the application for subdivision plat approval shall be presented to the Chairman of the Planning Board.

- B. When officially submitted. The time of submission of the subdivision plat shall be considered to be the date of a regularly scheduled meeting of the Planning Board, at least ten (10) days prior to which the application for plat approval, complete and accompanied by the required fee and all data required by § 116-33 of these regulations, has been filed with the Chairman of the Planning Board.

- C. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to review the subdivision plat. Otherwise, no action will be taken.
- D. Public hearing. A public hearing shall be held by the Planning Board following the submission of the subdivision plat for approval. Said hearing shall be advertised in a newspaper of general circulation in the town at least five (5) days before such hearing.
- E. Action on subdivision plat.
- (1) Decision. The Planning Board shall, within sixty (60) days from the date of submission, act to conditionally approve, conditionally approve with modification, disapprove or grant final approval and authorize the signing of the subdivision plat. Failure of the Planning Board to act within such time shall constitute approval of the plat, and the Village Clerk shall, on demand, issue a certificate to that effect, which shall constitute valid evidence of approval in lieu of the Planning Board's endorsement thereof.
 - (2) Conditional approval. Upon granting conditional approval with or without modification to the plat, the Planning Board shall empower a duly authorized officer to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. The plat shall be certified by the Chairman of the Planning Board as conditionally approved, a copy shall be filed in his office and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat.
 - (3) Final approval. Upon completion of such requirements, the plat shall be signed by the duly designated officer of the Planning Board. Conditional approval of a plat shall expire ninety (90) days after the date of the resolution granting such approval, unless the requirements have been certified as completed within that time and the plat recorded in the Office of the County Clerk. By mutual agreement, however, such time may be extended for not more than two (2) additional periods of ninety (90) days each.

§ 116-6 Preliminary plat for major subdivisions.

A. Application and fee.

- (1) Prior to filing an application for approval of a major subdivision plat, the subdivider shall file an application for approval of a preliminary plat of the proposed subdivision. Such preliminary plat shall, in all respects, comply with § 116-34 of these regulations, except a waiver may be specifically authorized by the Planning Board.
- (2) The application for conditional approval of the preliminary plat shall include a fee of two dollars (\$2), plus one dollar (\$1) per lot for each lot in the propose subdivision.
- (3) Five (5) copies of the application and the preliminary plat shall be presented to the Chairman of the Planning Board at the time of submission.

B. When officially submitted. The time of submission of a preliminary plat shall be considered to be the date of a regular Planning Board meeting, at least ten (10) days prior to which the application for conditional approval, complete in all respects, shall have been filed with the Chairman of the Planning Board.

C. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to review the preliminary plat. Otherwise, no action will be taken.

D. Study of preliminary plat. The Planning Board shall study the practicability of the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their, relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the

future development of adjoining lands as yet unsubdivided and the requirements of the Zoning Regulations, Articles III, V, and VII herein, the planning studies and the Official Map, if such exists.

E. Conditional approval of preliminary plat.

- (1) Within sixty (60) days after receipt of a preliminary plat by the Chairman of the Planning Board, the Planning Board shall conditionally approve, with or without modification, or disapprove such preliminary plat, and the ground of a modification, if any, or the ground for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within said sixty-day period shall constitute conditional approval of such preliminary plat.
- (2) When granting conditional approval to a preliminary plat, the Planning Board shall state the terms of such approval, if any, with respect to:
 - (a) The modification to the preliminary plat.
 - (b) The character and extent of the required improvements for which, in its opinion, may be waived without jeopardy to the public health, safety, morals and general welfare.
 - (c) The amount of improvement or the amount of all bonds therefor which it will require as prerequisite to the approval of the subdivision plat.
- (3) Approval of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed as expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations.

- (4) Prior to approval of the subdivision plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

§ 116-7. Subdivision plat for major subdivisions.

A. Application and fee.

- (1) The subdivider shall, within six (6) months after the conditional approval of the preliminary plat, file with the Planning Board an application for approval of the subdivision plat in final form, using an application blank on forms provided by the Chairman of the Planning Board, and otherwise complying with the requirements of § 116-35. If the final plat is not submitted within six (6) months after approval of the preliminary plat, the Planning Board may refuse to approve the final plat and require resubmission of the Preliminary Plat.
- (2) All applications for plat approval for major subdivisions shall include a fee of two dollars (\$2.) per lot.
- (3) A subdivider submitting a proposed subdivision plat for the approval of the Planning Board shall provide the Board with a copy of the application and three (3) copies [one (1) copy in ink on linen or Mylar, or an acceptable equal] of the plat, the original and one (1) true copy of all offers of cession, covenants and agreements and two (2) prints of all construction drawings.

- B. When officially submitted. The time of submission of the subdivision plat shall be considered to be the date of a regular meeting of the Planning Board, at least ten (10) days prior to which the application for subdivision plat approval, complete in all respects, shall have been filed with the Chairman of the Planning Board.

- C. Endorsement of state and county agencies. Water and sewer facility proposals shown on the subdivision plat shall be properly endorsed and approved by the New York State Department of Health, and certification thereof shall be secured by the subdivider before official submission of the subdivision plat. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary village and state agencies.
- D. Public hearing. Upon receiving an application for subdivision plat approval, the Planning Board shall hold a public hearing thereon. This hearing shall be advertised at least once in a newspaper of general circulation in the village at least five (5) days before such hearing.
- E. Action on proposed subdivision plat.
- (1) Within sixty (60) days after receiving an application for subdivision plat approval, the Planning Board shall, by resolution, approve, modify and approve or disapprove the plat. Failure to take action on a final plat within such time shall be deemed approval of the plat, and a certificate thereof shall be issued, on demand, by the Village Clerk and shall be sufficient evidence of such approval, in lieu of any written endorsement.
 - (2) In the resolution approving such plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution, and a certified copy thereof mailed to the subdivider. The copy mailed to the subdivider shall include a statement of such requirements which, when completed, will authorize the signing and final approval of the plat. Upon completion of such requirements, the plat shall be endorsed and signed by said duly authorized officer of the Planning Board.
 - (3) Final plat approval shall expire ninety (90) days after the date of the resolution granting such approval or of the issuance of a certificate in lieu thereof, unless the plat shall have been duly filed or recorded in the Office of the County Clerk. The Planning Board may, however, extend the time within which an approved plat may be filed and recorded if, in its opinion, such extension is warranted in the circumstances, for not to exceed two (2) additional periods of ninety (90) days each.

Required Improvements

§ 116-8. Improvements and performance bond.

- A. Before the Planning Board grants final approval of the subdivision plat, the subdivider shall follow the procedure set forth in either Subsection A(1) or (2) below.
- (1) In the amount set by the Planning Board, the subdivider shall either file with the Village Clerk a certified check to cover the full cost of any required improvements or the subdivider shall file with the Village Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of § 7-730 of the Village Law and, further, shall be satisfactory to the Village Board and Village Attorney as to form, sufficiency, manner of execution and surety. A period of one (1) year [or such other period as the Planning Board may determine appropriate, not to exceed three (3) years] shall be set forth in the bond within which required improvements must be completed.
- (2) The subdivider shall complete all required improvements to the satisfaction of the Planning Board. For any required improvements not so completed, the subdivider shall file with the Village Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvements not approved by the Planning Board. Any such bond shall be satisfactory to the Village Board and Village Attorney as to form, sufficiency, manner of execution and surety.
- B. The required improvements shall not be considered to be completed until the installation of the improvements has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to Subsection A(2), then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond or certified check for all required improvements as specified in Subsection A(1), such bond shall not be released until such map is submitted.

§ 116-9. Modification of design of improvements.

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Chairman of the Planning Board that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Chairman of the Planning Board may authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Chairman of the Planning Board shall issue any such authorization, in writing, and shall transmit a copy thereof to the Planning Board at its next regular meeting.

§ 116-10. Inspection of improvements.

At least five (5) days prior to commencing construction of required improvements, the subdivider shall pay to the Village Clerk an inspection fee, as required by the Village Board, and shall notify the Village Board, in writing, of the time when he proposes to commence construction of such improvements. The Village Board may cause inspection to be made at appropriate times to determine whether all village specifications and the Planning Board's requirements shall have been met during construction of such required improvements.

§ 116-11. Proper installation of improvements.

If the Planning Board shall be advised, as a result of such inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider and, if necessary, the bonding company does not, and take all necessary steps to preserve the village's rights under the bond. No plat shall be approved by the Planning Board as long as the sub-divider is in default on a previously approved plat within the village limits.

ARTICLE IV

Filing of Approved Subdivision Plats

§ 116-12. Final approval and filing.

Upon completion of the requirements in § 116-5 or 116-7 above, and notation to that effect upon the subdivision plat, it shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Planning Board. Thereupon, the plat may be filed by the applicant in the office of the County Clerk. Any subdivision plat not so filed or recorded within ninety (90) days of the date upon which such plat was approved (or was considered approved and so certified, for reasons of the failure of the Planning Board to act), shall become null and void, except that the Planning Board may extend such period for filing by not more than two (2) additional periods of ninety (90) days each. [See § 116-5E(3) and 116-7E(3).]

§ 116-13. Plat void if revised after approval.

No changes, erasures, modifications or revisions shall be made in any such subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the said plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

ARTICLE V

Public Streets and Recreation Areas

§ 116-14. Public acceptance of streets.

The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the village of any street, easement or other open space shown on such subdivision plat, and the endorsement of approval shall so state.

§ 116-15. Ownership and maintenance of recreation areas.

When a park, playground or other recreation area shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the village of such area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Village Board covering future deed and title, dedication and provisions for cost of grading, development, equipment and maintenance of any such recreation area.

ARTICLE VI

Modification of Zoning Regulations

§ 116-16. Authorization.

The Planning Board is hereby empowered to modify applicable provisions of Chapter 140, Zoning, as authorized by § 7-738 of the Village Law, for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic use of streets and utilities and to preserve the natural and scenic qualities of open land. The following procedure and standards are established to accomplish these purposes.

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§ 116-17

SUBDIVISION OF LAND

§ 116-20

§ 116-17. Request by subdivider.

A subdivider may submit a written request for the use of procedures authorized by Village Law § 7-738. Such request shall be submitted simultaneously with or subsequent to presentation of the sketch plan as described in § 116-4 of this chapter. Any such submission subsequent to conditional approval of a preliminary plat shall require a reapplication for sketch plan review.

§ 116-18. Sketch plan.

The subdivider shall present, as appropriate, a sketch plan reflecting his proposal for zoning modifications in accordance with the provisions of Village Law § 7-738. He shall also present a standard sketch plan which is consistent with all the criteria established by these Subdivision Regulations, including, but not limited to, streets being consistent with the provisions of Articles II and III above.

§ 116-19. Conditions.

- A. Plats embodying such modification of village zoning regulations shall be proposed only for property within areas zoned R.
- B. Any such plat shall provide for development of no greater number of dwellings than could be developed in a standard subdivision of the property in full compliance with Articles I through V above.
- C. Any such plat may provide for development of any desired combination of single-family, two-family and multifamily dwellings.

§ 116-20. Plat submission.

Upon determination that such sketch plan is suitable for these procedures for zoning modification, the Planning Board may, by resolution, approve such sketch plan subject to appropriate requirements in support of the policies set forth in § 116-2 above. Thereafter, a preliminary plat meeting all of the requirements of the resolution shall be presented to the Planning Board, and the Planning Board shall proceed with all other procedural requirements of these regulations.

§ 116-21. Hearing.

The site plan for each plat, showing size, character and location of buildings; landscaping; parking areas, drives and streets; and other physical features of such proposed plat, together with a specification of proposed zoning modifications, shall be subject to the public hearing provided for in § 116-5 or 116-7 of this chapter.

§ 116-22. Park, recreation, open space or other municipal purposes.

If the application of these procedures for zoning modification results in a plat showing land available for park, recreation, open space or other municipal purposes directly related to the plat, then conditions as to ownership, use and maintenance of such lands as are necessary to assure the preservation of such lands for their intended purposes shall be set forth by the Planning Board. Such conditions shall be approved by the Village Board of Trustees before such plat shall be finally approved by the Planning Board.

§ 116-23. Filing; notation on Zoning Map.

On the filing of a plat approved pursuant to this Article in the office of the County Clerk, the subdivider shall file a certified copy thereof with the Village Clerk, who shall make appropriate notations and reference thereto in the Village Zoning Map and shall notify the Zoning Officer thereof.

ARTICLE VII

General Requirements and Design Standards

§ 116-24. General provisions.

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth below. Said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article IX herein.

§ 116-25. General requirements for subdivision of land.

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other natural hazard.
- B. Conformity to Official Map and Comprehensive Plan. Subdivision shall conform to the Official Map of the village and shall be in harmony with the Comprehensive Plan.
- C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to village specifications, which may be obtained from the Village Zoning Officer or Village Clerk.

§ 116-26. Street layout.

- A. Width, location and construction. Streets shall be of sufficient width, suitably located and adequately constructed to conform to the Comprehensive Plan, or otherwise, to accommodate the prospective traffic and afford access for fire-fighting, snow-removal and other emergency and road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.
- B. Arrangement.
 - (1) The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions and for proper

projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services, such as water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, these requirements may be modified.

- (2) Minor streets shall be so laid out that their use by through traffic will be discouraged.
 - (3) When a subdivision abuts or contains an existing or proposed major arterial street, the Board may require marginal access streets, reverse frontage with screen planting without any access provided along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- C. Provision for future resubdivision. When a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations.
- D. Dead-end streets or culs-de-sac. The creation of dead-end, cul-de-sac or loop residential streets will be discouraged. In the case of dead-end streets, where needed or desirable, and permitted, the Board may require the reservation of a twenty-foot wide easement to provide for continuation of pedestrian traffic and utilities to the next street. In general, subdivision streets serving twenty (20) lots or more shall have at least two (2) connections with existing public streets or streets shown on the Official Map or streets on an approved subdivision plat for which a bond has been filed. See also § 116-27 below for further standards.

E. Block size. Blocks generally shall not be less than four hundred (400) feet nor more than one thousand two hundred (1,200) feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding eight hundred (800) feet in length, the Planning Board may require the reservation of a twenty-foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic, where needed or desirable, and may further specify, at its discretion, that a four-foot wide paved footpath be included.

F. Intersections.

(1) Minor or secondary street openings into such roads shall, in general, be at least five hundred (500) feet apart.

(2) Street jogs with center-line offsets of less than one hundred twenty-five (125) feet shall be avoided.

(3) In general, streets shall join one another in such a way that for a distance of at least one hundred (100) feet the streets are approximately at right angles.

G. Relation to topography. The street plan of a proposed subdivision shall bear a reasonable relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of street shall conform as closely as possible to the original topography.

H. Other required streets.

(1) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts).

(2) Such requirements shall also be determined with due regard for the requirements of approach grades and future grade separations.

§ 116-27. Street design.

A. Improvements. Streets shall be graded and improved with pavements, curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, streetlights and signs, street trees, fire hydrants, except where waivers may be requested, and the Village Planning Board may waive, subject to appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements shall be improved as required by the Village Planning Board. Such grading and improvements shall be approved as to design and specifications by the Village Planning Board.

(1) Fire hydrants. Installation of fire hydrants shall be in conformity with all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York or those of the village as specified by the Planning Board.

(2) Streetlighting facilities. Lighting facilities shall be in conformance with the lighting system of the village. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the Village Zoning Officer.

B. Street widths.

(1) Streets shall have the following widths.

Type	Minimum Right-of-way (feet)	Minimum Pavement (feet)
Major street	66	24
Minor collector street	60	22
Local street	50	22

(2) When not indicated on the village plan or Official Map, the classification of streets shall be determined by the Planning Board.

- (3) Where dead-end streets are specially permitted and are designed to be so permanently, they should, in general, not exceed five hundred (500) feet in length, and shall terminate in a circular turnaround having a minimum right-of-way radius of seventy-five (75) feet and pavement radius of fifty (50) feet. At the end of a temporary dead- end street, a temporary turnaround with a pavement radius of fifty (50) shall be provided, unless the Planning Board approves an alternate arrangement.

C. Utilities.

- (1) The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and the street line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.
- (2) Where topography is such as to make impractical the inclusion of utilities within the street rights-of-way, perpetual unobstructed easements at least twenty (20) feet in width shall be otherwise provided with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and shall be cleared and graded where required.

D. Street grades and curves.

- (1) Percentage grades of all streets shall conform in general to the terrain, not more than six percent (6%) for major or collector streets, or ten percent (10%) for minor streets in residential zones, but in no case more than three percent (3%) within fifty (50) feet of any intersection.
- (2) All changes in grades shall be connected by vertical curves of such length and radius as meet with the approval of the Village Planning Board, in accordance with specifications and standards established by the Village Superintendent of Streets. A combination of steep grades and horizontal curves shall be avoided.

- (3) All street right-of-way lines at intersections shall be rounded by curves of at least twenty (20) feet in radius, and the curbs shall be adjusted accordingly.
 - (4) In order to provide visibility for traffic safety, that portion of any corner lot [whether at an intersection of two (2) new streets entirely within the subdivision or of a new street with an existing street] which is within the triangular area formed by the intersecting street lines and a diagonal line connecting two (2) points on such street lines fifty (50) feet from the intersection, shall be cleared and seeded with grass. If directed by the Planning Board, such area shall be graded as may be necessary to achieve visibility.
 - (5) In general, street lines within a block, deflecting from each other at any one (1) point by more than ten degrees (10°), shall be connected with a curve, the radius of which for the center line of the street shall not be less than four hundred (400) feet on major streets, two hundred (200) feet on collector streets and one hundred (100) feet on minor streets.
- E. Watercourses. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures. These shall comply with design specifications and standards established by the Village Superintendent of Streets. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way as required by the Village Planning Board and in no case less than twenty (20) feet in width.
- F. Streets in commercial developments.
- (1) In connection with lots designed for commercial use, paved rear service streets of not less than twenty (20) feet in width, or adequate off-street loading space in compliance with Chapter 140, Zoning, shall be provided.

- (2) In front of areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to meet the standards of Chapter 140, Zoning.

§ 116-28. Street names.

- A. Type of name. All street names shown on a preliminary plat or subdivision plat shall be approved by the Planning Board. In general, streets shall have names and not numbers or letters.
- B. Names to be substantially different. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names, except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than ninety degrees (90°) without a change in street name.

§ 116-29. Lots.

- A. Lots to be buildable. The lot arrangement shall be such that in constructing a building in compliance with Chapter 140, Zoning, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear.
- B. Side lines. All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.
- C. Corner lots. In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site.

- D. Driveway access. Driveway access and grades shall conform to specifications of §116-27 above. Driveway grades between the street and the setback line shall not exceed ten percent (10%).
- E. Access from private streets. Access to lots from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations.

§ 116-30. Drainage improvements.

- A. Removal of spring and surface water. The subdivider may be required by the Planning Board to carry away, by pipe or open ditch, any spring or surface water that may exist, either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way, where feasible, or in perpetual unobstructed easements of appropriate width.
- B. Drainage structure to accommodate potential development upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The subdivider's engineer shall accordingly design and size the facility based on anticipated runoff from the watershed during a ten-year storm under conditions of total potential development permitted by Chapter 140, Zoning, and Article VI of this chapter.
- C. Responsibility for drainage downstream. The subdivider's engineer shall also study the effect of the subdivision on the existing downstream drainage facilities outside the area of the subdivision. This study shall be presented to and shall be reviewed by the Planning Board. If the study shows that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a five-year storm, the Planning Board shall notify the Village Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

D. Land subject to natural hazard. Land subject to flooding or deemed by the Planning Board to be uninhabitable due to other natural hazard shall not be platted for residential occupancy or for such other uses as may increase danger to health, life or property. Such land within the plat shall be set aside for such uses as shall not be endangered by such hazards or shall be improved in a manner consistent with provisions of Chapter 55, Flood Damage Prevention, Village of North Hornell, Local Law No. 1, on May 11, 1987.

§ 116-31. Parks, open spaces and natural features.

A. Recreation areas.

- (1) Where a proposed park, playground or open space shown on the Village Plan is located in whole or in part in a subdivision, the Board shall require that such area or areas be shown on the plat. Such area or areas may be dedicated to the village by the subdivider if the Village Board approves such dedication.
- (2) Where a subdivision does not contain any such area or areas shown on the Village Plan, the Planning Board shall require that the plat show other sites of a character, extent and location suitable for the development of a park, playground or other recreational purpose. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the plat. The Board shall require that not less than three (3) acres of such recreation space be provided per one hundred (100) dwelling units shown on the plat. However, in no case shall the amount be more than ten percent (10%) of the total area of the subdivision. Such area or areas may be dedicated to the village by the subdivider if the Village Board approves such dedication.
- (3) In the event that an area to be used for a park or playground is required to be so shown, the subdivider shall submit to the Board, prior to final approval, three (3) prints [one (1) on cloth] drawn in ink showing, at a scale of not more than thirty (30) feet to the inch, such area and the following features thereof:

- (a) The boundaries of said area, giving lengths and bearings of all straight lines; radii, lengths, central angles and tangent distances of all curves.
 - (b) Existing features such as brooks, ponds, clusters of trees, rock outcrops, structures.
 - (c) Existing and, if applicable, proposed changes in grade and contours of the said area and of area immediately adjacent.
- (4) Fee in lieu of land.
- (a) In cases where the Planning Board finds that due to the size, topography or location of the subdivision, land for a park, playground or other recreational purpose cannot be properly located therein or, if, in the opinion of the Board, it is not desirable, the Board may waive the requirement that the plat show land for such purpose.
 - (b) The Board shall then require as a condition to approval of the plat a payment to the village the sum of twenty-five dollars (\$25.) per acre of land which otherwise would have been acceptable as a recreation site. The amount of land which otherwise would have been acceptable as a recreation site shall be determined in accordance with the standards set forth in Subsection A(2) above.
 - (c) Such amount shall be paid to the Village Board at the time of final plat approval, and no plat shall be signed by the authorized officer of the Planning Board until such payment is made. All such payments shall be held by the Village Board in a special village recreation site acquisition and improvement fund to be used for the acquisition of land that:
 - [1] Is suitable for permanent park, playground or other recreational purposes.

[2] Is so located that it will serve primarily the general neighborhood in which the land covered by the plat lies.

[3] Shall be used only for park, playground or other recreational land acquisition or improvements.

(d) Such money may also be used for the physical improvement of existing parks or recreation areas serving the general neighborhood in which the land shown on the plat is situated, provided that the Planning Board finds there is a need for such improvements.

B. Reserve strips prohibited. Reserve strips of land, which might be used to control access from the proposed subdivision to any neighboring property or to any land within the subdivision itself shall be prohibited.

C. Preservation of natural features. The Planning Board shall, wherever possible in reviewing plats, provide for the preservation of natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and falls, historic spots, vistas and similar irreplaceable assets. No tree with a diameter of eight (8) inches or more as measured three (3) feet above the base of the trunk shall be removed without prior approval of the Planning Board. Removal of additional trees outside of planned street rights-of-way shall be subject to the approval of the Planning Board.

ARTICLE VIII

Documents to be Submitted

§ 116-32. Sketch plan.

The sketch plan initially submitted to the Planning Board shall be based on tax map information or some other similar accurate base map at a scale [preferably not less than two hundred (200) feet to the inch] to enable the entire tract to be shown on one (1) sheet. The sketch plan shall be submitted, showing the following information:

- A. The location of that portion which is to be subdivided in relation to all contiguous holdings of the landowner and the distance to the nearest existing street intersection.
- B. All existing structures, wooded areas, streams and other significant physical features within the portion to be subdivided and within two hundred (200) feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.
- C. The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records; the tax map sheet, block and number; North arrow and graphic scale.
- D. All utilities available to the site, existing streets and all platted but unopened streets.
- E. The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage and water supply within the subdivided area.
- F. All existing restrictions on the use of land, including easements, covenants or zoning lines.

§ 116-33. Minor subdivision plat.

In the case of minor subdivision only, the subdivision plat application shall include the following information.

- A. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Village Planning Board and shall be referenced and shown on the plat.

- C. All on-site sanitation and water supply facilities shall be designed to meet the minimum specification of the State Department of Health, and a note to that effect shall be stated on the plat and signed by a licensed engineer.
- D. The proposed subdivision name and name of the village, town and county in which it is located.
- E. The date, North point, map scale and the name and address of the record owner and subdivider.
- F. The plat to be filed with the County Clerk shall be printed or drawn upon linen, Mylar or other acceptable stable reproducible material.

§ 116-34. Major subdivision preliminary plat and accompanying data.

The following documents shall be submitted for approval:

- A. Five (5) copies of the preliminary plat prepared at a scale of not more than one hundred (100) and preferably not less than fifty (50) feet to the inch, showing:
 - (1) The proposed subdivision name, the name of the village, town and county in which it is located, date, true North point, scale, name and address of the record owner, subdivider and engineer or surveyor, including license number and seal.
 - (2) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.
 - (3) The zoning district, including exact boundary lines of the district, if more than one (1) district and any proposed changes in the zoning applicable to the area to be subdivided.
 - (4) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
 - (5) Location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight (8) inches or more as measured three (3) feet above the base of the trunk, and other significant existing features for the proposed subdivision and adjacent property.

- (6) Location of existing storm sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
- (7) Contours with intervals of five (5) feet or less as required by the Board, including elevations on existing roads. Approximate grading plan if natural contours are to be changed more than two (2) feet.
- (8) The width and location of any streets or public ways or places shown on the Official Map or the Master Plan, if such exists, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
- (9) The approximate location and size of all proposed water lines, valves, hydrants and sewer lines, and fire alarm boxes; connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law; profiles of all proposed water and sewer lines.
- (10) Storm drainage plan indicating the approximate location and size of proposed lines and their profiles; connections of existing lines or alternate means of disposal.
- (11) Plans and cross sections showing the proposed location and type of sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and subbase, the location of manholes, basins and underground conduits.
- (12) Preliminary designs of any bridges or culverts which may be required.
- (13) The proposed lot lines with approximate dimensions and area of each lot.

(14) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public area as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than twenty (20) feet in width and which shall provide satisfactory access to an existing public highway or other public highway or public open space shown on the subdivision or the official map.

(15) An actual field survey of the boundary lines of the tract giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Village Planning Board, and shall be referenced and shown on the plat.

B. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than four hundred (400) feet to the inch, showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract shall be submitted. The part of the subdivider's entire holding submitted shall be considered in the light of the entire holdings.

C. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

§ 116-35. Major subdivision plat and accompanying data.

The following documents shall be submitted for plat approval:

A. The plat to be filed with the County Clerk shall be printed upon linen or Mylar. The plat shall be drawn at a scale of no more than one hundred (100) feet to the inch and oriented with North point at the top of the map. When more than one (1) sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible.

B. The plat shall show:

- (1) The proposed subdivision name or identifying title and the name of the town, village and county in which the subdivision is located; the name and address of the record owner and subdivider; the engineer responsible for the property survey and for drawing the plat and his certificate of the dates of each such survey and plat preparation.
- (2) Certificates by village and town tax collection officers that all taxes have been paid on the property.
- (3) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
- (4) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing village practice.
- (5) The plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefore.
- (6) All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Village Attorney as to their legal sufficiency.
- (7) Sufficient data acceptable to the Village Planning Board to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the state system of plane coordinates, and in any event should be tied to reference points previously established by a public authority.

- (8) The length and bearing of all straight lines, radii, length of curves and central angles of all curves and tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale and true North point.
- (9) Permanent reference monuments shall be shown and shall be constructed in accordance with specification of the Village Planning Board. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Village Planning Board and their location noted and referenced upon the plat.
- (10) All corner markers shall be permanently located satisfactorily to the Village Planning Board, at least three-fourths (3/4) inches (if metal) in diameter and at least twenty-four (24) inches in length and located in the ground to existing grade.
- (11) Monuments of a type approved by the Planning Board shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Village Planning Board.
- C. Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of streets, sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and subbase, manholes, catch basins and other facilities.

ARTICLE IX

Waivers

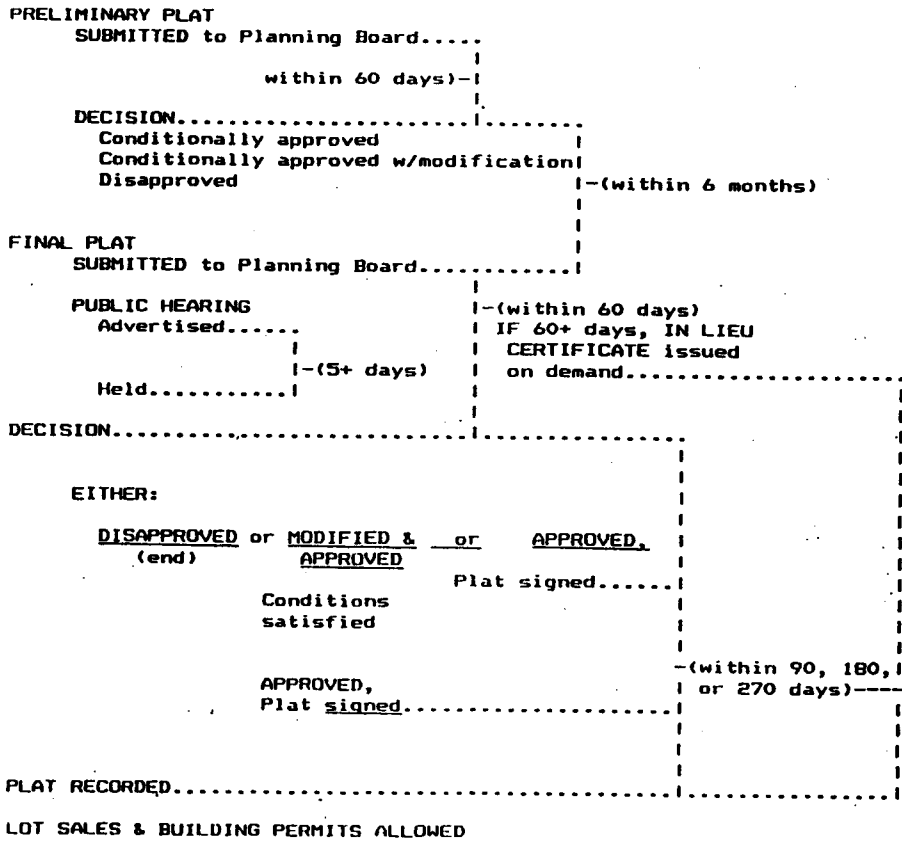
§ 116-36. Special circumstances.

Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not a requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Official Map or the Master Plan, if such exists.

§ 116-37. Conditions.

In granting waivers, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

Subdivision Review Process
VILLAGES
(Village Law, Sections 7-728 -- 7-732)



12-25-89

Chapter 119

SWIMMING POOLS

- § 119-1. Definitions.
- § 119-2. Permit required.
- § 119-3. Drain requirements.
- § 119-4. Feed pipes.
- § 119-5. Fencing requirements.
- § 119-6. Building walls.
- § 119-7. Noise abatement.
- § 119-8. Requirements.
- § 119-9. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 6-27-77 as L.L. No. 5-1977.¹ Section 119-9 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Fences and hedges — See Ch. 46.

Fire prevention and building construction — See Ch. 52.

Plumbing standards — See Ch. 83.

Zoning - See Ch. 140.

§ 119-1. Definitions.

- A. The words and phrases used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them by the General Construction Law of the State of New York, except as herein otherwise expressly defined.

¹ Editor's Note: This legislation was included in the 1965 Code as Ch. 43.

- B. The following words and phrases shall have the meanings respectively ascribed to them in this section for the purposes of this chapter.

SWIMMING POOL — Any pool having a wall height or maximum water depth, whichever is greater, exceeding eighteen (18) inches.

WADING POOL — Any pool having a wall height or maximum water depth, whichever is greater, not exceeding eighteen (18) inches.

§ 119-2. Permit required.

All swimming pools in the Village of North Hornell which shall be moved, erected, constructed, excavated or placed either above, below, or partly above and partly below grade level shall require a building permit.

§ 119-3. Drain requirements.

- A. All commercial pools shall conform to all New York State Health Department standards.
- B. All pools not covered under the provisions of Subsection A above shall be drained by controlled drainage. No pool, excavated or otherwise, shall be permitted to drain freely without control over volume and direction.
- C. Provision shall be made for drainage of the pool and for backwash water disposal. No nuisance to owners of an abutting property or to the public shall be created by virtue of disposal of such wastewater from any pool. No pool shall be permitted to drain into the village sanitary sewer system.

§ 119-4. Feed pipes.

All inlet feed pipes shall be of the over rim fill type at a minimum height of six (6) inches above the overflow level of the water (six-inch minimum air gap).

§ 119-5. Fencing requirements

No swimming pool, as defined in this chapter, shall be installed or maintained unless:

- A. All private swimming pools now existing or hereafter constructed, installed, established or maintained shall be enclosed by a permanent fence of durable material at least four (4) feet in height which shall be so constructed as not to have openings, mesh holes or gaps larger than four (4) square inches in any dimension, except for doors and gates, and if a picket fence is erected or maintained, the horizontal or vertical dimensions shall not exceed four (4) inches. All gates used in conjunction with the fence shall be equipped with approved locking devices and shall be locked at all times when the private swimming pool is not in use. Such fence shall completely surround the area of the swimming pool, but shall not be less than three (3) feet from the edge of the swimming pool and shall otherwise comply with the ordinances of the Village of North Hornell with respect to erection and maintenance of fences.²
- B. Pools greater than eighteen (18) inches in height above ground, unless enclosed by a fence of the type and dimensions hereinabove specified, shall either be emptied when not in use or unattended or be covered with a suitable, strong protective covering securely fastened or locked in place when not in use or unattended.
- C. Nothing in this section shall apply to pools having sides extending four (4) feet or more above grade, provided that the stairs or other means of access to the pool are removed when not in use or are effectively closed with a gate as provided hereinabove which shall be closed and securely latched when such pool is not in use.
- D. It shall be deemed that there is sufficient compliance with this section when the owner's entire property or entire yard is completely enclosed by a fence and a gate of the type above mentioned.

² Editor's Note: See Ch. 46, Fences and Hedges.

§ 119-6. Building walk.

The wall of any dwelling and/or its accessory buildings may act as an integral part of the fence, but any openings or doors of said building or accessory buildings shall also be self-closing in nature and kept locked while premises are unsupervised by an adult.

§ 119-7. Noise abatement.

The use of megaphones, loudspeakers and public-address systems is prohibited in connection with the swimming pool herein regulated, and the use of any sound-producing or -reproducing device, including human voices, shall comply with all provisions of this chapter and any other ordinance of the Village of North Hornell.

§ 119-8. Requirements.

- A. Swimming pools may be erected or installed only as an accessory to a dwelling and for the private use of the owner or occupant and his family and guests.
- B. Any swimming pool on any property having more than two (2) family dwelling units shall comply with the provisions of this chapter in addition to any state and county regulations pertaining to public swimming pools.
- C. Swimming pools shall not be erected nearer than five (5) feet to the rear or side property line of the premises, five (5) feet to any dwelling and shall not occupy more than ten percent (10%) of the total area of the premises.
- D. No swimming pool shall be permitted in a required front or side yard as otherwise provided in this chapter or any other ordinance of the Village of North Hornell.

§ 119-9. Penalties for offenses.³

Any person who shall violate this chapter shall be guilty of an offense and, upon conviction, shall be subject to a fine of not less than fifty dollars (\$50.) nor more than

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

two hundred fifty dollars (\$250.) and/or imprisonment for a term not to exceed fifteen (15) days. Each week's violation shall constitute a separate and additional violation. Notwithstanding the penalty hereinbefore provided, the Village of North Hornell may enforce obedience to this chapter or any part thereof by injunction to restrain such violation.

11905

TAXATION

Chapter 122

TAXATION

ARTICLE I

Utility Tax

- § 122-1. Tax imposed.
- § 122-2. Definitions.
- § 122-3. Records.
- § 122-4. Returns.
- § 122-5. Payment with return.
- § 122-6. Unacceptable returns.
- § 122-7. Notice.
- § 122-8. Penalty.
- § 122-9. Refunds.
- § 122-10. Tax as part of operating costs.
- § 122-11. Enforcement.
- § 122-12. Promulgation of additional rules.
- § 122-13. Secrecy provisions.
- § 122-14. Disposition of moneys.

ARTICLE II

Senior Citizens Tax Exemption

- § 122-15. Acceptance of statutory provisions.
- § 122-16. Grant of exemption; income level; changes.
- § 122-17. Restrictions upon exemption.
- § 122-18. Notification of residents.
- § 122-19. Application for exemption.

- § 122-20. Notification of prior recipients.
§ 122-21. Penalties for offenses.
§ 122-22. Definitions.

ARTICLE III

Alternative Veterans Exemption

- § 122-23. Purpose.
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HISTORY: [Adopted by the Board of the Village of North Hornell: Art. I, 5-5-1969 as L.L. No. 1-1969;¹ Art. II, 8-11-1980 as L.L. No. 1-1980;² Art. III, 9-27-1984 as L.L. No. 3-1984; Art. IV, 4-12-1988 as L.L. No. 2-1988; Art. V, 4-6-1992 as L.L. No. 1-1992. Sections 122-1, 122-4, 122-17A, C and D and 122-22 amended and § 122-16 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Taxation — See Ch. A148.

¹ Editor's Note: This legislation was included in the 1965 Code as Ch. 44.

² Editor's Note: This legislation was included in the 1965 Code as Ch. 43A.

Utility Tax

[Adopted 5-5-69 as L.L. No. 1-1969]

§ 122-1. Tax imposed.³

Pursuant to the authority granted by § 6-640 of the Village Law of the State of New York,⁴ a tax equal to one per centum (1%) of its gross operating income from and after the first day of June 1969 is hereby imposed upon every utility doing business in the Village of North Hornell, New York, which is subject to the supervision of the State Department of Public Service, which has a gross operating income for the twelve (12) months ending May 31 in excess of five hundred dollars (\$500.), except motor carriers or brokers subject to such supervision under Article 7 of the Transportation Law, which taxes shall have application only within the territorial limits of the Village of North Hornell, New York, and shall be in addition to any and all other taxes and fees imposed by any other provision of law for the same period. Such tax shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of North Hornell, notwithstanding that some act shall be necessarily performed with respect to such transaction within such limits.

§ 122-2. Definitions.

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

GROSS OPERATING INCOME — Includes receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water, refrigeration, telephony or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigerator, telephone or telegraph service in this village, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid or any other expenses whatsoever. The words “gross operating income” shall include, in the case of a utility engaged in selling telephony or telephone services, only receipts for local exchange service wholly consummated within the village, and in the case of a utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated within the Village of North Hornell.

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

⁴Editor’s Note: See now § 5-530 of the Village Law.

PERSON — Includes persons, corporations, companies, associations, joint-stock associations, co-partnerships, estates, assignees of rents, any person acting in a fiduciary capacity or any other entity, and persons, their assignees, lessees, trustees or receivers appointed by any court whatsoever or by any other means, except the state, municipalities, political and civil subdivisions of the state or municipality, public districts and corporations and associations organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

UTILITY — Includes every person subject to the supervision of the State Department of Public Service, except persons engaged in the business of operating on the public highways of this state one (1) or more omnibuses having a seating capacity of more than even (7) persons and persons engaged in the business of operating or leasing sleeping and parlor railroad cars or of operating railroads other than street surface, rapid transit, subway and elevated railroads, and also includes every person (whether or not such person is subject to such supervision) who sells gas, electricity, steam, water, refrigeration, telephony or telegraphy delivered through mains, pipes or wires, or furnishes gas, electric, steam, water, refrigerator, telephone or telegraph services by means of mains, pipes or wires, regardless of whether such activities are the main business of such person or are only incidental thereto or of whether use is made of the public streets.

§ 122-3. Records.

Every utility subject to tax under this Article shall keep such records of its business and in such form as the Village Treasurer of the Village of North Hornell may require, and such records shall be preserved for a period of three (3) years, except that the Village Treasurer of the Village of North Hornell may consent to their destruction within that period or may require that they be kept longer.

§ 122-4. Returns.⁵

Every utility subject to tax hereunder shall file a return on or before March 15 of each year, including any period for which the tax imposed hereby or by any amendment hereof is effective, each of which returns shall state the gross operating income for the period covered by each such return. Returns shall be filed with the Village Treasurer on a form to be furnished by him for such purpose and shall contain such other data, information or matter as the Village Treasurer may require to be included therein. The Village Treasurer, in order to ensure payment of the tax imposed, may require at any time a further or supplemental return, which shall contain any data that may be specified by the Village Treasurer. Every return shall have annexed thereto an affidavit of the head of the utility making the same, or of the owner or of a copartner thereof, or of a principal officer of the corporation if such business is conducted by a corporation, to the effect that the statements contained therein are true.

§ 122-5. Payment with return.

At the time of filing a return as required by this Article, each utility shall pay to the Village Treasurer of the Village of North Hornell the tax imposed hereby for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

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

§ 122-6 Unacceptable returns.

In case any return filed pursuant to this Article shall be insufficient or unsatisfactory to the Village Treasurer and if a corrected or sufficient return is not filed within twenty (20) days after the same is required by notice from the Village Treasurer, or if no return is made for any period, the Village Treasurer shall determine the amount of tax due from such information as he is able to obtain, and, if necessary, may estimate the tax on the basis of external indexes or otherwise. The Village Treasurer shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax unless the person against whom it is assessed shall, within thirty (30) days after the giving of notice of such determination, apply to the Village Treasurer for a hearing, or unless the Village Treasurer, of his own motion, shall reduce the same. After such hearing, the Village Treasurer shall give notice of his decision to the person liable for the tax. The decision of the Village Treasurer may be reviewed by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York if application therefore is made within thirty (30) days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the Village Treasurer and an undertaking filed with him, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding or, at the option of the petitioner, such undertaking may be in a sum sufficient to cover the tax, interest, penalties, costs and charges aforesaid, in which event the petitioner shall not be required to pay such tax, interest and penalties as a condition precedent to the commencement of the proceeding. Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three (3) years from the date of the filing of a return; provided, however, that where no return has been filed as required by this Article, the tax may be assessed at any time.

§ 122-7. Notice.

Any notice authorized or required under the provisions of this Article may be given by mailing the same to the person for whom it is intended, in a postpaid envelope addressed to such person at the address given by him in the last return filed by him under this Article, or if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this Article by the giving of notice shall commence to run from the date of mailing of such notice.

§ 122-8. Penalty.

Any person failing to file a return or corrected return or to pay any tax or any portion thereof within the time required by this Article shall be subject to a penalty of five per centum (5%) of the amount of tax due, plus one per centum (1%) of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed or such tax became due; but the Village Treasurer of the Village of North Hornell, if satisfied that the delay was excusable, may remit all or any portion of such penalty.

§ 122-9. Refunds.

If, within one (1) year from the payment of any tax or penalty, the payer thereof shall make application for a refund and the Village Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected under this Article, the Village Treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Village Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Village Treasurer as herein provided unless the Village Treasurer, after a hearing as hereinbefore provided or of his own motion, shall have reduced the tax or penalty, or it shall have been established in a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this Article. An application for a refund, made as hereinabove provided, shall be deemed an application for the revision of any tax or penalty complained of and the Village Treasurer may

receive additional evidence with respect thereto. After making his determination, the Village Treasurer shall give notice thereof to the person interested, and he shall be entitled to an order to review such determination under said Article 78, subject to the provision hereinbefore contained relating to the granting of such an order.

§ 122-10. Tax as part of operating costs.

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

§ 122-11. Enforcement.

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

§ 122-12. Promulgation of additional rules.

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

§ 122-13. Secrecy provisions.

- A. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Village Treasurer or any agent, clerk or employee of the Village of North Hornell to divulge or make known in any manner the amount of gross operating income or any particulars set forth or disclosed in any return under this Article. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in a court except on behalf of the Village of North Hornell in an action or proceeding under the provisions of this Article or on behalf of the State Tax Commission in an action or proceeding under the provisions of the Tax Law of the State of New York or on behalf of any party to any action or proceeding under the provisions of this Article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of and may admit in evidence so much of said returns or of the facts shown thereby as is pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a person or his duly authorized representative of a copy of any return filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof or the publication of delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this Article, together with any relevant information which in the opinion of the Village Treasurer may assist in the collection of such delinquent taxes or the inspection by the Village Attorney or other legal representatives of the Village of North Hornell of the return of any person who shall bring action to set aside or review the tax based thereon or against whom an action has been instituted in accordance with the provisions of this Article.
- B. Notwithstanding any provisions of this Article, the Village Treasurer may exchange with the chief fiscal officer of any city or any other village in the State of New York information contained in returns filed under this Article, provided that such city or other village grants similar privileges to the Village of North Hornell and provided that such information is to be used for tax purposes only, and the Village Treasurer shall, upon request, furnish the State Tax Commission with any information contained in such returns.

§ 122-14. Disposition of moneys.

All taxes and penalties received by the Village Treasurer under this Article shall be paid into the treasury of the village and shall be credited to and deposited in the general fund of the village.

ARTICLE II

Senior Citizens Tax Exemption

[Adopted 8-11-80 as L.L. No. 1-1980]

§ 122-15. Acceptance of statutory provisions.

Section 467 of the Real Property Tax Law of the State of New York shall be substantially adopted by the Village of North Hornell, as follows:

- A. Real property owned by one (1) or more persons, each of whom is sixty-five (65) years of age or over, or real property owned by a husband and wife, one (1) of whom is sixty-five (65) years of age or over, shall be exempt from taxation by any municipal corporation in which it is located to the extent of fifty per centum (50%) of the assessed valuation thereof. Such exemption shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed.

- B. The real property tax exemption on real property owned by husband and wife, one (1) of whom is sixty-five (65) years of age or over, once granted, shall not be rescinded by the Village of North Hornell solely because of the death of the older spouse, so long as the surviving spouse is at least sixty-two (62) years of age.

§ 122-16. Grant of exemption; income level; changes. [Added 12-12-1988 by L.L. No. 3-1988; amended 4-6-1992 by L.L. No. 1-1992; 3-14-1994 by L.L. No. 1-1994]

- A. A senior citizen with a verified income level of sixteen thousand five hundred dollars (\$16,500) or less shall hereby be eligible for real property tax relief where applicable, pursuant to § 467 of the Real Property Tax Law.

- B. Future changes in this Article may be accomplished by a resolution of the Board of Trustees.

§ 122-17. Restrictions upon exemption.

No exemption shall be granted:

- A. If the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum set forth in § 122-16 herein. "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal income tax return or, if no such return is filed, the calendar year. Where title is vested in either husband or wife, their combined income may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income year, net rental income, salary or earnings and net income from self-employment, but shall not include a return of capital, gifts or inheritances. In computing net income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income. **[Amended 12-12-1988 by L.L. No. 3-1988]**

- B. Unless the title of the property shall have been vested in the owner or one (1) of the owners of the property for at least twenty-four (24) consecutive months prior

to the date of making application for exemption; provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and said title then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purpose of computing such period of twenty-four (24) consecutive months, and provided further that in the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twenty-four (24) consecutive months, and provided further that where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one (1) year and is in the same assessing unit or municipality, the period of ownership of the former property shall be combined with the period of ownership of the replacement residence and deemed consecutive for exemption from taxation by each assessing unit or municipality; provided, however, that where the replacement property is in the same assessing unit but in another school district, the periods of ownership of both properties shall be also deemed consecutive for purposes of the exemption from taxation by such school district. Notwithstanding any other provision of law, where a residence is sold and replaced with another within one (1) year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation by a municipality within the state granting such exemption.

- C. Unless the property is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this Article. **[Amended 12-12-1988 by L.L. No. 3-1988]**
- D. Unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all the owners of the property; provided, however, that an owner who is absent while receiving health-related care as an inpatient of a residential health-care facility, as defined in § 2801 of the Public Health Law, shall be deemed to remain a legal resident and an occupant of the property while so confined, and income accruing to that person shall be income only to the extent that it exceeds the amount paid by such owner, spouse or co-owner for care in the facility, and provided further that during such confinement, property is not occupied by other than the spouse of such owner or the co-owner. **[Amended 12-12-1988 by L.L. No. 3-1988]**

§ 122-18. Notification of residents.

The Village of North Hornell shall notify or cause to be notified each person owning residential real property in such village of the provisions of this Article. Failure to notify or cause to be notified any person who is, in fact, eligible to receive the exemption provided by this Article or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

§ 122-19. Application for exemption.

Application for such exemption must be made by the owner or all of the owners of the property on forms prescribed by the State Board, to be furnished by the appropriate assessing authority, and shall furnish the information and be executed in the manner required or prescribed in such forms and shall be filed in such Assessor's office on or before the appropriate taxable status date.

§ 122-20. Notification of prior recipients.

At least sixty (60) days prior to the appropriate taxable status date, the assessing authority shall mail to each person who was granted exemption pursuant to this Article on the latest completed assessment roll an application form and a notice that such application must be filed on or before the taxable status date and be approved in order for the exemption to be granted. The assessing authority shall, within three (3) days of completion and filing of the tentative assessment roll, notify by mail any applicant who has included with his application at least one (1) self-addressed prepaid envelope of the approval or denial of the application; provided, however, that the assessing authority shall, upon the receipt and filing of the application, send, by mail, notification of receipt to any applicant who has included two (2) of such envelopes with the application. Where an applicant is entitled to notice or denial pursuant to this section, such notice shall be on a form prescribed by the State Board and shall state the reasons for such denial and shall further state that the application may have such determination reviewed in the manner provided by law. Failure to mail any such application form or notices or the failure of such person to receive any of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

§ 122-21. Penalties for offenses.

Any conviction of having made any willfully false statement in the application for such exemption shall be punishable by a fine of not more than one hundred dollars (\$100.) and shall disqualify the applicant or applicants from further exemption for a period of five (5) years.

§ 122-22. Definitions. [Amended 12-12-1988 by L.L. No. 3-1988]

Definitions of terms as used in this Article and contained in the definitional sections of the Real Property Tax Law, as amended from time to time, shall govern.

ARTICLE III

Alternative Veterans Exemption

[Adopted 9-27-1984 as L.L. No. 3-1984]

§ 122-23. Purpose.

The purpose of this Article is to provide that no exemption from real property taxes shall be granted pursuant to § 458-a of the Real Property Tax Law of the State of New York.

§ 122-24. Election not to grant exemption.

Pursuant to the provisions of Subdivision 4 of § 458-a of the Real Property Tax Law of the State of New York, no exemption from real property taxes shall be granted pursuant to § 458-a of the Real Property Law for purposes of real property taxes levied for the Village of North Hornell.

ARTICLE IV

Assessing Unit

[Adopted 4-12-1988 as L.L. No. 2-1988]

§ 122-25. Relinquishment of authority.

The Village of North Hornell shall cease to be an assessing unit, and the village taxes shall hereafter be levied on the village portion of the town roll last filed.

ARTICLE V

Business Investment Exemption

[Adopted 4-6-1992 by L.L. No. 1-1992]

§ 122-26. Exemption table.

As provided in Subdivision 7 of § 485-b of the Real Property Tax Law, the exemption table set forth in Subdivision 2(a) of that section shall be amended to read as follows:

Year of Exemption	Percentage of Exemption
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0

Chapter 127

TREES

- § 127-1. Duty of owner or occupant.
- § 127-2. Rights of village.
- § 127-3. Notice to remove certain trees.
- § 127-4. Performance of work by village.
- § 127-5. Penalties for offenses.
- § 127-6. Trees in the public right-of-way.

[HISTORY: Adopted by the Board of the Village of North Hornell 5-9-1966.¹ Section 127-5 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

- Brush, grass and weeds — See Ch. 27.
- Fences and hedges — See Ch. 46.
- Property maintenance — See Ch. 87.
- Streets and sidewalks — See Ch. 113.

§ 127-1. Duty of owner or occupant.

Trees, shrubs and other plants standing on any lot or land adjacent to any street, public highway or public place and having branches projecting into the street, public highway or public place shall be kept trimmed by the owner or owners or occupant of the property on which such plants are growing so that the lowest branches shall not be less than fifteen (15) feet above the roadbed and not less than seven (7) feet above the sidewalk level.

¹ Editor's Note: This legislation was included in the 1965 Code as Ch. 46.

§ 127-2. Rights of village.

The Village of North Hornell shall have the rights to plant, trim, spray, preserve and remove trees, plants or shrubs within the lines of all streets, alleys, avenues, lanes and public grounds and shall have the right to enter upon private grounds within the village when it shall be necessary in its opinion so to do in order to prevent breeding or scattering of any disease and, further, when in its opinion any plant or part thereof is in an unsafe condition or in any other manner causes a hazard.

§ 127-3. Notice to remove certain trees.

The village shall cause to be mailed to the owner or agent of the owner of such premises, at his last known address, a notice to remove, under § 127-2, at least ten (10) days before such removal, unless in the opinion of the village immediate removal is necessary for public safety.

§ 127-4. Performance of work by village. [Amended 8-9-1993 by L.L. No. 1-1993]

If the person upon whom notice is served, as authorized in the previous section, fails, neglects or refuses to comply with the said notice within ten (10) days after service of such notice and the village undertakes to do that which is deemed necessary, any costs incurred in connection therewith shall be borne by the owner of the premises. Such costs shall be in addition to the penalties hereinafter provided and shall be collected in the same manner and at the same time as other village taxes.

§ 127-5. Penalties for offenses. [Amended 12-12-1988 by L.L. No. 3-1988]

Any person, persons, firm or association, partnership or corporation who himself or itself or by his or its agent or employee shall violate any of the provisions of this chapter shall upon conviction thereof, be subject to a fine not to exceed two hundred fifty dollars (\$250.) and/or imprisonment for a term not to exceed fifteen (15) days.

§ 127-6. Trees in the public right-of-way. [Added 8-9-1993 by L.L. No. 1-1993]

- A. No trees shall be planted in the lines of streets, alleys, avenues or lanes without the prior permission of the Village Board.

- B. Trees planted within the lines of streets, alleys, avenues and lanes shall be maintained, and removed if necessary, by the owner of the closest adjacent land. The village may cause the removal of such trees in accordance with the provisions of § 127-3 and 127-4.

- C. When a tree growing within the lines of a street, alley, avenue or lane is ordered removed under § 127-3, the Village Board may, upon application, and in cases of extraordinary financial hardship, waive payment of removal costs.

Chapter 131

VEHICLES AND TRAFFIC

ARTICLE I

General Provisions

- § 131-1. **Definitions.**
- § 131-2. **Authority to install traffic control devices.**
- § 131-3. **Schedules; adoption of regulations.**

ARTICLE II

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- § 131-4. **Traffic control signals.**
- § 131-5. **Speed limits.**
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- § 131-8. **Stop intersections.**
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- § 131-10. **Application of Article.**
- § 131-11. **Seasonal parking restrictions.**
- § 131-12. **Parking prohibited at all times.**
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- § 131-15. No stopping certain hours.
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- § 131-30. **Schedule VII: Parking Prohibited at All Times.**
- § 131-31. **Schedule VIII: No Stopping.**
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- § 131-33. **Schedule X: No Stopping Certain Hours.**
- § 131-34. **Schedule X No Standing Certain Hours.**
- § 131-35. **Schedule XII: Road Lane Markings.**

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 10-9-1989 as L.L. No. 4-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 113.

Storage of vehicles — See Ch. 135.

ARTICLE I

General Provisions

§ 131-1. Definitions.

- A. The words and phrases used in this chapter shall, for the purpose of this chapter, have meanings respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.
- B. The following words and phrases, which are not defined by Article 1 of the Vehicle and Traffic Law of the State of New York, shall have the meanings respectively ascribed to them in this section for the purposes of this chapter:

CURBLINE — The prolongation of the lateral line of a curb or, in the absence of a curb, the lateral boundary line of the roadway.

HOLIDAYS — New Year’s Day, Martin Luther King’s birthday, Lincoln’s birthday, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

OFFICIAL TIME STANDARD - Whenever certain hours are named herein or on traffic control devices, they shall mean the time standard which is in current use in this state.

§ 131-2. Authority to install traffic control devices.

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

§ 131-3. Schedules; adoption of regulations.

- A. For the purpose of maintaining an accurate record of all regulations adopted under the provisions of this chapter, there is hereby established a system of schedules, appearing as Article VI of this chapter, in which shall be entered all regulations. After adoption, such schedules shall be deemed a part of the section to which they refer. All regulations shall be adopted with reference to the appropriate schedule as indicated in the various sections of this chapter. Such schedules may be amended by resolutions of the Board of Trustees.

- B. Regulations shall be adopted by the Board of Trustees, in accordance with provision of the Village Law and the Vehicle and Traffic Law, or by an officer or agency authorized by the Board of Trustees to adopt regulations pursuant to § 1603 of the Vehicle and Traffic Law.

ARTICLE II
Traffic Regulations

§ 131-4. Traffic control signals.

(Reserved)

§ 131-5. Speed limits.

The maximum speed at which vehicles may proceed on or along any streets or highways in the village is hereby established at thirty (30) miles per hour, except that the speed limit for vehicles proceeding on or along those streets or parts of streets described in Schedule II (131-25), attached to and made a part of this chapter, shall be as indicated on said schedule.

§ 131-6. School speed limits.

(Reserved)

§ 131-7. One-way streets.

The streets or parts of streets described in Schedule IV (131-27), attached to and made a part of this chapter, are hereby designated as one-way streets in the directions indicated.

§ 131-8. Stop intersections.

The intersections described in Schedule V (131-28), attached to and made a part of this chapter, are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

§ 131-9. Truck exclusions.

- A. The use of all village highways and streets, except the streets or parts of streets designated in Schedule VI (§ 131-29), attached to and made a part of this chapter, is prohibited to all commercial trucks, tractors, commercial vehicles and trailer-tractor combinations, except for local delivery or pick-up of merchandise, to perform local services or to obtain vehicle service available in the village.

- B. Trucks commonly referred to as “pickup trucks” not exceeding three-fourths-ton capacity are exempted from the above restrictions.

§ 131-9.1. Selected vehicle exclusion. [Added 3-11-1996 by L.L. No. 1-1996¹]

- A. A weight limit of three (3) tons is established for Bowen Street and Woodbury Place.

ARTICLE III

Parking, Standing and Stopping

§ 131-10. Application of Article.

The provisions of this Article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with directions of a police officer or official traffic control device.

§ 131-11. Seasonal parking restrictions.

No vehicle shall be parked on any public highway within the corporate limits of the Village of North Hornell between the hours of 2:00 a.m. and 6:00 a.m. during the period beginning December 1 and ending March 1 of the following year.

¹Editor's Note: This local law also repealed the former section regarding selected vehicle exclusion, added 10-9-1995 by L.L. No. 1-1995, which section had inadvertently been numbered as § 131-10 by said local law.

§ 131-12. Parking prohibited at all times.

No person shall park a vehicle at any time upon any of the streets or parts thereof described in Schedule VII (§ 131-30), attached to and made a part of this chapter.

§ 131-13. Stopping, standing, parking prohibited in specified places.

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:

- A. On any of the public sidewalks of the village or between any sidewalk and curblin.
- B. In front of any private driveway in such a way as to obstruct entrance to the driveway.
- C. On any crosswalk.
- D. On any bridge.
- E. In any safety, loading or no parking zone or space, marked off or designated by official signs, signals or markings.
- F. Within an intersection.

§ 131-14. No standing.

No person shall stand a vehicle upon any of the streets or parts of streets described in Schedule IX (§ 131-32), attached to and made a part of this chapter.

§ 131-15. No stopping certain hours.

(Reserved)

§ 131-16. No standing certain hours.

(Reserved)

§ 131-16.1. Road lane markings. [Added 10-9-1995 by L.L. No. 1-1995]

(Reserved)

ARTICLE IV

Removal and Storage of Vehicles

§ 131.17. Authority to impound vehicles.

- A. When any vehicle is parked or abandoned on any highway or public parking lot within this village during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway or parking lot upon which said vehicle is parked or abandoned, said vehicle may be removed by or under the direction of the Police Department.

- B. When any vehicle is found unattended on any highway or public parking lot within the village where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by or under the direction of the Police Department.

§ 131-18. Storage and charges.

After removal of any vehicle as provided in this Article, the Police Department may store or cause such vehicle to be stored 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

person with whom stored, of the amount of all expenses actually and necessarily incurred in effecting such removal and storage, such storage charges not to exceed ten dollars (\$10.) per day or fraction thereof.

§ 131-19. Notice of removal.

It shall be the duty of the Police Department to ascertain, to the extent possible, the owner of the vehicle or the 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 same. Said Police Department shall also, without delay, report the removal and disposition of any vehicle removed as provided in this Article to the Village Clerk.

ARTICLE V

Miscellaneous Provisions

§ 131-20. Penalties for offenses.

Every person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than fifty dollars (\$50.) or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment; for a second such conviction within eighteen (18) months thereafter, such person shall be punished by a fine of not more than one hundred dollars (\$100.) or by imprisonment for not more than forty-five (45) days, or by both such fine and imprisonment; upon a third or subsequent conviction within eighteen (18) months after the first conviction, such person shall be punished by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

(Cont'd on page 13109)

§ 131-21. When effective.

- A. Except those parts, if any, which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York, this chapter and any regulations adopted hereunder shall take effect as provided by law.
- B. Any part or parts of this chapter and any regulations adopted hereunder which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval, in writing, is received from the New York State Department of Transportation.

§ 131-22. Severability.

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

§ 131-23. Repealer.

All ordinances, regulations and rules, or parts thereof, of this village regulating traffic and parking are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance, regulation or rule hereby repealed prior to the taking effect of this chapter.

ARTICLE VI

Schedules

§ 131-24. Schedule I: Traffic Control Signals

(Reserved)

§ 131-25. Schedule II: Speed Limits

In accordance with the provisions of § 131-5, speed limits other than thirty (30) miles per hour are established as indicated upon the following streets or parts of streets:

Name of Street	Speed Limit (mph)	Location
State Route 21-36	As established by the State of New York	Entire length the village

§ 131-26. Schedule III: School Speed Limit

(Reserved)

§ 131-27. Schedule IV: One-Way Streets

In accordance with the provisions of § 131-7, the following described streets or parts of street are hereby designated as one-way streets in the direction indicated.

Name of Street	Direction of Travel	Limits
Chambers Street	South	Entire Length
First Alley	North	Entire Length
Woodbury Street	East	Entire Length

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§ 131-28

VEHICLES AND TRAFFIC

§ 131-28

§ 131-28. Schedule V: Stop Intersections.

In accordance with the provisions of § 131-8, the following described intersections are hereby designated as stop intersections, and stop signs shall be installed as follows:

Stop Sign on	Direction of Travel	At Intersection of
Avondale Avenue	East	Cleveland Avenue
Bethesda Drive	Both	Cleveland Avenue
Bethesda Drive	East	Seneca Road
Cameron Avenue	West	Seneca Road
Cleveland Avenue	Both	Bethesda Drive
Elmwood Avenue	West	Seneca Road
Elmwood Avenue	East	Seneca Road
Elmwood Avenue [added 6-14-99]	Both	Second Street
First Street	South	Elmwood Avenue
Fourth Street	North	Elmwood Avenue
Jones Street	West	Seneca Road
Linwood Avenue	West	Seneca Road
Maplewood Avenue	West	Seneca Road
Mary Street	West	Seneca Road
North Euclid Street [added 4-1-96]	East	Cleveland Avenue
Park Street	East	Seneca Road
Park Street	West	Cleveland Avenue
Pittsburg Avenue	East	Seneca Road
Richland Street	East	Seneca Road
Rural Avenue	East	Cleveland Avenue
Second Street	North	Elmwood Avenue
Second Street	North	Maplewood Avenue

Stop Sign on	Direction of Travel	At Intersection of
Second Street	South	Maplewood Avenue
Second Street	South	Wightman Street
Third Street	North	Elmwood Avenue
Third Street	North	Maplewood Avenue
Third Street	South	Maplewood Avenue
Totten Lane	West	Seneca Road
Wells Street	East	Cleveland Avenue
West Maplewood Avenue	East	Seneca Road
West Maplewood Avenue	West	Cleveland Avenue
Wightman Avenue	West	Seneca Road
Woodbury Street	East	Seneca Road

§ 131-29. Schedule VI: Truck Exclusions.

In accordance with the provisions of § 131-9, a truck route system upon which commercial trucks, tractors, commercial vehicles and trailer-tractor combinations may travel is hereby established on the following streets or parts of streets:

Name of Street	Location
State Route 21	Entire Length
State Route 36	Entire Length

§ 131-30. Schedule VII: Parking Prohibited at All Times.

In accordance with the provisions of § 131-12, no person shall park a vehicle at any time upon any of the following described streets or parts of streets:

Name of Street	Side	Location
Bethesda Drive	North	From 50 feet east of Cleveland Avenue and west of Seneca Road
Bethesda Drive	South	From Seneca Road to Cleveland Avenue
Bowen Street	Both	Within 50 feet of Seneca Road
East Alley	Both	From Seneca Road to Mary Street
Elmwood Avenue	Both	Within 50 feet of Seneca Road
Jones Street	Both	Within 50 feet of Seneca Road
Linwood Avenue	Both	Within 50 feet of Seneca Road
Maplewood Avenue	Both	Within 50 feet of Seneca Road
Park Street	Both	Within 50 feet of Seneca Road
Pittsburg Avenue	Both	Within 50 feet of Seneca Road
West Lane	Both	From Bethesda Drive to Pittsburg Avenue
Wightman Avenue	Both	Within 50 feet of Seneca Road
Woodbury Street	Both	Within 50 feet of Seneca Road

§ 131-31. Schedule VIII: No Stopping.

(Reserved)

§ 131-32. Schedule IX: No Standing.

In accordance with the provisions of § 131-14, no person shall stand a vehicle upon any of the following described streets or parts of streets:

Name of Street	Side	Location
Cameron Alley	—	Pump station parking pad
Seneca Road	Both	Entire length

§ 131-33. Schedule X: No Stopping Certain Hours.

(Reserved)

§ 131-34. Schedule XI: No Standing Certain Hours.

(Reserved)

§ 131-35. Schedule XII: Road Lane Markings. [Added 10-9-1995 by L.L. No. 1-1995]

(Reserved)

Chapter 135
VEHICLES, STORAGE OF

- § 135-1. **Definitions.**
- § 135-2. **Storage of campers, trailers and mobile homes.**
- § 135-3. **Storage of boats.**
- § 135-4. **Application for permit.**
- § 135-5. **Storage of commercial vehicles.**
- § 135-6. **Storage on vacant property.**
- § 135-7. **Unlicensed, inoperative or discarded vehicles.**
- § 135-8. **Repairs to vehicles.**
- § 135-9. **Penalties for offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 10-12-87 as L.L. No. 8-1987. Section 135-9 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Junk- and storage yards — See Ch. 67.

Property maintenance — See Ch. 87.

Snowmobiles — See Ch. 108.

Vehicles and traffic — See Ch. 131.

Zoning - See Ch. 140.

§ 135-1. Definitions.

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

BOAT — A vessel capable of carrying one (1) or more people and intended for use on or in water.

BUILDING – A relatively permanent, essentially boxlike structure having a roof and enclosing within its wall space for any of a wide variety of activities, such as living, entertaining, manufacturing, etc. As used in this chapter, the word “building” refers to principal buildings and accessory building unless specifically distinguished.

CAMPER- A motorized, self-propelled vehicle containing sleeping and other facilities for habitation.

COMMERICAL VECHICLE – Any vehicle used in conjunction with any business or trade, with the exception of the automobile of a salesman, professional person or the like.

DWELLING UNIT – A separately contained housekeeping unit within a building, designed and intended for use by one (1) family and having facilities for cooking, eating and sleeping therein.

FAMILY – Any number of individuals related by blood, marriage or legal adoption, plus no more than one (1) other person not falling within any of the above categories, living and cooking together as a single housekeeping unit and occupying one dwelling unit.

MOBILE HOME – A structure mounted on axles and wheels containing living facilities and which may be towed by automobile or truck from place to place. Such structure will be considered a “mobile home” for purpose of this chapter whether or not the wheels and axels are still in place.

MOTORCYCLE – An enclosed vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground.

PARK or PARKING – The standing of a vehicle, whether occupied or not, on public or private property.

PERSON – Any person, firm, partnership, association, cooperation, or organization of any kind.

REAR YARD — The area across the full width of a lot, extending from its forward line of the principal building to the rear property line of the lot and bounded by the side property lines.

SEMITRAILER — A detachable trailer for hauling freight, having its forward end supported by the rear of its truck tractor when attached.

STORAGE — The parking of a vehicle for a period in excess of twenty-four (24) hours.

TRACTOR — A short truck with a body containing only a cab for the driver, used to haul detachable trailers.

TRACTOR-TRAILER — A combination trucking unit consisting of a tractor and a trailer or semitrailer.

TRAILER, BOAT — A trailer intended for the purpose of moving boats from place to place.

TRAILER, CAMPER — A trailer containing sleeping and other facilities, the outside walls of which are partially collapsible into the body of the trailer to facilitate towing.

TRAILER, HOUSE — A trailer containing sleeping and other facilities, the outside walls of which are of rigid materials.

TRAILER, UTILITY — A trailer generally used for the hauling of miscellaneous household and yard materials.

VEHICLE — All of the foregoing vessels, vehicles, structures and trailers, and also including every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power and excluding motorcycles and automobiles primarily intended for personal use.

§ 135-2. Storage of campers, trailers and mobile homes.

- A. No camper, camper trailer, mobile home or house trailer shall be stored outside at any place in the village on public property.

- B. No camper, camper trailer, mobile home or house trailer having an overall length in excess of twenty (20) feet shall be parked at any place in the village on public property, nor shall any such vehicle be parked or stored outside on private property, without first obtaining a permit from the Board of Trustees, following a public hearing, unless such hearing is waived by the Board of Trustees.
- C. A camper, camper trailer, mobile home or house trailer having an overall length of twenty (20) feet or less may be parked on public property and may be parked or stored outside on private property, subject to the following regulations:
- (1) Only one (1) such vehicle per family may be parked or stored on any lot containing the dwelling unit of such family. The foregoing notwithstanding, there shall be no restriction on the number of such vehicles parked or stored within an enclosed garage.
 - (2) Such vehicle shall only be parked or stored in a driveway or garage or in the rear yard.
 - (3) The parking or storage of such vehicle shall be in full compliance with the off-street parking requirements of the Village Code¹ and shall not preempt the use of space needed for the off-street parking of other vehicles.
 - (4) The parking or storage of such vehicle shall be in full compliance with the vehicle and traffic regulations of this Code.²
 - (5) Such vehicle must belong to an owner or occupant of the premises upon which it is being parked or stored.
 - (6) Such vehicle shall not be used for any residential purpose except in accordance with the temporary provisions of this chapter.

¹Editor's Note: See Ch. 140, Zoning.

²Editor's Note: See Ch. 131, Vehicles and Traffic.

§ 135-3. Storage of boats.

- A. No boat shall be stored outside at any place in the village on public property, and no boat having an overall length in excess of twenty (20) feet shall be stored outside at any place in the village on private property without first obtaining a permit from the Board of Trustees, following a public hearing, unless such hearing is waived by the Board of Trustees.

- B. A boat having an overall length of twenty (20) feet or less may be stored on private property, subject to the following regulations:
 - (1) No more than two (2) such boats per family may be stored on any lot containing the dwelling unit of such family. The foregoing notwithstanding, there shall be no restriction on the number of such boats stored within an enclosed garage.
 - (2) Such storage must be in the rear yard of any property containing a building.
 - (3) The storage of such boat shall not preempt the use of space needed for off-street parking of other vehicles.
 - (4) Such boat must belong to the owner or occupant of the premises upon which it is being stored.

§ 135-4. Application for permit.

The application for a permit for the parking or storage of any vehicle hereunder shall be accompanied by the consent, in writing, of at least seventy-five percent (75%) of all adult residents living within two hundred (200) feet of the outer extremities of the applicant's property. The fee and duration of such permit shall be established by the Board of Trustees. Such fee shall accompany each application, which shall be in writing and shall be filed in duplicate with the Village Clerk. The form for such application shall be as prescribed by the Village Clerk.

§ 135-5. Storage of commercial vehicles.

- A. No commercial vehicle of any length shall be stored outside at any place in the village on public property.
- B. No commercial vehicle having an overall length in excess of twenty (20) feet, nor any tractor, tractor-trailer, semi-trailer or construction vehicle of any length shall be stored outside on any private property in a residential district.
- C. No commercial vehicle having an overall length in excess of twenty (20) feet, nor any tractor, tractor-trailer, semi-trailer or construction vehicle of any length, shall be parked on any public or private property in a residential district unless temporarily in connection with a bona fide commercial service, sales or delivery visit to such property.
- D. A commercial vehicle which is not a tractor, tractor-trailer, semi-trailer or construction vehicle, having an overall length of twenty (20) feet or less, may be parked on public property in a residence district and may be parked or stored outside on private property in a residence district, subject to the following regulations:
 - (1) Only one (1) such vehicle per family may be parked or stored on any lot containing the dwelling unit of such family. The foregoing notwithstanding, a maximum of two (2) such vehicles may be parked or stored on such lot, provided that one (1) of the vehicles is parked or stored within an enclosed garage or is completely screened from public view.
 - (2) Such vehicle shall only be parked or stored in a driveway or garage.
 - (3) The parking or storage of such vehicle shall be in full compliance with the off street parking requirements of this Code³ and shall not preempt the use of space needed for the off-street parking of other vehicles.

³Editor's Note: See Ch. 140, Zoning.

(4) The parking or storage of such vehicle shall be in full compliance with the vehicle and traffic regulations of this Code.

(5) Such vehicle must belong to an owner or occupant of the premises upon which it is being parked or stored.

§ 135-6. Storage on vacant property.

No vehicle shall be parked or stored outside on any privately owned vacant property in a residence district held in single and separate ownership.

§ 135-7. Unlicensed, inoperative or discarded vehicles.

A. The outside storage of unlicensed, inoperative and discarded vehicles upon privately owned properties within the Village of North Hornell is a source of annoyance to members of the public and to owners and occupants of adjacent land. The outdoor storage of such vehicles on private land is unsightly and constitutes an attractive nuisance to children and a peril to their safety. It depreciates the value of neighboring properties. The preservation of peace and good order, the protection of public health and property and the prevention of fires and explosion compel legislation upon this subject. It is therefore declared that the purpose of this section is the effective termination of such practices.

B. No property shall be used for the outside storage of unlicensed, inoperative or discarded vehicles (with the exception of unlicensed or inoperative boats), except as may otherwise be permitted in this Code.

C. Any duly authorized police officer, judicial officer or designated officer of the Village of North Hornell is empowered to make an entry on property where an

¹ Editor's Note: See Ch. 131, Vehicles and Traffic.

unregistered, inoperative or discarded vehicle is located for the purpose of affixing to the vehicle a notice (red tag) that the vehicle must be brought into compliance with the law within five (5) days. The Village clerk will send a letter by certified mail to the owner, occupant or person having charge of the property advising of the requirement that the vehicle must be brought into compliance with the law within five (5) days. **[Amended 5-13-1996 by L.L. No. 2-1996]**

D. In the event that the violation is not brought into compliance with the law within five (5) days after mailing of the certified letter, the vehicle can be towed by a village-designated towing service. The designated officer of the village shall also serve an appearance ticket upon the owner of the vehicle directing said owner to appear in Town of Hornellsville Court. **[Amended 5-13-1996 by L.L. No. 2-1996]**

E. The cost of towing and storage of the vehicle will be the responsibility of the property owner. This remedy shall be in addition to any other penalty which may be imposed or provided by law. **[Amended 5-13-1996 by L.L. No. 2-1996]**

§ 135-8. Repairs to vehicles.

No major repairs, whether involving the dismantling of vehicles or not, shall be made to such vehicles outside of an enclosed building. Minor repairs, such as but not limited to engine tuning, changing of spark plugs, changing oil, changing tires and similar procedures, shall be permitted. The provisions of this section shall not prohibit the repair of vehicles inside an enclosed garage or other building. Nothing herein shall be construed as permitting the commercial repair of vehicles in residence districts.

§ 135-9. Penalties for offenses. [Amended 12-12-1988 by L.L. No. 3-1988]

Any person, firm or corporation, or his or her or its agent, servant, workman or employee, violating any of the provisions of this chapter, shall be punishable by a fine of not less than fifty dollars (\$50.) nor more than two hundred fifty dollars (\$250.) and/or imprisonment for a term not to exceed fifteen (15) days. Each day's continuance of a violation after notice to cease shall be deemed a separate and distinct offense and shall be punishable accordingly.

Chapter 140

ZONING

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[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 2-13-89 as L.L. No. 1-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Fences and hedges — See Ch. 46.
Fire prevention and building construction — See Ch. 52.
Flood damage prevention — See Ch. 55.
Garage sales — See Ch. 59.
Junk- and storage yards — See Ch. 67.
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Storage of vehicles — See Ch. 135.
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ARTICLE I

General Provisions**§ 140-1. Scope.**

This chapter regulates and restricts the location, construction, alteration, occupancy and use of buildings and structures, and the use of land in the Village of North Hornell, and for said purposes divides the village into zoning districts.

§ 140-2. Title.

This chapter shall be known and may be cited as the “Zoning Law of the Village of North Hornell, New York.”

§ 140-3. Authority and purpose.

- A. This chapter is enacted pursuant to Municipal Home Rule Law of the State of New York, Article 2, § 10, Subdivision 14, and to the Village Law of the State of New York, Article 7, §§ 7-700 through 7-712 and 7-728 through 7-740, and Article 4, § 4-412.
- B. Its general purpose is to protect and promote public health, safety, comfort, convenience, economy, aesthetics and general welfare, and it has the following more particular purposes:
 - (1) To promote and effectuate the orderly, physical development of the village.
 - (2) To encourage the most appropriate use of land in the community in order to conserve and enhance the value of property.
 - (3) To create a suitable system of open spaces and recreation areas and to protect scenic areas, waterways and floodplains.
 - (4) To regulate building densities in order to assure access of light and circulation of air, to aid in the prevention and fighting of fires, to prevent undue concentration of populations, to lessen congestion on streets and highways and to provide efficient municipal services.

- (5) To improve transportation facilities and traffic circulation and to provide for adequate off-street parking, loading and unloading facilities.
- (6) To assure privacy for residence and freedom from nuisances and noxious conditions harmful to the senses.
- (7) To protect the community against unsightly, obtrusive and noisome land use and operations.
- (8) To prevent the development of lands subject to conditions hazardous to public health and welfare.
- (9) To otherwise carry out the objectives of the village's planning studies.

§ 140-4. Interpretation.

In their interpretation and application, the provisions of the regulations contained in this chapter shall be held to the minimum requirements adopted for promotion of public health, safety and general welfare.

§ 140-5. Amendment procedure.

- A. Authorization. The, Village Board may from time to time, on its own motion or on petition or on recommendation from the Planning Board, amend any of the regulations set forth hereinafter, after public notice and hearing in each case. All petitions for any amendment of the regulations herein established be filed in writing on a form required by the Village Board.
- B. Advisory report by Planning Board. Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Village Planning Board shall report its recommendations thereon to the Village Board, accompanied by a full statement of the reasons for such recommendations prior to the public hearing. If the Planning Board fails to report within a period of forty-

- five (45) days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Village Board, the Village Board may act without such report. If the Planning Board disapproves the proposed amendment or recommends modification thereof, the Village Board shall not act contrary to such disapproval or recommendation except by the adoption of resolution by a vote of the majority, fully setting forth the reasons for such contrary action.
- C. Public notice and hearing. The Village Board, by resolution, shall fix the time and the place of the public hearing and cause notice to be given as follows:
- (1) By publishing a notice of the proposed amendment and the time and place of the public hearing in the official newspaper of the Village of North Hornell not less than ten (10) days prior to the date of the public hearing.
 - (2) County referral: by giving written notice of hearing to any required municipal, county or state agency in the manner prescribed by Article 12-B, § 239-m of the General Municipal Law. If such County Planning Agency disapproves the proposal or recommends modification thereof, the Village Board shall not act contrary to such disapproval or recommendation except by majority vote plus one (1) of all the members and upon the adoption of a resolution fully setting forth the reasons for such contrary action.
- D. Protest by owners. If a protest against a proposed amendment of Articles II through IX below is presented to the Village Board duly signed and acknowledged by the owners of twenty percent (20%) or more of the area of land included in such proposed amendment, or by the owners of twenty percent (20%) or more of the area of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the area of land directly opposite thereto, such amendment shall not be passed except by the favorable vote of two-thirds (2/3) of the members of the Village Board.

E. Filing and effective date.

(1) Every amendment to these regulations, upon adoption by the Village Board, shall within five (5) days be filed by the Village Clerk as follows:

(a) One (1) certified copy in the Clerk's office.

(b) Three (3) certified copies in the office of the New York State Secretary of State.

(2) An amendment shall become effective on the 20th day following its adoption with proper filing.

§ 140-6. Word usage and definitions.

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

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

ACCESSORY USE OR STRUCTURE — A use or structure on the same lot and of a nature customarily incidental and subordinate to the principal use or structure.

AGRICULTURE — The use of land for agriculture purposes, including tilling of the soil.

ALTERATION, STRUCTURAL — Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

AWNING — A shade structure supported by posts or columns.

BUILDING — Any structure which is permanently affixed to the land, has one (1) or more floors and a roof and is intended for the shelter, housing or enclosure of persons or chattel.

BUILDING HEIGHT — The vertical distance measured from the mean level of ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, mechanical penthouses, towers, tanks and similar projections.

BUSINESS, CONVENIENCE — Small commercial establishments catering primarily to nearby residential areas providing convenience goods and services, including but not limited to grocery stores of less than five thousand (5,000) square feet in floor area, drug stores, beauty salons, barbershops and carry-out dry-cleaning and laundry pickup stations.

CARPORT — An awning or shade structure for a vehicle or vehicles which may be freestanding or partially supported by adjacent building structures.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to construction or altering buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance to farm roads.

DWELLING, MULTIPLE-FAMILY — A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY — A detached residential dwelling unit, designed for and occupied by one (1) family only.

DWELLING, TWO-FAMILY — A detached residential building containing two (2) dwelling units designed for occupancy by not more than two (2) families.

DWELLING UNIT — One (1) room or rooms connected together constituting a separate, independent housekeeping establishment containing independent bathing, cooking and

sleeping facilities and physically separated from any other rooms or dwelling units which may be in the same structure.

EASEMENT — Authorization by a property owner for the use by another, and for a specific purpose, of any designated part of his property.

ESSENTIAL SERVICES — The erection, construction, alteration, operation or maintenance by municipal agencies or public utility of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities.

GARAGE, COMMERCIAL — A building or premises used for the repair, rental, storage, servicing and/or sale of motor vehicles and/or retail sale of fuel and accessories for such vehicles.

GARAGE, PRIVATE — A residential accessory building used for the storage of vehicles owned and used by the occupants of the building in which it is an accessory, provided that where such building exceeds the capacity for two (2) cars, not more than one-half (1/2) of the space may be rented for storage of vehicles by persons not resident on the premises.

HEALTH AUTHORITY — A legally designated health authority or his authorized representative of the Village of North Hornell.

HOME OCCUPATION — An occupation, profession or hobby carried on within a dwelling and which is clearly incidental and secondary to the use of such dwelling for residential purposes, which is carried on only by members of the family residing on the premises.

INTERNAL STREET — A private way which affords principal means of access to abutting individual lots and community service buildings.

LOADING SPACE, OFF-STREET — Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled.

LOT — A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces are herein required. Such “lot” shall front on any approved public highway and may consist of:

- (1) A single lot of record.
- (2) A portion of lot or record.
- (3) A combination of complete lots of record, complete lots record and portions of lots of record or portions of lots of record.
- (4) A parcel of land described in metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of these regulations.

LOT, CORNER — A parcel of land at the junction of and fronting on two (2) intersecting streets.

LOT FRONTAGE — The front of a lot shall be construed to be the portion nearest the highway. For the purposes of determining yard requirements on corner lots and through lots, all sides of the lot adjacent to highways shall be considered “frontage,” and yards shall be provided as indicated under Article IV of these regulations.

LOT OF RECORD — A legally existing lot duly filed and recorded in the Steuben County Clerk’s office as either an individual parcel of land or part of an approved subdivision. **[Amended 8-9-1993 by L.L. No. 2-1993]**

LOT WIDTH — The distance between two (2) side lot lines measured at the required setback line.

MASTER OR COMPREHENSIVE PLAN — A comprehensive plan, prepared by the Planning Board pursuant to § 7-722 of the Village Law which indicates the general locations recommended for various functional classes of public works, places and structures and for general physical development of the village and

includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

MODULAR HOME — A structure which is not built on a permanent chassis and is designed to be used with a permanent foundation.

MUNICIPAL PARKS — Parks and playgrounds established and operated by the Village of North Hornell.

NONCONFORMING USE — A building, structure or use of land, lawfully existing at the time of enactment of these regulations or any amendment thereto, which does not conform to the regulations of the district or zone in which it is located as a result of such enactment.

PARK — A municipal or private outdoor recreation area, existing or proposed.

PERSON — Includes any individual or group of individuals, corporation, partnership, association or any other organized group of persons.

PLANNING BOARD or BOARD — The Planning Board of the Village of North Hornell.

PROFESSIONAL OFFICES — The use of offices and related spaces for such professional services as are provided by medical practitioners, attorneys, architects, engineers and similar professions.

QUASI-PUBLIC USE — Facilities of an educational, religious, charitable or philanthropic nature.

RECREATION EQUIPMENT, MAJOR — Includes travel trailers, campers, pickup coaches, motorized homes, boats, boat trailers, snowmobiles and motorcycles.

RESTAURANT — Any establishment, however designated, at which food is sold for consumption to patrons seated within an enclosed building or on the premises, excluding public and quasi-public institutions.

ROADSIDE STANDS:

- (1) **VEGETABLE STAND** — Any area, with or without a wholly or partially enclosed structure, devoted primarily to the sale of agricultural products.
- (2) **FLEA MARKET** — Any area where individual stands or spaces are assigned to two (2) or more individuals for the purpose of selling, buying or exchanging goods.
- (3) **GARAGE OR YARD SALES** — Any public sale of personal property within the village. “Garage sales” shall offer only used, unwanted items of personal property owned by the resident of the property where the sale is held. No new merchandise shall be offered for sale nor may merchandise from other sources be brought in and offered for sale.

SERVICE OR FILLING STATION — A building and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail. Uses permissible at a “filling station” do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in filling stations. A “filling station” is not a repair garage, nor a body shop.

SETBACK — The minimum allowable distance from the front property line to that part of the building nearest the line, measured at right angles to the line. The building, for purposes of this chapter, includes, but is not limited to, sun porches, balconies, carports, breezeways and porches, whether enclosed or unenclosed, but does not include steps or terraces which are open to the sky. [**Amended: 9-8-1993 by L.L. No. 2-1993**]

SIDE YARD — An open unobstructed space on the same lot with a building between the building and the side line of the lot, extending from the front setback to the rear yard.

SIGN — Any letter, pictorial, representation, symbol, flag, emblem, illuminated or animated device displayed in any manner whatsoever which directs attention of persons off the premises on which the sign is displayed to any object, subject, place, person, activity, product, service, institution, organization or business.

SMALL ANIMAL HOSPITAL — A structure where small pets are medically treated, including escape-proof pens which may be located outside of the structure, provided that no nuisance is created thereby.

SPECIAL PERMIT USES — A use which, because of its unique characteristics, requires individual consideration in each case by the Planning Board before a permit therefor may be issued.

START OF CONSTRUCTION — The initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading and filling, installation of streets and/or walkways, excavation for a basement, footing, 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.

STREET — Includes streets, roads, avenues, lanes or other traffic ways between right-of-way lines.

STRUCTURE — Includes:

- (1) Anything constructed, erected or placed, the use of which requires temporary or permanent location or support of the soil or in the soil, and which is attached to anything on the soil.
- (2) Swimming pools, laundry facilities, service buildings, recreation building or other buildings.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the actual cash appraised value of the structure, either before the improvement is started or, if the structure has been damaged and is being restored, before the damage occurred.

SURFACE AREA (of a sign) — The entire area within a single continuous perimeter enclosing the extreme limits of lettering, representations, emblems or other figures, together with any material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed. Structural members bearing no sign copy shall be included.

(Cont'd on page 14015)

TRAVEL TRAILER — See definition of “Recreational equipment, major.”

ARTICLE II

Establishment of Districts; Zoning Map; Interpretation

§ 140-7. Districts established.

For the purpose of promoting the public health, safety and welfare and to otherwise carry out the objectives of these regulations, the Village of North Hornell is hereby divided into the following zone districts:

- AG Agricultural (all within the flood boundary)
- R Residential
- C Commercial

§ 140-8. Zoning Map.

Said districts are shown and bounded on the Official Zoning Map, which map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of these regulations. Said map shall show the effective date of these regulations and of each subsequent amendment to said map and shall be duly certified and filed by the Village Clerk.¹

§ 140-9. Interpretation of district boundaries.

Where uncertainty exists with respect to boundaries of any zoning district as shown on the Official Zoning Map, the following rules shall apply:

- A. Where boundaries are indicated as approximately following the center lines of streets or highways, such center lines shall be construed to be such boundaries.
- B. Where boundaries are so indicated that they approximately follow platted lot lines, such lot lines shall be construed to be said boundaries.

¹Editor’s Note: The Zoning Map is on file in the Village Clerk’s office.

- C. Where boundaries are so indicated that they are approximately parallel to the center lines of streets or the center lines or rights-of-way lines of highways, such boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale on the Zoning Map.
- D. Where the boundaries follow a shoreline of a stream or creek, said boundary shall be deemed to follow such shorelines and, in the event of a change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the center lines of streams, rivers or other bodies of water shall be construed to follow such center lines.
- E. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered herein, the Zoning Board of Appeals shall interpret the boundaries.

ARTICLE III

District Regulations

§ 140-10. Applicability.

These minimum regulations shall apply uniformly within each district to each kind of structure or land as follows:

- A. No structure shall hereafter be erected and no structure shall be moved, structurally altered, rebuilt, added to or enlarged, nor shall any structure or land be used for any purpose other than those included among the uses listed as permitted uses in each district and meeting the density requirements set forth in the Zoning Schedule in § 140-15.
- B. No open space next to any building shall be reduced in any manner, except in conformity to the area requirements and all other regulations designated in this Article and Article V. In the event of any such unlawful reduction, such building shall be deemed to be in violation of these regulations.

- C. Any lawful use existing prior to the enactment of these regulations or any amendment thereto, which does not conform to the requirements herein, may continue as a nonconforming use as provided for in Article VI, Nonconforming Uses.

- D. No lot or setback existing at the time of passage of these regulations shall be reduced in dimension or area below the minimum requirements set forth in Article IV. Lots created after the effective date of this regulation shall meet minimum requirements.

§ 140-11. A Agricultural District.

The following regulations shall apply in the A Agricultural District:

- A. The intent of the A Agricultural District is to preserve agricultural land, encourage continued agricultural use, preserve open space and natural resources, and reduce land conflicts.

- B. In this district, no structure shall be erected or altered, and no structure or land shall be used, except for one (1) or more of the following specific uses:
 - (1) Permitted principal uses shall be as follows:
 - (a) Customary agricultural uses (growing crops).
 - (2) Accessory uses shall be as follows:
 - (a) None.
 - (3) Special permit uses shall be as follows:
 - (a) None.

§ 140-12. R Residential District.

The following regulations shall apply in the R Residential District:

- A. The intent of the R Residential District is to permit establishment of residential area, to avoid congestion and to otherwise carry out the objective of these regulations.

B. In this district, no structure shall be erected or altered and no structure or land shall be used, except for one (1) or more of the following specific uses:

(1) Permitted principal uses shall be as follows:

- (a) Single- and two-family dwellings.
- (b) Municipal parks and playgrounds.
- (c) Monuments and markers.
- (d) Essential services.

(2) Accessory uses shall be as follows:

- (a) Private garages.
- (b) Customary residential accessory structures, such as private swimming pools, fireplaces, trellises, lamp posts, carports, private noncommercial greenhouses and similar structures.
- (c) Other uses customarily accessory to a permitted principal use.

(3) Special permit uses shall be as follows:

- (a) Commercial greenhouses.
- (b) Home occupations.
- (c) Professional offices.
- (d) Medical clinics and nursing homes.
- (e) Multiple-family dwellings.

§ 140-13. C Commercial District [Amended 5-14-1990 by L.L. No. 1-1990]

A. It is the intent of the C Commercial District to delineate the Commercial District to which the public requires frequent access. A variety of businesses and other related uses are encouraged. Industrial uses are prohibited as are other uses which would interfere with the continuation and viability of the business character of the area.

B. In this district, no structure shall be erected or altered, and no structure or land shall be used, except for one (1) or more of the following uses:

(1) Permitted principal uses shall be as follows:

- (a) Dwellings.
- (b) Retail stores, conveniences and business and service establishments.
- (c) Business and professional offices.
- (d) Eating and drinking establishments.
- (e) Printing shops and beauty shops.
- (f) Commercial greenhouses.
- (g) Laundromats and car washes.
- (h) Banks.
- (i) Historical monuments and markers.
- (j) Municipal parks.
- (k) Uses of the same general character as any of those above.

(2) Accessory uses shall be as follows:

- (a) Buildings or uses customarily incidental to a permitted use.
- (b) Signs as provided in Chapter 100, Signs.
- (c) Off-street parking or loading.

(3) Special permit uses shall be as follows:

- (a) Adult bookstores/libraries.
- (b) Places of entertainment.
- (c) Essential services.
- (d) Service stations.

§ 140-14. FP Floodplain District.

- A. There is hereby established a Floodplain Overlay District, the boundaries of which are delineated on the Zoning Map. Said district corresponds to areas identified as areas of one- hundred-year flood by the Federal Insurance Rate Maps (FIRM), dated May 16, 1983, which maps and any related uses are encouraged. Industrial uses are prohibited as are other uses which would interfere with the continuation and viability of the business character of the area.
- B. In this district, no structure shall be erected or altered, and no structure or land shall be used, except for one (1) or more of the following specific uses:
- (1) Accessory uses.
 - (a) Buildings or uses customarily incidental to a permitted use.
 - (b) Signs as provided in Chapter 100, Signs.
 - (c) Off-street parking or loading spaces.
- C. FP Floodplain Overlay District development.
- (1) Special requirements for development within the defined Floodplain Overlay District are set forth in Chapter 55, Flood Damage Prevention, of the Code of the Village of North Hornell and revisions thereto are declared to be a part of this chapter.
 - (2) Special requirements for development within the defined Floodplain Overlay District are set forth in Chapter 55, Flood Damage Prevention, of the Code of the Village of North Hornell, which requirements are in addition to those contained in regulations for the underlying zoning districts, as set forth herein.

ARTICLE IV
Bulk Regulations

§ 140-15. Area and bulk schedule.

The schedule of area and bulk requirements shall be as follows:

Lot Size, Yards, Building Heights and Lot Coverage Requirements

District	Minimum Lot Area (Sq. feet)	Minimum Lot Width (feet)	Building Height (Stories) (feet)		Maximum Coverage
AG					
AGRICULTURE	None	None	None	None	None
R ¹					
Residential	8,000	80	2 1/2	35	30%
C					
Commercial	2,000	None	3	35	None

NOTES: ¹In a R Residential District, only one (1) dwelling for habitation will be permitted on a lot or parcel of land of less than ten thousand (10,000) square feet.

§ 140-16. Setbacks.

Setbacks shall be as follows:

- A. Where existing dwellings are present, setbacks should be not less than the average setback of all buildings within three hundred (300) feet on each side.
- B. For new developments, setbacks shall be a minimum of thirty- five (35) feet from the front property line.

§ 140-17. Open space requirements.

A minimum of six (6) feet of open space free from structures (example: carports, awnings or patios) shall be maintained from property lines.

ARTICLE V
Supplemental Regulations

§ 140-18. General provisions.

The provision of these regulations shall be subject to such exceptions, additions or modifications as herein provided by the following supplementary regulations.

§ 140-19. Prohibited uses.

- A. General. Any use of any structure or premises in such a manner that the health, safety or welfare of the community may be endangered is prohibited. In any district, the following standards for activities shall apply:
- (1) No offensive or objectionable vibration, odor, intense lighting, noise or glare shall be noticeable at or beyond a property line.
 - (2) No activity or storage shall create a temporary or permanent physical hazard, by reason of fire, explosion, radiation or other such cause, to the persons or property in the same or an adjacent district.
 - (3) There shall be no storage of any material, either indoors or outdoors, in such a manner that it facilitates breeding of vermin or endangers health in any way.
 - (4) The emission of smoke, fly ash, dust or other noxious gases which can cause damage to the health of persons, animals, plant life or to other forms of property shall be prohibited.
 - (5) Reconstruction or clean-up of partially burned or destroyed buildings must commence within ninety (90) days of destruction. Any decaying organic matter in connection therewith must be removed and properly disposed of within thirty (30) days of destruction.
- B. Specific.
- (1) Junk cars. See Chapter 135, Vehicles, Storage of.
 - (2) Trailers. See Chapter 135, Vehicles, Storage of.

§ 140-20. Excavations.

The taking of topsoil, earth or natural deposits of solid material found in or on the earth from the premises or the moving of said materials from one part of the premises to another in quantities exceeding twenty-five (25) cubic yards, except for cultivation, shall be permitted only by special permit.

§ 140-21. Visibility at intersections.

On a corner lot in any residential district, nothing shall be erected, placed, planted or grown in such a manner as to block vision between a height of two and one-half (2 1/2) and ten (10) feet above the center-line grades of the intersecting streets. This shall apply to the triangular area bounded by the street lines fifty (50) feet from the point of intersection.

§ 140-22. Building orientation.

All new buildings shall be placed so as to have one (1) axis parallel to a street, except where otherwise dictated by topographic features or subdivision design considerations.

§ 140-23. Erection of multiple principal structures on lots.

In any district, more than one (1) structure housing a permitted principal use may be erected on a single lot, provided that setbacks and other requirements of these regulations shall be met separately for each structure and the lot could be subdivided so as to leave each structure on a conforming individual lot.

§ 140-24. Architectural projections.

Structures such as porches, balconies, carports and similar architectural features shall be considered parts of the building to which they are attached and shall not project into required minimum setbacks.

§ 140-25. Off-street storage, parking and loading.

- A. Storage of major recreational equipment and commercial vehicles. See Chapter 135, Vehicles, Storage of.
- B. Off-street parking and loading.
- (1) Off-street parking.
- (a) In all districts, at the time any building is erected or enlarged, off-street parking spaces at least nine by twenty (9 x 20) feet in size shall be provided in compliance with the following minimum requirements.
- (b) Off-street parking spaces shall be improved with a wearing surface meeting standards set by the Superintendent of Public Works.
- (c) Required spaces.

Type of Use**Parking Spaces Required**

RESIDENTIAL

Family units of any type

2 for each dwelling; garage space may be counted

Apartments

1 per apartment plus 2 additional for each of 3 apartments or portions thereof as per the following schedule:

3

5

4

8

5

9

6

10

COMMERCIAL

Retail stores, banks

1 for each 400 feet of floor space

Restaurants

1 for each 2 1/2 seats plus 1 for each employee

Doctor/dentist office and other professional offices

1 for each 150 square feet of floor area plus 1 for each practitioner and 1 for each employee

§ 140-25

ZONING

§ 140-26

Type of Use**Parking Spaces Required**

All other types of business

5 1/2 per each 1,000 square feet of gross floor area

INSTITUTIONAL

Churches and places of religious assembly

1 for each 5 person's capacity

Hospitals, sanitariums, nursing homes, children's homes and similar uses

1 for each 3 beds plus 1 for each employee

Medical and dental clinics

1 for every 150 square feet of floor area plus 1 for each employee and/or professional

(2) Off-street loading.

- (a) Required spaces. One (1) off-street loading space shall be provided and maintained on the same lot for every establishment requiring more than one (1) truck delivery per day.
- (b) Number and design. The location, number, size and design of loading spaces and accessways thereto shall be approved by the Planning Board prior to the issuance of a building permit or certificate of occupancy by the Zoning Officer.

(3) Development standards. The required parking and loading spaces shall be improved with acceptable wearing surface of a dust-inhibiting nature. Proper drainage shall be provided to prevent ponding of water or excessive runoff on adjacent properties.

§ 140-26. Private swimming pools.

For provisions regarding private swimming pools, see Chapter 119, Swimming Pools, of the Code of the Village of North Hornell.

§ 140-27. Essential services.

- A. Essential services facilities shall not be located on a residential street, unless no other site is available, and shall be so located as to draw a minimum of vehicular traffic to and through such streets.

- B. The location, design and operation of such facility shall be such as to not adversely affect the character of the surrounding area.

- C. Standards.
 - (1) Fences, barriers and landscaping shall be provided as required by Chapter 46, Fences and Hedges, of the Code of the Village of North Hornell.

 - (2) Noise from such installations shall not be of such nature or volume as to be objectionable to adjoining properties.

§ 140-28. Home occupations.

- A. Definition. A “home occupation” shall be defined as an accessory use of service character that is carried on wholly within a dwelling unit or other structure accessory to a dwelling unit and is carried on by a member of the family or under the direction of a family member residing in the dwelling unit and is clearly incidental and secondary to the residential use of the dwelling unit.

- B. Standards. Where home occupations are permitted by these regulations, the following conditions shall be mandatory:
 - (1) No such occupation shall involve sales of products or goods or merchandise except as incidental to services provided.
 - (2) For regulations regarding signs, see Chapter 100, Signs, of the Code of the Village of North Hornell.
 - (3) No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations on line voltage off the premises.

- (4) No traffic shall be generated by such home occupations in substantially greater volume than normal in the neighborhood, and any need for parking generated by such occupation shall be provided off-street other than in the required setback area.

§ 140-29. Animals and poultry.

For provisions regarding animals and poultry, see Chapter 37, Article I, of the Code of the Village of North Hornell.

§ 140-30. Water supply.

In all districts, drinking water facilities shall be connected to the public water supply system of the Village of North Hornell. However, wells for drinking water shall be allowed by special permit only with proof of approval from New York State Health Department.

§ 140-31. Signs and billboards.

For provisions regarding signs and billboards, see Chapter 100, Signs, of the Code of the Village of North Hornell.

§ 140-31.1. Satellite antennas, other antennas, towers and windmills.

A. Legislative intent. The construction and installation within the village of satellite antennas, parabolic dishes, windmills, towers and similar antenna equipment and devices must be controlled to protect the health, safety and welfare of the residents and to preserve and protect the aesthetic qualities of the village and its residential character.

B. Definitions. As used in this section, the following terms shall have the meanings indicated.

HEIGHT OF TOWER — The height of a tower shall be measured from the natural grade surrounding the tower to the extremity of the tower's uppermost protrusion.

LENGTH OF TOWER — The length of a tower shall be measured from top of the base on which the tower is mounted to the extremity of the tower's most uppermost protrusion.

SATELLITE ANTENNA — Any parabolic dish, antenna or other device or equipment of whatever nature or kind, the primary purpose of which is to receive television, radio microwave or other electronic signals from space satellites.

TOWER — Any tower, pole, antenna or other structure, whether attached to a building, guyed or freestanding, designed to be used for the transmission and/or reception of radio frequency signals, including but not limited to broadcast, shortwave, citizen's band, FM, television or microwave.

WINDMILL — A machine built to harness wind power, the vanes of which are over eighteen (18) inches long or the top of which is over eight (8) feet above grade.

C. Satellite antennas.

- (1) No satellite antenna shall exceed thirteen (13) feet in height, width or depth. All measurements shall be taken from the base at grade level. Measurements shall include all attachments, supports and guy wires.
- (2) Satellite antenna shall be located in the rear yard, and no more than one (1) antenna is permitted per lot. When located on a corner lot the antenna, in addition to being located in the rear yard, shall be set back from the lot line of the side yard adjacent to the street at least the distance required by the line of setback as determined in accordance with § 140-16.
- (3) Satellite antennas may only be erected as accessory structures to existing buildings.
- (4) All satellite antennas shall be located at least six (6) feet from the side and rear lot lines except that when a public alley abuts the rear lot line the clearance from this line is reduced to one (1) foot. When measuring setbacks, all cables guy wires, other supports and any protuberances constitute a part of the antenna.

- (5) All satellite antennas shall be screened from adjoining lots and public view by a barrier of evergreen plantings the height of which at maturity shall at least equal the height of the antenna. Screening is not required on a lot side which abuts a public alley.
 - (6) No satellite antenna may be erected for commercial purposes.
 - (7) No satellite antenna may be erected except in accordance with a building permit.
 - (8) A trailer-mounted satellite antenna may be present on a lot for up to one (1) week with the prior written permission of the Building Inspector.
- D. Windmills. No windmill may be erected within the village.
- E. Towers.
- (1) No tower may be erected which exceeds sixty (60) feet in height or length.
 - (2) Towers may be erected only as accessory structures to existing buildings. They may not be located in the front or side yards or a lot.
 - (3) Towers shall be located so that the setbacks from the side and rear lot lines are at least six (6) feet greater than the length of the tower, except when a public alley abuts the rear lot line the clearance from this line is reduced to one (1) foot greater than the length of the tower. All cables, guy wires and other tower supports are subject to the same setback requirements.
 - (4) No tower may be erected for commercial purposes.
 - (5) Towers over ten (10) feet in length may only be erected after a building permit has been obtained.

F. Building permit procedures.

- (1) Application to erect a satellite antenna or a tower over ten (10) feet in length shall be made to the Building Inspector in accordance with Chapter 52 (Building Construction) and this chapter. In addition to the details regarding the proposed construction required by § 52-10 of this Code, the following information must be included in the building permit application:
 - (a) The location of all utility poles, above and below-ground utility lines, trees or other natural or artificial structures;
 - (b) The location and specific plant identification of evergreen barrier plantings and descriptions of any other types of screening or fencing;
 - (c) All information prepared by the manufacturer of the antenna or tower for which a permit is being sought, including but not limited to the following:
 - [1] The make and model.
 - [2] The manufacturer's suggested installation instructions.
 - [3] The manufacturer's suggested maintenance and or inspection procedures.
 - [4] Complete details of any planned deviations from the manufacturer's suggested installation procedures and the reasons therefor.
 - (d) Any proposed anti-climbing devices, if application is for a grade level erected tower.
- (2) The Building Inspector shall review and consider the application and shall determine whether or not the proposed antenna or tower will:
 - (a) In any way adversely affect the public health, safety or welfare;
 - (b) Interfere with the reasonable use and enjoyment or aesthetics of abutting properties;

- (c) Will be in keeping and character with the use of abutting properties;
 - (d) Will impose a possibility of danger or detriment to abutting properties.
- (3) The Building Inspector, in granting any approval, may require the applicant to provide additional barrier planting or other suitable screening, fencing, anti-climb protection or other protective measures as deemed necessary or proper to reduce or eliminate aesthetic or safety concerns.
- (4) If the application is approved by the Building Inspector, the applicant shall submit and file with the village, prior to the start of construction or prior to use, all FCC, NEC, FAA and other state, federal or local permits or approvals which may be required for the construction of the antenna or tower and shall submit to the village, upon completion of construction or installation, a certification that the construction or installation as completed is in full compliance with the manufacturer's suggested installation procedures or the modified procedures approved in the permit application.

ARTICLE VI

Nonconforming Uses

§ 140-32. General provisions.

Lots, structures, uses of land and structures and characteristics of use which lawfully existed at the time of the enactment of these regulations or any amendment thereto, and which would be prohibited or restricted under these regulations may be continued if operated under the terms of the following provisions.

§ 140-33. Intent.

It is the intent of these regulations to permit nonconforming uses to continue until they are removed, but not to encourage their survival.

§ 140-34. Enlargement.

No nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of these regulations.

§ 140-35. Displacement.

No nonconforming use shall be extended to displace a conforming use.

§ 140-36. Unsafe structures.

Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition. However:

- A. A nonconforming structure shall not be reconstructed or structurally altered, exceeding an aggregate cost of fifty percent (50%) of the full value of said structure, unless the structure shall be changed to a conforming condition.

- B. A nonconforming structure damaged by fire or other causes to the extent of more than seventy-five (75%) of its full value shall not be repaired or rebuilt except in conformity with the requirements of these regulations.

§ 140-37. Discontinuance.

Whenever a nonconforming use shall have been discontinued for a period of six (6) months, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of these regulations.

§ 140-38. Changes.

Once changed to a conforming use, any structure or land so changed shall not be permitted to revert to a nonconforming use.

§ 140-39. Moving.

Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.

§ 140-40. Demolition.

Once a nonconforming structure is demolished or removed, it shall not be reconstructed except in compliance with these regulations.

§ 140-41. Undersized lots of record.

- A. Any recorded undeveloped lot held in single and separate ownership prior to the adoption of these regulations and whose area and/or width and/or depth are less than minimum requirements specified herein for the district may be considered as complying with these regulations and no variance therefore shall be required, provided only that the lot meets the minimum setback requirements set by § 140-16 of these regulations.
- B. In any district where residences are permitted, such undersized nonconforming lots may be used for not more than one (1) single-family dwelling.
- C. A lot of nonconforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's property.

ARTICLE VII**Special Permit Uses****§ 140-42. Purpose.**

Pursuant to § 7-725 of Village Law of the State of New York, the Planning Board is hereby authorized to approve the establishment of special permit uses as identified above in Article III in the regulations for the several zoning districts. Such identified uses are considered generally appropriate for the districts indicated, but require particular

attention to their manner of site development and operation in order to prevent or minimize undesirable effects on nearby properties or on the general welfare of the village. No special permit use shall be established or enlarged except under terms of a duly issued special permit. For such uses, a special permit shall serve the same function as a zoning permit for other uses. Special permits are not transferable.

§ 140-43. Application for special permit.

A special permit application shall be submitted to the Zoning Officer on forms provided by him. The application shall be supplemented by a site plan comprising the following explanatory materials to the extent that and in such detail as the Zoning Officer shall deem applicable, considering the type, location, relative complexity and general circumstances of the particular proposed special permit use:

- A. An area map showing the parcel under consideration for site review and all properties, subdivisions, streets and easements within two hundred (200) feet of the boundaries thereof.

- B. A site map or maps showing:
 - (1) The topography at no more than five-foot contour intervals. If general site grades have susceptibility to erosion or there are areas of flood or pending, contour intervals of not more than two (2) feet of elevation shall also be provided.
 - (2) The title of the drawing, the name and address of the applicant and the person responsible for preparation of such drawing North arrow, graphic scale and date of the drawing.
 - (3) Boundaries of the property plotted to scale.
 - (4) Existing watercourses, wetlands, water bodies, rock outcrops, major trees and other natural significant features.
 - (5) The proposed location, use and height of all buildings.

- (6) The grading and drainage plan, showing existing and proposed contours.
- (7) The location, design, and construction materials of all parking and truck loading areas, showing access and egress.
- (8) The provisions for pedestrian access.
- (9) The location of outdoor storage, if any.
- (10) The location, design, and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- (11) A description of the method of sewage disposal and location, design and construction materials of such facilities.
- (12) A description of the method of securing public water and location and the design and construction materials of such facilities, if applicable.
- (13) The location, design, and construction materials of all energy distribution facilities, including electric and gas.
- (14) The location, size and design and construction materials of all proposed signs.
- (15) The location and proposed development of all buffer areas, including existing vegetable cover.
- (16) The location and design of outdoor lighting facilities.
- (17) A designation of the amount of building area proposed for retail sales or similar commercial activities.
- (18) A general landscaping plan and planting schedule.
- (19) Any other elements integral to the proposed development as considered necessary by the Zoning Officer, including identification of any state or country permits required for the project's execution.

§ 140-44. Review.

- A. When the Zoning Officer has received a completed application for a special permit, he shall transmit it to the Planning Board for its review and determination. The Board shall within sixty (60) days approve, approve with modification or disapprove the application. Such decision shall be filed with the Village Clerk.

- B. The reasons for any modification or for disapproval shall be stated in the record, and copies shall be given to the applicant and the Zoning Officer. In approving an application with or without modification, the Planning Board may specify in the permit such terms and conditions as in its opinion shall be appropriate means for securing the expressed intent of the particular zoning district and the purposes of these regulations.

- C. A permit shall be issued upon affirmative vote of a majority of the Board and signature by the Chairman or other designated officer. Copies shall be given to the applicant and the Zoning Officer.

§ 140-45. Consideration.

Any application for a special permit shall be considered by the Planning Board with particular regard for the adequacy of the following, as may be applicable in each case:

- A. The adequacy and arrangement of pedestrian access and circulation, walkways, structures, control of intersections with vehicular traffic and overall pedestrian convenience.

- B. The location, arrangement, appearance and sufficiency of off street parking and loading.

- C. The location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

- D. The adequacy of storm water and drainage facilities.

- E. The adequacy of water supply and sewage disposal facilities.

- F. The adequacy, type, and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between applicants and adjoining lands, including the maximum retention of existing vegetation.
- G. In case of multiple dwellings, the adequacy of usable open space for play areas and informal recreation.
- H. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other informal recreation.
- I. The adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- J. Special attention to the adequacy of structures, roadways and landscaping in areas susceptible to ponding, flooding and/or erosion.

§ 140-46. Consultation.

In the course of its review, the Planning Board may consult with the Village Zoning Officer, Fire Commissioners, County Planning Board, other local and county officials and private consultants, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

§ 140-47. Hearing.

In the course of this review, the Planning Board may hold a public hearing with regard to any application for a special permit, upon publication of notice in the village's official newspaper at least five (5) days prior to the date thereof.

§ 140-48. Referral.

- A. Upon receipt of any application for special permit affecting a site within five hundred (500) feet of the village boundary or within five hundred (500) feet of a county or state highway or expressway, such application shall be promptly referred by the Village Planning Board to the County Planning Board for its review and comment, pursuant to § 239-m of the General Municipal Law.

- B. If the County Planning Board fails to report its comments within thirty (30) days after such referral, the Village Planning Board shall act without such report. If the County Planning Board disapproves or recommends modification of the proposal, the Village Planning Board shall not act to the contrary, without the affirmative vote of a majority plus one (1) of its membership on a resolution setting forth the reasons for such contrary action. Within seven (7) days, such decision shall be filed with the County Planning Board.

§ 140-49. Additional procedures.

The following matters of procedure shall be observed where applicable:

- A. Reimbursable costs. Costs incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a special permit shall be charged to the applicant, not to exceed fifty dollars (\$50.) per acre or fraction thereof.
- B. Inspection of improvements. The Zoning Officer shall be responsible for the overall inspection of site improvement, including coordination with other officials and agencies, as appropriate.
- C. Expiration. A special permit shall be deemed to authorize only one (1) particular special use and shall expire if the special use shall cease for more than six (6) months for any reason.
- D. Existing violations. No special permit shall be issued for property where there is an existing violation of these regulations.

ARTICLE VIII
Administration

§ 140-50. Zoning Officer.

- A. Appointment. The duty of administering and enforcing these regulations is hereby conferred upon the Zoning Officer who shall have such powers as are conferred upon him by these regulations. He shall be appointed by the Mayor and approved by the Board of Trustees and shall serve at the pleasure thereof and shall receive such compensation as said Board shall determine.
- B. Authority. In accordance with § 150 of the Criminal Procedure Law and § 10, Subdivision 4a, of the Municipal Home Rule Law of the State of New York, the North Hornell Village Board authorizes the duly designated Zoning Officer to issue appearance tickets when a violation persists after notice of discontinuance has been issued or when said notice is refused by a violator. The Zoning Office shall simultaneously file an information with the Justice to complete the appearance ticket procedure.
- C. Duties. For the purpose of these regulations, the Zoning Officer, in accordance with the provisions of these regulations, is authorized:
- (1) To issue zoning permits and certificates of zoning compliance in accordance with the provisions of these regulations.
 - (2) To receive and record fees with applications pursuant to § 140-54C below.
 - (3) Upon finding that any provision of these regulations is being violated, to notify in writing the person responsible for such violation, stating the action necessary to correct said violation.
 - (4) To order discontinuance of illegal uses of land, buildings or structures.
 - (5) To order removal of illegal buildings or structures or illegal additions or structural alterations.

- (6) To order discontinuance of any illegal work being done.
- (7) To take any other action authorized by these regulations to assure compliance with or prevent violations of these regulations.
- (8) To submit a written monthly report to the Village Board describing and enumerating actions taken and permits issued, accounting for and transmitting fees received.

§ 140-51. Zoning permits.

- A. Issuance. A zoning permit authorizes the start of construction or other work as described in the application therefor. No building or structure shall be erected, moved, added to, altered or enlarged nor shall any use of buildings or land be established or changed without a zoning permit therefore issued by the Zoning Officer in compliance with these regulations, or pursuant to terms of a variance order issued by the Board of Appeals.
- B. Expiration. If the work for which the zoning permit is issued has not begun within ninety (90) days from the date of issuance, said permit shall expire. If the work for which a zoning permit has been issued has not been completed within one (1) year of the date of the permit, said permit shall expire.

§ 140-52. Certificate of zoning compliance.

A certificate of zoning compliance shall be issued upon satisfactory completion of all necessary work undertaken pursuant to a duly issued zoning permit. The certificate allows the following:

- A. Change in use of an existing building;
- B. Occupancy and use of buildings hereafter erected, altered, moved or extended; or
- C. Occupancy and use of vacant land, or change in the use of land, except for tilling the soil or similar customary agricultural use for which permits are not required under these regulations.

§ 140-53. Special permits.

Special permits shall be processed by the Zoning Officer in accordance with Article VII of this chapter.

§ 140-54. Application for permits.

Applications for zoning permits and certificates of zoning compliance shall be submitted simultaneously to the Zoning Officer on forms provided by him. Such permits and certificates shall be issued only in conformance with all the provisions of these regulations. Permits also may be required to conform to requirements of Chapter 55, Flood Damage Prevention, of the Code of the Village of North Hornell.

A. Contents.

- (1) Each application shall set forth the purpose for which the structure is intended or for which the land is to be used and shall be accompanied by a plot plan, scale drawings and/or sketches and descriptions of the lot showing existing and proposed conditions, including, as appropriate, the number of dwelling units and such other information as may be lawfully be required by the Zoning Officer.
- (2) The original copy of such plans and/or illustrative and explanatory material shall be filed at the Village Hall.

B. Inspection. The Zoning Officer shall make or cause to have made an inspection of each building, structure or lot for which a certificate of zoning compliance has been applied before issuing such certificate, in order to assure compliance with all terms of the application and the zoning permit as issued.

C. Fees.

- (1) The following schedule of fees shall be effective with the enactment of these regulations. Fees shall be paid at the office of the Zoning Officer upon filing of an application:
 - (a) Application for zoning permit and certificate of zoning compliance: ten dollars (\$10.).

- (b) Appeal for a variance or for administrative review: ten dollars (\$10.).
 - (c) Application for a special permit: ten dollars (\$10.).
 - (d) Application for amendment of these regulations or the Zoning Map: twenty dollars (\$20.).
- (2) No action shall be taken on any application or appeal until all applicable fees have been paid.

§ 140-55. Board of Appeals.

A. Appointment and organization.

- (1) A Board of Appeals is hereby created. Said Board shall consist of five (5) members appointed by the Village Board, which shall designate a Chairperson and Deputy Chairperson; such designations shall run for a period of three (3) years.
- (2) No person who is a member of the Village Board shall be eligible for membership on such Board of Appeals. Of the members of the Board first appointed, one (1) shall hold office for the term of one (1) year, one (1) for the term of two (2) years, one (1) for the term of three (3) years, one (1) for the term of four (4) years and one (1) for the term of five (5) years.
- (3) Thereafter, each member shall hold office for a term of five (5) years from and after the expiration of terms of their predecessors in office. If a vacancy shall occur other than by expiration of a term, it shall be filled by the Village Board by appointment for the unexpired term.

B. Powers and duties. The Board of Appeals shall have all the powers and duties prescribed by the Village Law of the State of New York, Article VII, § 7-712, and by these regulations, which are more particularly specified as follows:

- (1) Administrative review. The Board of Appeals shall hear and decide appeals from the review of any order, requirement, decision or interpretation by the Zoning Officer in the enforcement of these regulations when it is contended that there has been an error of procedure or of substance therein.

- (2) Variances. In particular cases when it is contended on appeal that strict application of these regulations would cause practical difficulties or unnecessary hardship, the Board of Appeals may vary or modify such regulations to the minimum extent needed to do justice while assuring the public safety and welfare.
- (3) Staff. The Board of Appeals may employ such staff assistance as may be necessary and prescribe their duties, provided that at no time shall expenditures therefor exceed the appropriations made by the Village Board for such use and then available for said purpose.
- (4) Rules. The Board of Appeals shall have the power to make and adopt such written rules of procedure, bylaws and forms as it may deem necessary for the proper execution of its duties and to secure the intent of these regulations. Such rules, bylaws and forms shall not be in conflict with nor have the effect of waiving any provision of these regulations or any other regulations of the Village of North Hornell.
- (5) Meetings. All meetings of the Board of Appeals shall be open to the public and shall be held at the call of the Chairman and at such other times as the Board may determine. The concurring vote of a majority of all members of the Board shall be necessary to decide any matter on which the Board is required to rule.
- (6) Records. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member on every question. If a member is absent or fails to vote, the minutes shall indicate such fact.
- (7) Board of Appeals office. The office of the Village Clerk shall be the office of the Board of Appeals, and every rule, regulation, amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in said office.

- (8) Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Officer certified that by reason of fact, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on an application, on notice of the Zoning Officer and on due cause shown.

§ 140-56. Appeals.

- A. A person aggrieved by any interpretation, decision, order or requirement of the Zoning Officer issued pursuant to his duties under these regulations may appeal therefrom to the Board of Appeals, within a time set by general rule of the Board.
- B. An appeal shall be on forms prescribed by the Board and available from the Zoning Officer and shall specify the grounds for such appeal and the particular relief sought. A copy thereof shall be filed with the Zoning Officer and a copy with the Board of Appeals. The Zoning Officer shall give the Board the complete record of action under the appeal.
- C. Hearing.
 - (1) The Board shall fix a reasonable time for the hearing of appeals and shall give due notice of the time set for the hearing. Such notice shall be by publication in the official newspaper of the Village of North Hornell, at least ten (10) days in advance thereof, which notice shall briefly describe the nature of the appeal and time and place of the hearing. The appellant shall be notified by mail.
 - (2) The public hearing shall be held. Any party may appear in person, or by agent or attorney. The Board shall decide the appeal within sixty-two (62) days following the close of the hearing.

- (3) The Board of Appeals' decision may modify, reverse or affirm wholly, or partly, the order, requirement, decision or determination appealed from. In its decision, the Board shall resolve the matter in such a manner as in its opinion ought to be done under the circumstances. The decision shall be written, and copies thereof shall be delivered to the appellant and the Zoning Officer and filed with the Village Clerk.

D. Referral.

- (1) In accordance with § 239-m of the General Municipal Law, at least ten (10) days prior to the date of any hearing by the Board of Appeals upon an appeal for variance as provided in § 140-55B(2) above, notice shall be given to the Steuben County Planning Board for any action affecting property within five hundred (500) feet of the boundary of the village or from the right-of-way of any county or state highway or expressway.
- (2) If the County Planning Board disapproved the proposal or recommends modification thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by vote of a majority plus one (1) of the members thereof, and after adoption of a resolution fully setting forth the reasons for such contrary action.

- E. Any person or persons jointly or severally aggrieved by a decision of the Board of Appeals or any office, department, board or bureau of the village may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after filing of a decision in the office of the Village Clerk.

§ 140-57. Variances.

- A. Appeal. Any person who finds, in his opinion, that a decision of the Zoning Officer, applying or enforcing strictly any provision of these regulations, would under the particular circumstances cause him great practical difficulties or unnecessary hardship may appeal such decision as provided for in § 140-56 above. The appeal shall specify the particular provision appealed from and the nature and extent of relief sought.

B. Obtaining a variance.

(1) Grounds for appeal.

- (a) Any person may appeal a rejection of an application for a zoning permit or the rejection of an application for a special permit, or any modification or condition attached to such permit by the Planning Board upon concluding that strict application of a particular provision of these regulations would cause the appellant practical difficulty or unnecessary hard ship in carrying out a contemplated undertaking, as set forth in § 140-56A and B.
- (b) Before filing an appeal for variance from a provision of these regulations, a person should carefully weigh the facts of the matter, and the relief desired, against the standards set out in Subsection B(6) below.

(2) Submittal. The appellant shall obtain from the Zoning Officer an appeal for a variance. The completed form shall exactly identify the particular provision of these regulations from which the appeal is taken and shall specify the nature of relief sought and the reasons therefore. It shall be submitted to the Zoning Officer, who shall promptly send the appeal and all other records of the matter in his file, if any, to the Board of Appeals.

(3) Referral to County Planning Board. If the appeal pertains to premises within five hundred (500) feet from any boundary of the Town or the Village of North Hornell or from any county or state road or highway or from any county or state park or other recreation area, a copy of the appeal form shall be sent to the Steuben County Planning Board for review and comment, as set forth in § 140-56D.

- (4) Hearing.
- (a) The Board of Appeals shall promptly set a date for public hearing of the appeal. The Board shall promptly mail notice thereof to the appellant and to the Zoning Officer and publish notice thereof in the official newspaper of the village and issue any other notice the Board may choose, at least ten (10) days prior to such date. **[Amended: 11-13-89 by L.L. No. 6-1989]**
 - (b) At the hearing, relevant information may be presented by any interested person. The Chairman may compel attendance of witnesses and administer oaths thereto. The appellant, who may be represented by counsel, may present information to supplement his written appeal. The Zoning Officer or Village Attorney shall present information supporting strict application of the regulation under appeal. Minutes of all proceedings shall be kept, clearly recording the information received, which shall become part of the record of the matter under appeal.
- (5) Purpose of variances. After considering the record and, if it wishes, examining the premises, the Board of Appeals shall have the power, in granting an appellant relief, to vary or modify any provision of these regulations relating to the use, construction or alteration of buildings or other structures, or the use of land, so that the spirit of these regulations shall be observed, the public safety and welfare secured and substantial justice done.
- (6) Standards. The Board of Appeals shall be governed by the standards set forth below, in ruling on any appeal for variance from strict application of these regulations:
- (a) If the appellant seeks a variance in order to establish or maintain a use not allowed in the district, the Board shall grant the relief sought only if it finds substantial factual evidence in the record that the appellant would otherwise be subject to unnecessary hardship, because the property cannot yield a reasonable return if used only for the purpose allowed in the district and the requested use will not alter the essential character of the surrounding area.

- (b) If the appellant seeks a variance from the allowable minimum lot area, lot width, depth of required yards and/or maximum allowable building height in the district, the Board shall grant the relief sought only if it finds substantial factual evidence in the record that the appellant would otherwise experience practical difficulty, suffering significant economic injury, without the requested variance and the village has failed to show that strict enforcement of the regulation appealed from is necessary to protect the public health, safety or welfare.
 - (c) However, where the Board does find from the record that strict enforcement of such dimensional regulation is necessary to protect the public health, safety and welfare, the Board nevertheless shall grant the relief sought if the record demonstrates that otherwise the appellant will be deprived of all reasonable use of the property.
- (7) Decision.

- (a) The Board of Appeals shall duly consider the record of the matter from which the appeal was taken and shall weigh all the facts against the standards set forth in subsection B(6) above. Within forty-five (45) days following the close of the hearing, the Board shall issue its decision. Copies of the Board's decision shall be sent promptly to the appellant and the Zoning Officer.
- (b) The concurring vote of a majority of the members of the Board shall be necessary to grant a variance, except that the concurring vote of a majority plus one (1) of the members shall be required for a decision contrary to any recommendation of the County Planning Board. [See Subsection B(3) above.]

- (8) Lapse. Any variance authorized by the Board of Appeals that is not exercised within one (1) year from the date of issuance shall expire automatically without a further hearing by the Board.
- (9) Order of variance. If relief is granted, it shall be in the form of an order of variance directed to the Zoning Officer, fully describing the variance granted and any conditions and safeguards attached thereto. In granting any variance, the Board may attach such reasonable conditions as it shall deem necessary to safeguard nearby properties, and protect the public health, safety and welfare. A copy shall be retained in the Board's records.

ARTICLE IX

Enforcement

§ 140-58. Complaint.

Whenever a violation occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Officer. Said Officer shall record properly all such complaints, immediately investigate and take action thereon as provided herein.

§ 140-59. Notice of violation.

The Zoning Officer shall serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, use or occupancy of any building, structure or land in violation of the provisions of this regulation or in violation of a permit or certificate issued under these regulations. Such notice or order shall direct discontinuance of the illegal action or condition and abatement of the violation.

§ 140-60. Abatement of violation.

- A. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used or any land is divided into lots, blocks or sites in violation of this chapter or of any local law or other regulation made under authority conferred thereby, the proper local

authorities of the village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

- B. Upon the failure or refusal of the proper local officer, board or body of the village to institute appropriate action or proceeding for a period of ten (10) days after written request by a resident of the village wherein such violation exists who is jointly or severally aggrieved by such violation, such individual may institute such appropriate action or proceeding in like manner as such local officer, board or body of the village is authorized to do.

§ 140-61. Administrative intent.

It is the intent of this regulation that all questions of enforcement and interpretation shall first be presented to the Zoning Officer and that such questions shall be presented to the Board of Appeals only upon appeal from the decision of the Zoning Officer and that recourse from the decision of the Board of Appeals shall be to the courts as provided by law.

§ 140-62. Penalties for offenses.

A violation of these regulations is a offense punishable by a fine not exceeding two hundred fifty dollars (\$250.) or imprisonment for a term not exceeding fifteen (15) days, or both. Each week of continued violation shall be considered a separate offense.

APPENDIX

Chapter A146

MAYOR

- § A146-1. Term of office.**
- § A146-2. Notice of adoption.**
- § A146-3. When effective; effect of referendum.**
- § A146-4. Applicability.**

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 12-12-77 by resolution. Amendments noted where applicable.]

§ A146-1. Term of office.

The term of office of the Mayor hereafter elected in the Village of North Hornell shall be four (4) years.

§ A146-2. Notice of adoption.

The Village Clerk shall, within ten (10) days after the adoption of this resolution, post and publish a notice, in the same manner as is provided for notice of a general village election, which shall set forth the date of the adoption of this resolution and contain an abstract of such resolution concisely stating the purpose and effect thereof and indicating that such resolution is subject to a permissive referendum.

§ A146-3. When effective; effect of referendum.

This resolution shall take effect thirty (30) days after its adoption unless, within such thirty (30) days, a valid petition is filed with the Village Clerk requiring a referendum. In the event a referendum is required, this resolution shall not be effective until it is approved by the affirmative vote of a majority of the qualified electors of the Village of North Hornell voting on such proposition.

§ A146-4. Applicability.

The resolution shall apply to the Village of North Hornell general election to be held in March 1978, provided that the effective date of this resolution occurs more than thirty (30) days prior to such general election.

Chapter A147

PLANNING BOARD

§ A147-1. Establishment; membership; terms.

§ A147-2. Powers and duties.

§ A147-3. Filing of copies.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell 7-10-67 by resolution; amended in its entirety during codification; see Ch. 1, General Provisions, Art II. Subsequent amendments noted where applicable.]

§ A147-1. Establishment; membership; terms.

There is and shall be a Planning Board for the Village of North Hornell, Steuben County, New York, known as the “North Hornell Planning Board,” consisting of five (5) members to serve staggered, five-year terms.

§ A147-2. Powers and duties.

- A. Pursuant to Article 7 of the Village Law, said Planning Board is hereby authorized and empowered to approve plate showing lots, blocks or sites, with or without streets or highways, and to pass and approve the development of plate already filed in the office of the Clerk of said county if such plate are entirely or partially undeveloped, and to conditionally approve preliminary plate.

- B. Pursuant to § 7-738 of said Article 7 of the Village Law, said Planning Board is hereby empowered simultaneously with the approval of any plat either to confirm the zoning regulations of the land so platted, as shown on the official zoning maps of said village, or to make any reasonable change therein, provided that such confirmation or change shall be limited by the following:

- (1) Approval of the North Hornell Village Board.
- (2) Approval of the Zoning Board of Appeals.
- (3) The provisions of § 7-738 of the Village Law.

§ A147-3. Filing of Copies.

The village Clerk is directed to forthwith file a certified copy of this resolution with the Clerk of Steuben County.

§ A148-1

TAXATION

§ A148-1

Chapter A148

TAXATION

ARTICLE I

Disposition of Sales Tax

§ A148-1. Payments made directly to village.

ARTICLE II

Collection of Delinquent Taxes

§ A148-2. Collection by county authorized.

[HISTORY: Adopted by the Board of Trustees of the Village of North Hornell: Art. I, 4-21-87 by resolution; Art. II, 5-9-88 by resolution. Amendments noted where applicable.]

ARTICLE I

Disposition of Sales Tax

[Adopted 4-21-87 by resolution]

§ A148-1. Payments made directly to village.

The Village of North Hornell shall be paid directly all such sales tax collections as heretofore used for the reduction of county and general town taxes levied upon real property and, in lieu thereof, payments shall be made directly to said village, all pursuant to Article 29, § 1262(c), of the Tax Law, and the County Treasurer of the County of Steuben, as chief fiscal officer, shall be supplied with a certified copy of this resolution requesting such payments.

ARTICLE II

Collection of Delinquent Taxes

[Adopted 5-9-88 by resolution]

§ A148-2. Collection by county authorized.

The Village of North Hornell does hereby authorize the County of Steuben to collect delinquent taxes after November 1, 1988.

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INDEX INSTRUCTIONS

The main INDEX, beginning on page 1, will guide you to the legislation contained within the Code at the time the main INDEX was originally prepared. As new legislation is adopted, or existing legislation is amended, the Code pages are replaced by supplementary pages which include the new material, thereby causing some INDEX entries to become obsolete. INDEX entries to the new material will be provided for in the SUPPLEMENTAL INDEX, beginning on page SI-1.

The SUPPLEMENTAL INDEX should, therefore, be consulted first, since it refers to the more recent legislation. Then reference should be made to the main INDEX.

When received, SUPPLEMENTAL INDEX pages should be placed directly following this page and in front of the main INDEX, according to the instructions accompanying the supplement.

Numbers in the indices refer to section numbers in the Code, e.g., 39-3 is a reference to Chapter 39, Section 3.

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