

Chapter 65**PROPERTY MAINTENANCE**

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[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 8-7-2000 by L.L. No. 3-2000. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 26.

Unsafe buildings — See Ch. 32.

Uniform Fire Prevention and Building Code — See Ch. 49.

Solid waste collection and disposal — See Ch. 71.

§ 65-1. **Purpose.**

It is the purpose of this chapter to promote the public interest in continued development, ensure regular maintenance and improvements to present structures, safeguard against blight, to fix certain responsibilities and duties upon owners and operators and distinct and separate responsibilities and duties

upon occupants and preserve property values and community standards and to establish maintenance standards to safeguard life, limb, health, safety, property and public welfare in the best interest of the residents of the Village of Fort Edward.

§ 65-2. Responsibility.

The owner of the premises shall maintain the structures and exterior property in compliance with these requirements. A person shall not occupy as owner-occupied or permit another person to occupy premises which are not in a satisfactory and safe condition and which do not comply with the requirements of the chapter. Occupants of a dwelling unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit that they occupy or control.

§ 65-3. Provisions to be minimum standards; conflict with other provisions.

- A. This chapter establishes certain minimum standards for the initial and continued occupancy and use of all structures and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the structure, the premises or the equipment or facilities contained therein, as are required by the New York State Uniform Fire Prevention and Building Code.¹
- B. In any case where a provision is found to be in conflict with any applicable zoning, building, plumbing, electrical, heating, ventilation, fire or safety code of the Village of Fort Edward, County of Washington, State of New York or United States of America the provision that establishes the higher standard, as determined by the Code Enforcement Officer, shall prevail.

¹ Editor's Note: See Ch. 49, Uniform Fire Prevention and Building Code.

§ 65-4. Exterior standards.

The exterior of the premises and the condition of the structures shall be maintained so that the premises and all buildings shall reflect a level of maintenance in keeping with the standards of the community and shall not constitute blight from the point of view of adjoining property owners or lead to the progressive deterioration of the neighborhood. Such maintenance shall include, without limitation, the following:

- A. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The owner and/or occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.
- B. Foundations, porches, decks, steps and walls shall be in good condition.
- C. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.
- D. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.
- E. All permanent signs exposed to public view permitted by reason of other regulations or as a lawful nonconforming use shall be maintained in good repair. Any signs that have become excessively weathered, those upon which the paint has excessively peeled or those whose supports have deteriorated so that they no longer meet the structural requirements of the New York State Uniform Fire Prevention and Building Code² shall, with their supports, be removed or put into a good state of repair.

² Editor's Note: See Ch. 49, Uniform Fire Prevention and Building Code.

All inoperative or broken electrical signs shall be repaired or shall be removed. Signs denoting a business, which is no longer on the premises, shall be removed within 30 days of the date on which the business ceases to occupy the premises.

- F. All storefronts and walls exposed to public view shall be kept in a good state of repair. Storefronts or any portion of the structure shall not show evidence of weathering or deterioration of any nature. Unoccupied storefronts shall be maintained in a clean, and neat appearance.
- G. All exposed exterior surfaces shall be maintained free of broken or cracked glass, loose shingles or loose or crumbling stones or bricks, loose shutters, railings, aerials, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance. Said conditions shall be corrected by repair or removal. All exterior surfaces, including but not limited to doors, door and window frames, cornices, porches and trim, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of the windows, doors and skylights, shall be maintained weather resistant and watertight. Floors, walls, ceilings, stairs and fixtures of buildings shall be maintained in a clean, safe and sanitary condition. Every floor, exterior wall, roof, 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.
- H. All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against

decay or rust by periodic application of weather-coating materials, such as paint or other surface treatment.

- I. All doors, door assemblies and hardware shall be maintained in good condition.
- J. All vacant buildings shall be continuously guarded or sealed and kept secure against unauthorized entry. Materials and methods with which such buildings are sealed must meet the approval of the Code Enforcement Officer as to color, design and building material. Owners of such buildings shall take such steps and perform such acts as may be required 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 and that such property does not become infested with vermin or rodents.

§ 65-5. Storage of commercial and industrial material.

- A. There shall not be stored or used at a location visible from the sidewalk, street or other public areas equipment and materials relating to commercial or industrial use unless permitted under the Zoning Ordinance³ for the premises.
- B. Under no circumstances shall any of the stored materials exceed the height of the appropriate fencing for the specific zone.

§ 65-6. Responsibilities of occupants.

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

- A. Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.

³ Editor's Note: See Ch. 100, Zoning.

- B. Keeping exits from the building or occupants' portion thereof clear and unobstructed.
- C. Disposal of garbage and refuse in a clean and sanitary manner, in accordance with any applicable provisions of the Village of Fort Edward.⁴
- D. Extermination of rodents or other pests within the premises.
- E. Maintenance of yards and lawns in a clean, sanitary and safe condition and free from infestation by rodents or vermin, insofar as said occupant occupies or controls said yards, lawns or any parts thereof.
- F. Keeping domestic animals and pets in an appropriate manner and under control, in accordance with any other regulations of the Village of Fort Edward.⁵
- G. Elimination of all prohibited uses for that part of the premises that he occupies, controls or has accessibility thereto.

§ 65-7. Responsibilities of owners; persons considered to be owners.

A. Responsibilities.

- (1) Owners of premises shall be responsible for the compliance with the provisions of this chapter and shall remain responsible therefor, 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.
- (2) Owners and operators of buildings shall be responsible for the proper installation, maintenance,

⁴ Editor's Note: See Ch. 71, Solid waste collection and disposal.

⁵ Editor's Note: See Ch. 39, Dogs and other animals.

condition and operation of service facilities and for furnishing adequate heat and hot water supply where they have contracted to do so.

- B. Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the Village of Fort Edward as executor, administrator, trustee, guardian, operator or agent, such persons shall be deemed and taken to be the owner or owners of said property within the intent and meaning of this chapter and shall comply with the provisions of this chapter to the same extent as the owner of record.

§ 65-8. Inspection and enforcement.

- A. The Code Enforcement Officer is hereby authorized and directed to make inspections to determine compliance with this chapter. Every operator or owner shall cooperate with the Code Enforcement Officer in providing access to the premises. Whenever the Code Enforcement Officer determines that there is a violation of the provisions of this chapter, he shall cause a written notice to be served upon the owner or operator, which shall include:
- (1) An enumeration of conditions that violate the provisions of this chapter.
 - (2) An enumeration of the remedial action required to meet the standards of this chapter.
 - (3) A statement of a definite number of days from the date of the notice in which the owner or operator must commence and complete such remedial action.
 - (4) A statement of the penalties for noncompliance, as set forth herein.
- B. A copy of such notice shall be filed in the Village Clerk's office, and such notice shall be deemed sufficient if served upon the owner or operator as follows:

- (1) In person;
 - (2) By certified mail with return receipt requested; or
 - (3) By posting a copy of said notice on the building, only if the attempts to serve the owner or occupant by the first two methods set out above are unsuccessful.
- C. Upon failure to comply with said notice, the Code Enforcement Officer shall issue an appearance ticket returnable in the Village Court.

§ 65-9. Penalties for offenses.

A violation of any provision of this chapter shall be an offense punishable by a fine not to exceed \$1,000 or 15 days in jail for each violation.

Chapter 66

RECORDS, PUBLIC ACCESS TO

- § 66-1. Purpose and scope.
- § 66-2. Designation of records access officer; duties.
- § 66-3. Location of records.
- § 66-4. Hours for public inspection.
- § 66-5. Requests for access to records.
- § 66-6. Subject matter list.
- § 66-7. Denial of access to records; appeals.
- § 66-8. Fees.
- § 66-9. Public notice.

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

- § 66-1. Purpose and scope.
 - A. The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
 - B. These regulations provide information concerning the procedures by which records may be obtained.
 - C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.

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

§ 66-2. Designation of records access officer; duties.

- A. The Board of Trustees is responsible for ensuring compliance with the regulations herein and designates the following person as records access officer: Village Clerk, Municipal Center, 118 Broadway, Fort Edward, New York.
- B. The records access officer is responsible for ensuring appropriate agency response to public requests for access to records. The designation of the records access officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.
- C. The records access officer shall ensure that personnel:
- (1) Maintain an up-to-date subject matter list.
 - (2) Assist the requester in identifying requested records, if necessary.
 - (3) Upon locating the records, take one (1) of the following actions:
 - (a) Make records available for inspection.
 - (b) Deny access to the records in whole or in part and explain in writing the reasons therefor.
 - (4) Upon request for copies of records, take one (1) of the following actions:
 - (a) Make a copy available upon payment of or an offer to pay the established fees, if any, in accordance with § 66-8.
 - (b) Permit the requester to copy those records.
 - (5) Upon request, certify that a record is a true copy.

- (6) Upon failure to locate records, certify that:
- (a) The village is not the custodian for such records; or
 - (b) The records of which the village is a custodian cannot be found after diligent search.

§ 66-3. Location of records.

Records shall be available for public inspection and copying at the Village Clerk's office, Municipal Center, 118 Broadway, Fort Edward, New York.

§ 66-4. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours that the Clerk's office is regularly open for business.

§ 66-5. Requests for access to records.

- A. A written request may be required, but oral requests may be accepted when records are readily available.
- B. A response shall be given within five (5) business days of receipt of any request reasonably describing the record or records sought.
- C. A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- D. If the records access officer does not provide or deny access to the record sought within five (5) business days of receipt of a request, he or she shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted or denied within ten (10) business days after the date of acknowledgment of receipt of a request, the request may be construed as a denial of access that may be appealed.

§ 66-6. Subject matter list.

- A. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in his or her possession, whether or not records are available pursuant to § 87, Subdivision 2, of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

§ 66-7. Denial of access to records; appeals.

- A. Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the body established to hear appeals.
- B. If requested records are not provided promptly, as required in § 66-5D of this chapter, such failure shall also be deemed a denial of access.
- C. The Mayor shall hear appeals for denial of access to records under the Freedom of Information Law.
- D. The time for deciding an appeal by the person designated to hear appeals shall commence upon receipt of a written appeal identifying:
 - (1) The date of the appeal.
 - (2) The date and location of the request for records.
 - (3) The records to which the requester was denied access.
 - (4) Whether the denial of access was in writing or due to failure to provide records promptly as required by § 66-5D.
 - (5) The name and return address of the requester.
- E. The person designated to hear appeals shall inform the requester of his decision in writing within ten (10) business days of receipt of an appeal.

- F. The person designated to hear appeals shall immediately forward to the Committee of Open Government copies of all appeals upon receipt and the ensuing determination thereon.

§ 66-8. Fees.

The following fees shall be charged:

- A. Inspection of records: no fee.
- B. Search for records: no fee.
- C. Any certification pursuant to this chapter: three dollars (\$3.).
- D. Photocopies not exceeding nine by fourteen (9 x 14) inches: twenty-five cents (\$0.25) per page.
- E. Fees for copies of records other than photocopies which are nine by fourteen (9 x 14) inches or less in size shall be the actual copying cost, excluding fixed agency costs such as salaries, except when a different fee is otherwise prescribed by statute.

§ 66-9. Public notice.

A notice containing the title or name and business address of the records access officers and appeals body and the location where records can be seen or copies shall be posted in a conspicuous location wherever records are kept.



§ 69-1

SEWERS

§ 69-2

Chapter 69

SEWERS

ARTICLE I
Manholes

§ 69-1. Prohibited acts.

§ 69-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward: Art. I, 6-7-32 as Section 32 of the 1932 Ordinances; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

ARTICLE I
Manholes

[Adopted 6-7-32 as Section 32 of the 1932 Ordinances;
amended in its entirety at time of adoption of Code¹]

§ 69-1. Prohibited acts.

No unauthorized person shall in any way interfere with or open any manhole connected with the sewer system or water system of this village, or remove or break any of the covers thereof.

§ 69-2. Penalties for offenses.

Any person or corporation violating any of the provisions of this Article shall subject the offending party, upon conviction, to a penalty of a fine not exceeding two hundred fifty dollars (\$250.) or imprisonment not exceeding fifteen (15) days, or both.

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



Chapter 70**SIGNS**

- § 70-1. **Purpose.**
- § 70-2. **Definitions.**
- § 70-3. **Permit required; application; approval.**
- § 70-4. **Exempt signs.**
- § 70-5. **General restrictions.**
- § 70-6. **Permitted signs.**
- § 70-7. **Regulations by district.**
- § 70-8. **Nonconforming signs.**
- § 70-9. **Removal of signs.**
- § 70-10. **Construction standards.**
- § 70-11. **Penalties for offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 5-7-2001 by L.L. No. 1-2001. Amendments noted where applicable.]

§ 70-1. Purpose.

- A. The purpose of this chapter is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or

advertising distractions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more visual open space and curb the deterioration of the community's appearance and attractiveness.

- B. This chapter is intended to promote attractive signs which clearly and simply present their visual messages in a manner that is compatible with their surroundings.

§ 70-2. Definitions.

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

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

- A. AWNING SIGN — Any visual message incorporated into an awning attached to a building.
- B. COPY-CHANGE SIGN — Any sign on which the visual message may be periodically changed.
- C. DIRECTIONAL SIGN — A sign limited to providing information on the location of any activity, business or event.
- D. FREESTANDING SIGN — Any sign not attached to or part of any building, but separate and permanently affixed by any other means in or upon the ground. Included are pole signs, nylon signs and masonry wall-type signs.

- E. ILLUMINATED SIGN — Any sign illuminated by electricity, gas or other artificial light, either from the interior or exterior of the sign, including reflective and phosphorescent light.
- F. OFF-PREMISES SIGN — A sign unrelated to a business or a profession conducted or to a commodity or service sold or offered upon the premises where such sign is located.
- G. PORTABLE SIGN — A sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building or another sign.
- H. PROJECTING SIGN — A sign which is attached to a building wall or structure and which extends horizontally more than 15 inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.
- I. TEMPORARY SIGN — A sign related to a single activity or event having a duration of no more than 30 days.
- J. BILLBOARD SIGN — An off-premises sign displaying advertising sign copy that is pasted, painted or fastened in a manner to permit its periodic replacement and that does not direct attention to a use, activity, facility, product or service existing on the lot on which the sign is placed.
- K. WALL SIGN — A sign which is painted on or attached to the outside wall of a building, with the face of the sign in the plane parallel to such wall and not extending more than 15 inches from the face of the wall.

§ 70-3. Permit required; application; approval.

- A. Except as otherwise provided; no person shall erect, alter or relocate any sign without first obtaining a permit from the Village Clerk. Within six months following the effective date of this chapter, a permit shall also be obtained for any sign in existence as of the effective date of this chapter, with no fee, unless excluded by the exempt signs provision under § 70-4. Subsequent to this initial application, no permit shall be required for a sign to be repainted, repaired or to have its message changed.
- B. Application procedure. Applications shall be made, in writing, to the Village Clerk on forms prescribed and provided by the Village of Fort Edward and shall contain the following information:
- (1) The name, address and telephone number of:
 - (a) The applicant.
 - (b) The owner of the property.
 - (2) The location of the building, structure or land upon which the sign now exists or is to be erected.
 - (3) Written consent or a copy of the contract made with the owner of the property upon which the sign is to be erected, if the applicant is not the owner.
 - (4) A fee of \$10.
- C. If a new sign is to be erected, elevation and plan drawings should be included. In addition, a full description of the placement and appearance of the proposed sign should be included and should cover the following:
- (1) The location on the premises, and specifically its position in relation to adjacent buildings, structures and property lines.
 - (2) The method of illumination, if any, and the position of any lighting devices.

- (3) The graphic design, including symbols, letters, materials and colors.
- (4) The visual message text, copy or content of the sign.

D. Approval. Upon the filing of a completed application, the Code Enforcement Officer shall examine the plans, specifications and other data submitted and the premises on which the sign is to be erected or now exists. If it shall appear that the sign is in compliance with all the requirements of this chapter, he shall then give approval for the erection of the proposed sign or for an existing sign.

§ 70-4. Exempt signs.

The following types of signs may be erected without permits or fees, provided that such signs comply with the general requirements of this chapter and other pertinent regulations:

- A. Historical markers, tablets and statues, memorial signs and plaques; names and dates of buildings; and nonadvertising on-premises signs installed by religious or nonprofit organizations, not exceeding six square feet.
- B. Signs, notices or emblems installed by government bodies.
- C. Flags or insignias of any government, except when displayed in connection with commercial promotion.
- D. On-premises nonadvertising directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits, and similar signs not exceeding four square feet; freestanding signs not to exceed six feet in height. Business names and personal names shall be allowed, excluding advertising messages.
- E. Nonilluminated warning, "private drive," "posted" or "no trespassing" signs, not to exceed two square feet.

- F. One on-premises sign, either freestanding or attached, in connection with any residential building in any zoning district, for permitted professional offices or home occupations, not to exceed two square feet. Said sign must be set back at least 10 feet from the highway right-of-way.
- G. Number and name plates identifying residents, mounted on a house, apartment or mailbox, not to exceed one square foot in area.
- H. Private-owner merchandise sales signs for garage sales, yard sales, auctions and the like, not exceeding four square feet for a period not exceeding seven days.
- I. Temporary, nonilluminated "for sale," "for rent" and real estate signs of a similar nature concerning the premises upon which the sign is located, one sign not exceeding four square feet per side; in a business or industrial area, one sign not exceeding 50 square feet, set back at least 15 feet from all property lines. All such signs shall be removed within three days after closing the sale or the effective date of the lease or rental of the premises.
- J. One temporary sign for a roadside stand selling agricultural produce, in season, provided that such a sign shall not exceed 16 square feet and shall be set back at least 10 feet from the public right-of-way. Said sign shall be removed within three days after the produce is no longer for sale.
- K. Holiday decorations, including lighting, which may be displayed in any district.
- L. Temporary, nonilluminated, window signs and posters.
- M. At gasoline stations:
 - (1) Integral graphic or attached price signs on gasoline pumps.
 - (2) One portable sign per station, not exceeding 12 square feet and four feet in height.

- N. Temporary directional signs for meetings, conventions and other assemblies. Said signs may be displayed five days prior to said event and be removed within two days following the event.
- O. One sign, not exceeding six square feet in the residential districts or 16 square feet in the commercial or industrial districts, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation or repair is in progress. Said sign shall be removed within three days of completion of such work.
- P. Political posters, banners, promotional devices and similar signs not exceeding four square feet in the residential districts or 16 square feet in the commercial or industrial districts, provided that:
 - (1) Placement shall not exceed 30 days before nor three days following said event.
 - (2) The names and addresses of the sponsor and/or the person responsible for removal are identified on each such sign or poster.
 - (3) Such signage shall be set back at least 10 feet from all property lines and shall not be located within any public right-of-way.

§ 70-5. General restrictions.

- A. No off premises signs shall be allowed other than as permitted under the exempt signs provisions of § 70-4 above.
- B. No sign in any district shall be placed or located within or extend into the right-of-way of any public highway or roadway.
- C. No sign shall be illuminated by or contain flashing, intermittent, rotating or revolving lights, except to show time and temperature.

- D. No sign shall impair or cause confusion of vehicular or pedestrian traffic in its design, color or placement. No sign shall impair visibility for the motorist at a street corner or intersection by placement and location within 15 feet of the intersection of the street or highway lines.
- E. No sign or sign supports shall be placed upon the roof of any building.
- F. No sign shall consist of banners, pennant, ribbons, streamers, spinners or similar moving, fluttering or revolving devices.
- G. No advertising message shall be extended over more than one sign placed along a street or highway.
- H. No sign shall be attached to fences, utility poles or trees.
- I. No sign shall be erected in such a manner as to confuse or obstruct the view of any traffic sign, signal or device.
- J. No sign(s) shall be placed along a state highway without first obtaining permission from the New York State Department of Transportation in order to avoid conflict with any New York State law.
- K. No sign will exceed four feet high from the ground when it is placed between the curb and sidewalk or beside a roadway.
- L. No billboard-type sign shall be permitted in the limits of the Village of Fort Edward.

§ 70-6. Permitted signs.

The following permanent signs may be erected; provided, however, that the provisions of this section shall not serve to expand the number of signs otherwise allowed.

- A. Off-premises directional signs for the convenience of the general public and for the purpose of directing people to a business, activity, service or community facility may be erected, provided that such signs do not exceed 10 square

feet per establishment, nor total more than two such signs per establishment. The message shall be limited to name or identification, arrow or direction and distance.

- B. A nonilluminated, single-sided real estate development sign, including, industrial and commercial development and residential subdivision, or a construction sign denoting architect, engineer and/or contractor, not exceeding 32 square feet in commercial and industrial districts, nor 16 square feet in residential districts, may be erected on property being sold, leased or developed. Such sign shall be erected parallel to the fronting highway and set back a minimum of 20 feet from the property line or attached to the building face. Such sign shall be removed upon completion of the project and shall be in place for a period not exceeding two years.
- C. Signs or bulletin boards customarily incident to schools, places of worship, libraries, museums, social clubs or societies may be erected on the premises of such institutions. One such sign or bulletin board not exceeding 20 square feet may be erected for each entrance on a different street or highway.
- D. For multiple dwellings or apartment developments, one sign advertising availability of dwelling units, not exceeding 20 square feet, shall be permitted. One such sign shall be permitted for each entrance on a different street or highway.

§ 70-7. Regulations by district.

A. General regulations.

- (1) The total number of permitted signs on any lot in all districts shall not exceed two, of which only one may be freestanding.
- (2) The cumulative area of any sign permitted on any lot shall be as follows:
 - (a) Commercial districts: 100 square feet.

- (b) Industrial district: 100 square feet.
 - (c) Residential district: 32 square feet.
- (3) The cumulative height above road grade of any sign and supporting structure permitted on any lot shall be as follows:
- (a) Commercial district: 20 feet.
 - (b) Industrial districts: 20 feet.
 - (c) Residential districts: six feet.
- B. Specific regulations. Specific district regulations shall be as follows:
- (1) Residential districts.
 - (a) Permitted nonresidential uses and legal nonconforming nonresidential uses may display one freestanding and/or one projecting sign pertaining to the use of property upon which the sign is situated. Freestanding signs shall have a total face area not exceeding 16 square feet and shall be set back five feet from any adjoining property boundaries. Projecting signs shall have a total face area of not more than six square feet and shall not project more than 40 inches from the principal building to which they are attached.
 - (b) Internally illuminated signs are not permitted in the residential districts. Externally illuminated permanent signs shall not be illuminated in such a manner that the illumination becomes an infringement to the adjoining residences.
 - (c) Temporary or portable signs referring to a specific event or activity are permitted for a period of five days prior to and two days following the activity or event to which they

pertain. In no instance shall this period exceed seven days.

(2) Commercial and industrial districts.

- (a) Where groups of three or more contiguous businesses are located together, one common freestanding sign denoting the name of the facility shall be permitted, not exceeding 50 square feet per side and with its bottom panel not more than eight feet above grade. All other signs shall be attached to buildings, of a wall, projecting or soffit type, and coordinated in material, shape, lettering, color and/or decorative elements.
- (b) Representational signs shall not project in any direction more than five feet beyond the principal structure to which they are attached and shall not exceed 15 square feet. Only one such sign per establishment shall be permitted, with the area of such sign structure included within the total sign area permitted.
- (c) Illuminated signs which indicate the time, temperature, date or similar public service information shall not exceed 32 square feet.
- (d) A new business or a business in a new location awaiting installation of a permanent sign may utilize a portable sign for a period of not more than 30 days or until installation of a permanent sign, whichever comes first. Such a portable sign must meet all construction standards. A separate permit for such portable sign shall be required.

§ 70-8. Nonconforming signs.

- A. In the event that a sign lawfully erected prior to the effective date of this chapter does not conform to the

provisions and standards of this chapter, then such sign may continue in use until replaced or until the sign no longer advertises an existing business conducted or product sold on the premises upon which such sign is located.

- B. A nonconforming sign shall not be enlarged or replaced by another nonconforming sign.
- C. Any maintenance, repair or alteration of a nonconforming sign shall not cost more than 50% of the current depreciated value of the sign as of the date of alteration or repair.

§ 70-9. Removal of signs.

- A. Any sign existing on or after the effective date of this chapter which no longer advertises an existing business conducted or product sold on the premises upon which such sign is located shall be removed.
- B. If the Code Enforcement Officer shall find that any sign regulated by this chapter is not used, is abandoned, unsafe or insecure or is a menace to the public, the Code Enforcement Officer shall give written notice to the named owner of the land upon which it is located, who shall remove or repair the sign within 30 days from the date of notice.
- C. The Code Enforcement Officer may cause any sign which is a source of immediate danger to persons or property to be removed immediately and without notice.

§ 70-10. Construction standards.

A. General.

- (1) All internally illuminated signs shall be constructed in conformance with the Standards for Electric Sign (UL48) of Underwriters' Laboratories, Inc., and bear the seal of Underwriters' Laboratories, Inc.

- (2) All transformers, wires and similar items shall be concealed. All wiring to freestanding signs shall be underground.
- (3) All freestanding signs shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of surface area.
- (4) All signs, including wall-mounted and projecting signs, shall be securely anchored.
- (5) All signs, sign finishes, supports and electrical work shall be kept clean, neatly painted and free from all hazards, such as but not limited to faulty wiring and loose supports, braces and anchors.
- (6) All projecting, freestanding or wall signs shall employ acceptable safety material.
- (7) All signs shall be painted and/or fabricated in accordance with generally accepted standards.

B. Design guidelines.

- (1) Signs shall be designed to be compatible with the surroundings and appropriate to the architectural character of the buildings or which they are placed. Sign panels and graphics shall be related with, and not cover, architectural features and should be in proportion to them.
- (2) Signs shall be appropriate to the types of activities they represent.
- (3) Layout shall be orderly and graphics should be of simple shape, such as rectangle, circle or oval.
- (4) Illumination shall be appropriate to the character of the sign and surroundings.
- (5) Groups of related signs shall express uniformity and create a sense of harmonious appearance.
- (6) All signage shall be professional in appearance and construction as not to visually detract from the

character of the area or have a negative effect upon the quality and value of surrounding properties.

C. Specific regulations of sign types. The following are descriptions of signs varying in construction and type which shall comply with the additional conditions set forth herein:

(1) Wall signs.

- (a) Wall signs shall not extend beyond the ends or over the top of the walls to which they are attached and shall not extend above the level of the second floor of the building.
- (b) Wall signs shall not extend more than nine inches from the face of the building to which attached, except that copy-change signs may extend 15 inches.
- (c) Any part of a sign extending over a pedestrian traffic area shall have a minimum clearance of eight feet.

(2) Projecting signs.

- (a) Projecting signs shall not have more than two faces.
- (b) The exterior edge of a projecting sign shall extend not more than five feet from the building face.
- (c) No part of a projecting sign shall extend into vehicular traffic areas, and any part extending over pedestrian areas shall have minimum clearance of eight feet.
- (d) Projecting signs shall not extend above the level of the second floor of the building to which attached or in any case be higher than 12 feet.
- (e) No projecting sign shall be closer than 15 feet to the corner of a building located at a street intersection.

(3) Freestanding signs.

- (a) No freestanding sign shall be located less than two feet from the front property line, nor less than five feet from the side property line. No freestanding sign shall obstruct the view or constitute a safety hazard.
- (b) No freestanding sign shall be more than 20 feet in height above finished grade.
- (c) No freestanding sign shall extend over or into the public right-of-way, nor shall it overhang the property lines.
- (d) Freestanding signs under which a pedestrian walkway or driveway passes must have a ten-foot clearance.
- (e) Masonry wall-type signs shall not exceed four feet in height and shall not be placed so as to impair visibility for motorists.

(4) Other signs.

(a) Awning signs.

- [1] No sign shall project from an awning.
- [2] Awning graphics may be painted or affixed flat to the surface of the front or sides and shall indicate only the name and/or address of the enterprise or premises.

§ 70-11. Penalties for offenses.

Any person, firm, or corporation, whether as owner, lessee, agent or employee, who proceeds to erect, re-erect, construct or structurally alter any sign without first applying for and obtaining the necessary permit or who in any other way violates any provision of this chapter shall be guilty of an offense punishable by a fine of not more than \$250, up to 15 days' imprisonment, or both.



Chapter 71**SOLID WASTE COLLECTION AND DISPOSAL**

- § 71-1. **Purpose.**
- § 71-2. **Definitions.**
- § 71-3. **Residential collection.**
- § 71-4. **Maintenance of premises.**
- § 71-5. **Duty of owners and occupiers of property.**
- § 71-6. **Disposal regulations.**
- § 71-7. **Dumpsters and waste containers.**
- § 71-8. **Restrictions.**
- § 71-9. **Penalties for offenses.**
- § 71-10. **Effect on existing contracts.**

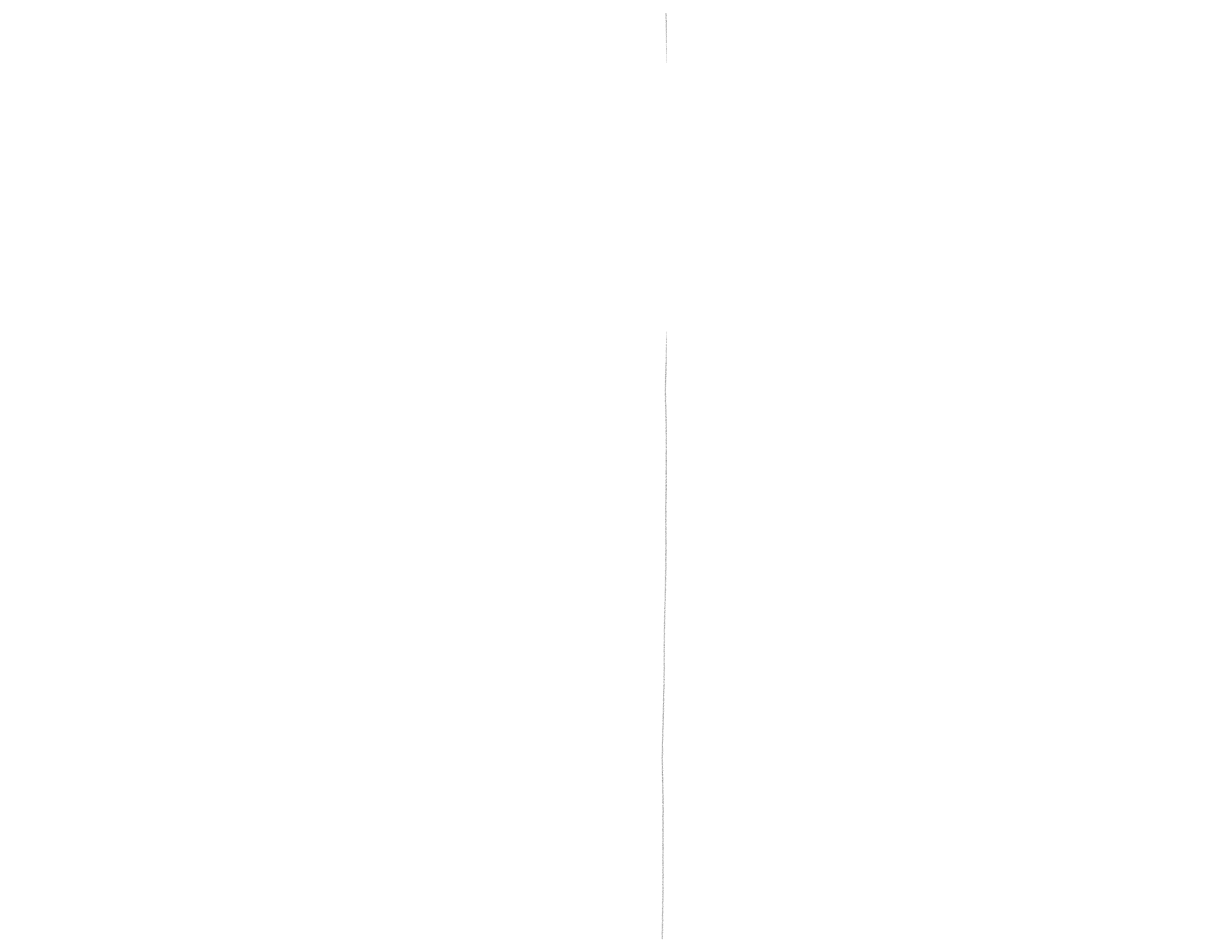
[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 2-1-1988 by L.L. No. 1-1988; amended in its entirety 5-1-2000 by L.L. No. 2-2000. Amendments noted where applicable.]

GENERAL REFERENCES

Littering — See Ch. 59.

§ 71-1. Purpose.

- A. The purpose of this chapter is to protect, maintain and enhance the public health, safety and the general welfare by establishing requirements and procedures relating to the collection and disposal of solid waste in the Village of Fort Edward.



- B. It is hereby determined by the Board of Trustees of the Village of Fort Edward that the landfilling and/or incineration of solid waste within the Village of Fort Edward is likely to constitute a hazard and a menace to the health and safety of the residents of the Village of Fort Edward.
- C. It is further determined that the citizens of the Village of Fort Edward have vested legislative authority in their Board of Trustees, and that said Board is entrusted, among other duties, with the protection of the order, conduct, safety, health and well-being of persons and property therein and the protection and enhancement of said village's physical and visual environment.
- D. It is further determined that the village, by local law, may exercise its police power to regulate all aspects of solid waste within the Village of Fort Edward and to make appropriate rules, regulations, resolutions and laws intended to promote the general well-being of the persons and property situated therein.

§ 71-2. Definitions.

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

DUMPSTER — Any container used in the normal course of demolition or construction for the purpose of storing, containing and/or carting debris of any kind, or any container employed for garbage or refuse collection, provided by a garbage or refuse service for commercial or residential collection or mass storage of garbage and refuse, where the volume of the same shall exceed 55 gallons.

GARBAGE — Includes offal, filth, dirt, ordinary kitchen, cooking and household wastes, decaying vegetables, animal matter and food containers of metal, glass, paper, plastic and other similar material.

PERSON — Includes any individual, firm, partnership, corporation, municipality or association of persons.

SOLID WASTE — Garbage, refuse and other discarded materials, including but not limited to solid, semisolid, liquid and contained gaseous materials resulting from municipal, industrial, commercial, agriculture and residential units.

§ 71-3. Residential collection.

- A. Under the direction of the Town of Fort Edward, there shall be standard garbage collection and disposal services consisting of one collection per week for each residence.
- B. Regular collection service shall not include removal of items such as tires, refrigerators, air-conditioning units, furniture, pipe, auto parts, trees, yard waste and other like items.
- C. Under the direction of the Superintendent of Highways, the village shall maintain standard yard waste collection and disposal for each residence as may be required by the Superintendent of Highways.

§ 71-4. Maintenance of premises.

Owners and occupants of occupied premises and owners and persons in charge of unoccupied premises, including vacant lots within the village, are hereby charged with the duty of maintaining such premises at all times in a sanitary, clean and tidy condition and so as to prevent the accumulation there of solid waste which constitutes a nuisance or fire hazard.

§ 71-5. Duty of owners and occupiers of property.

- A. No person shall permit any solid waste to accumulate for a period of longer than seven days upon property owned

or occupied by said person in the Village of Fort Edward. Owners or occupiers of residential property are hereby required to make accumulated solid waste available for collection as scheduled under the terms hereof.

- B. All solid waste accumulated on any residential, commercial, industrial and institutional property in the Village of Fort Edward may be collected, conveyed and disposed of by an authorized collector in accordance with the provisions of this chapter. It shall be unlawful for any person to collect and dispose of any solid waste within the Village of Fort Edward except as provided in this chapter.
- C. It shall be the duty of the owner, lessee or occupant of every dwelling, store or other building within the Village of Fort Edward to keep such buildings free, clear and clean of all kinds of solid waste of any kind or description and to keep sidewalk and yard areas free, clear and clean of all solid waste of any kind or description.
- D. It shall be the responsibility of the owner of a multifamily unit to provide a sufficient number of containers for the storage of solid waste to prevent overflow between times of collection and to maintain the premises in accordance with the standards of this chapter. It shall be unlawful for the owner of such a multifamily unit to fail to provide such containers and to allow the occupants of such multifamily unit to accumulate solid waste.
- E. No person shall allow or permit the storage or placement of household furniture or appliances outside the living area of the property.

§ 71-6. Disposal regulations.

All garbage and solid waste shall be kept and disposed of in the following manner:

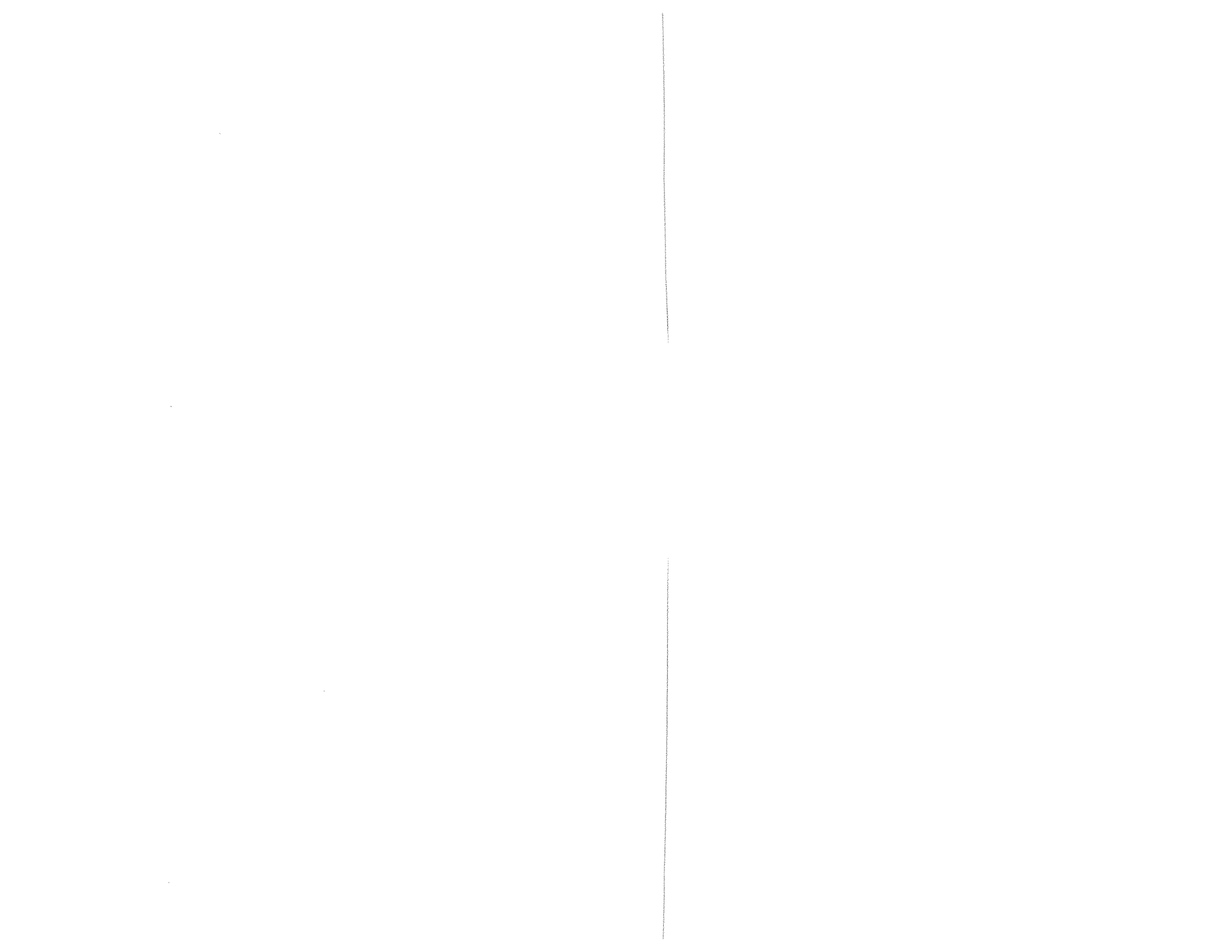
- A. No garbage receptacles shall be stored on or in any front yard. Garbage receptacles may be kept in side or rear yards but shall be screened and not visible from the street.
- B. All garbage receptacles or containers of rubbish shall be set out for collection no earlier than 5:00 p.m. on the day prior to the day scheduled for collection.

§ 71-7. Dumpsters and waste containers.

- A. No dumpster or other waste container shall be placed upon any sidewalk, street, highway or other public place within the Village of Fort Edward.
- B. Every dumpster or other waste container placed within the village shall comply with the following additional requirements:
 - (1) Every dumpster or waste container shall be conspicuously marked with the name and address of its owner.
 - (2) No dumpster or waste container shall create an offensive odor, be a health hazard or become a nuisance.
 - (3) All dumpsters and waste containers shall be covered at all times so as to prevent tampering or entry by unauthorized persons and to hinder the creation of offensive odors, health hazards and nuisances.

§ 71-8. Restrictions.

It shall hereafter be unlawful for any person or entity to landfill, incinerate and/or store solid waste, including but not limited to garbage, refuse, industrial and commercial waste, rubbish, ashes, incinerator residue, demolition and construction debris and all hazardous waste, within the Village of Fort Edward. Nothing herein shall be construed to restrict or impede



any lawfully conducted recycling operations within the Village of Fort Edward.

§ 71-9. Penalties for offenses.

Any person violating the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine not exceeding \$250 for each offense (each day of a violation of the terms of this chapter constitutes a separate offense) or by an imprisonment of not more than 15 days, or both.

§ 71-10. Effect on existing contracts.

This chapter, as adopted, shall not invalidate any presently existing solid waste contract to which the Village of Fort Edward is a party.

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STREETS AND SIDEWALKS

Chapter 74

STREETS AND SIDEWALKS

ARTICLE I
General Regulations

- § 74-1. Street excavations.
- § 74-2. Failure to restore street as directed.
- § 74-3. Guarding of excavations.
- § 74-4. Permission required for encumbrances.
- § 74-5. Obstruction of public areas.
- § 74-6. Restriction on hauling of materials.
- § 74-7. New streets.
- § 74-8. Restriction on placement of pipes.
- § 74-9. Structures on or over streets and sidewalks.
- § 74-10. Maintenance of sidewalks.
- § 74-11. Obstruction of sidewalks.
- § 74-12. Awnings over sidewalks; merchandise in front of buildings.
- § 74-13. Digging in front of private premises.
- § 74-14. Liability of village in certain actions.
- § 74-15. Penalties for offenses.

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

GENERAL REFERENCES

Vehicles and traffic — See Ch. 90.

ARTICLE I
General Regulations
[Adopted 12-7-1998 by L.L. No. 1-1998¹]

§ 74-1. Street excavations.

No person other than an employee of the village shall excavate any street without first obtaining permission from the Highway Superintendent. Any person given permission to excavate shall restore the street to the condition prior to the excavation to the satisfaction of the Highway Superintendent. The person given permission shall indemnify the village against all damages or claims for damages, costs, suits, actions or judgements that may be brought against the village by persons resulting from such excavation. The village may require a certificate of insurance naming the village as a loss payee with a liability limit of at least \$1,000,000.

§ 74-2. Failure to restore street as directed.

If an excavation made by any person is closed in such a manner as to leave the street in a condition, in the opinion of the Highway Superintendent, is not in the same condition prior to the excavation, the Highway Superintendent shall report such condition to the Board of Trustees, who may require the person to restore, within a reasonable time, that portion which is defective. Upon failure to restore said street, the Board of Trustees will direct the Highway Superintendent to perform such work, and the expense incurred will be paid by the person causing such defect.

§ 74-3. Guarding of excavations.

- A. Any person given permission to make an excavation in any street shall, between sunset and sunrise that the

¹ Editor's Note: This local law superseded former Art. I, General Regulations, adopted 6-7-1932 as Sections 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 19, 20, 21, 22 and 23 of the 1932 Ordinances, as amended.

street remains open, keep the same fenced and lighted so as to properly warn all persons of such excavation.

- B. Any person making an excavation within five feet of the line of any street shall erect and maintain a barrier at least four feet in height between said street and the excavation, and place lighted warnings at such excavation.
- C. No person shall remove any barrier or guard erected for public safety.

§ 74-4. Permission required for encumbrances.

No person shall erect or cause to be erected any building or fixture or place any encumbrance which shall project into or over the line of any public area without obtaining the permission of the Highway Superintendent.

§ 74-5. Obstruction of public areas.

No person shall obstruct or use any street, sidewalk or other public ground in any manner other than which was originally intended.

§ 74-6. Restriction on hauling of materials.

No person shall transport or cause to be transported in any vehicle any material which is not so constructed as to prevent the material from dropping or sifting upon any streets of the village.

§ 74-7. New streets.

No street shall be accepted by the village Board of Trustees until such street is deemed satisfactory by the Highway Superintendent.

§ 74-8. Restriction on placement of pipes.

The village shall not place or caused to be placed any pipes in any street that have not been accepted by the village.

§ 74-9. Structures on or over streets and sidewalks.

No person shall construct or cause to be constructed any sign or structure upon or over any street or sidewalk in the village, nor shall any sign or structure now in existence be allowed without the consent of the Code Enforcement Official through an application to be provided by the Code Enforcement Official.

§ 74-10. Maintenance of sidewalks.

- A. The owner of every lot of land situated in the village shall keep the sidewalks adjoining said property clear of ice and snow and have snow and ice removed from the sidewalk within five hours after each snowstorm or ice storm. Every storm which ceases during the night shall be considered ceasing at 7:00 a.m.
- B. The owner of every lot of land situated in the village shall keep the sidewalk in a condition so as not to become dangerous to the welfare and safety of the traveling public. The Highway Superintendent is empowered by the Village Board to advise them of any sidewalks in disrepair. A notice will be sent to the owner to correct the situation within 30 days of receipt of notice. In the event of nonremoval of snow or ice, it will be at the discretion of the Highway Superintendent to have the sidewalk cleared by the village without notification to the owner and the costs be paid by the owner of said property.
- C. The village will reimburse the owner of any property who places or replaces their sidewalk used by the traveling public to the satisfaction of the Highway Superintendent at the rate of \$1.50 per square foot.

§ 74-11. Obstruction of sidewalks.

No person shall permit any animal, vehicle or other objects to obstruct the free use of any sidewalk or crosswalk in the village and no person shall obstruct the sidewalks with boxes, barrels, crates, goods, wares, merchandise or any other materials without obtaining permission from the Village Board.

§ 74-12. Awnings over sidewalks; merchandise in front of buildings.

No person shall erect, hang or maintain any awning over any sidewalk unless the same and its fixtures and flaps are at least seven feet above the surface of such sidewalk, nor shall such awning extend more than seven feet from the building to which it is attached, and no person shall suspend or place any wares, goods or merchandise in front of any store, shop or other building so as to obstruct the free passage of any sidewalk more than 30 inches from the front of any store, shop or other building.

§ 74-13. Digging in front of private premises.

No person shall dig into or across any sidewalk until permission is received by the Highway Superintendent and the sidewalk shall be put back in as good as the condition prior to the digging.

§ 74-14. Liability of village in certain actions.

- A. No civil action shall be maintained against the village for damages or injuries to persons or property sustained in consequence of any street, manhole cover, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed or for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any sidewalk, crosswalk, manhole cover, highway, bridge

or culvert unless written notice of the defective, unsafe, dangerous or obstructed condition or of the existence of the snow or ice relating to the particular place was given to the Village Clerk in writing and there was a failure or neglect by the village within a reasonable time after the receipt 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.

- B. The Village Clerk shall keep a record and index all notices given to the village pursuant to § 74-14A.
- C. In the event that personal injury or property damage shall result from the failure of any owner or occupant to comply with the provisions of § 74-10 requiring maintenance or snow removal, the owner and the occupant shall be liable to all persons injured, or whose property is damaged directly or indirectly thereby, and shall be liable to the Village of Fort Edward to the extent that said village is required by law or by any court to respond in damages to any injured party.

§ 74-15. Penalties for offenses.

Any violation of any of the provisions of this chapter shall subject the offending party, upon conviction, to a fine not to exceed two hundred fifty dollars or imprisonment not to exceed 15 days, or both.

TAXATION

Chapter 79

TAXATION

ARTICLE I
Alternative Veterans Exemption

- § 79-1. Purpose.
- § 79-2. Optional exemption granted.

ARTICLE II
Tax on Utilities

- § 79-3. Tax imposed.
- § 79-4. Definitions.
- § 79-5. Keeping of records.
- § 79-6. Filing of return.
- § 79-7. Payment of tax.
- § 79-8. Insufficient or unsatisfactory return.
- § 79-9. Notice procedure.
- § 79-10. Late penalty.
- § 79-11. Refunds.
- § 79-12. Tax to be part of operating costs.
- § 79-13. Action to enforce payment.
- § 79-14. Powers and duties of Treasurer.
- § 79-15. Confidentiality of returns.
- § 79-16. Disposition of taxes and penalties.

ARTICLE III
Solar and Wind Energy Exemption

§ 79-17. No exemption provided.

§ 79-18. Definitions.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward: Art. I, 10-1-1984 as L.L. No. 1-1984; Art. II, at time of adoption of Code 4-7-1986 by L.L. No. 1-1986 (see Ch. 1, General Provisions, Art. I); Art. III, 1-7-1991 as L.L. No. 2-1991. Amendments noted where applicable.]

ARTICLE I
Alternative Veterans Exemption
[Adopted 10-1-84 as L.L. No. 1-1984]

§ 79-1. Purpose.

The purpose of this Article is to reduce the maximum veterans exemption allowable pursuant to § 458-a of the Real Property Tax Law of the State of New York.

§ 79-2. Optional exemption granted.

- A. Qualifying residential real property shall be exempt from taxation to the extent of fifteen percent (15%) of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of six thousand dollars (\$6,000.) multiplied by the latest state equalization rate of one hundred four and ninety-three hundredths (104.93) for the Village of Fort Edward.
- B. In addition to the exemption provided by Subsection A of this section, where the veteran served in a combat theater or combat zone of operations, as documented by the award of a United States campaign ribbon or service medal, qualifying

residential real property also shall be exempt from taxation to the extent of ten percent (10%) of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of four thousand dollars (\$4,000.) or the product of four thousand dollars (\$4,000.) multiplied by the latest state equalization rate of one hundred four and ninety-three hundredths (104.93) for the Village of Fort Edward.

- C. In addition to the exemptions provided for in Subsections A and B of this section, where the veteran received a compensation rating from the United States Veteran's Administration because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by fifty percent (50%) of the veteran's disability rating; provided, however, that such exemption shall not exceed the

(Cont'd on page 7903)

lesser of twenty thousand dollars (\$20,000.) or the product of twenty thousand dollars (\$20,000.) multiplied by the latest equalization rate of one hundred four and ninety-three hundredths (104.93) for the Village of Fort Edward.

ARTICLE II

Tax on Utilities

[Adopted at time of adoption of Code¹]

§ 79-3. Tax imposed.

Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, a tax equal to one per centum (1%) of its gross income from and after the first day of May 1970, is hereby imposed upon every utility doing business in the Village of Fort Edward which is subject to the supervision of the State Department of Public Service, which has a gross 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, and a tax equal to one per centum (1%) of its gross operating income from and after the first day of May 1950, is hereby imposed upon every other utility doing business in the Village of Fort Edward which has a gross operating income for the twelve (12) months ending May 31 in excess of five hundred dollars (\$500.), which taxes shall have application only within the territorial limits of the Village of Fort Edward, and shall be in addition to any and all other taxes and fees imposed by any other provision of law. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of Fort Edward, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

§ 79-4. Definitions.

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

GROSS INCOME — Includes receipts received in or by reason of any sale, conditional or otherwise, (except sales herein-

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

after referred to with respect to which it is provided that profits from the sale shall be included in gross income) made or service rendered for ultimate consumption or use by the purchaser in the Village of Fort Edward, including cash, credits and property of any kind or nature (whether or not such sale is made or such service is rendered for profit), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid or any other expense whatsoever; also profits from the sale of securities, also profits from the sale of real property growing out of the ownership or use of or interest in such property; also profit from the sale of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the period for which a return is made); also receipts from interest, dividends and royalties, derived from sources within the Village of Fort Edward other than such as are received from a corporation, a majority of whose voting stock is owned by the taxpaying utilities, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof; and also profits from any transaction (except sales for resale and rentals) within the Village of Fort Edward whatsoever; provided, however, that the words "gross income" include, in the case of a utility engaged in selling telephony or telephone service, only receipts from local exchange service wholly consummated within the Village of Fort Edward, and in the case of a utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated with the Village of Fort Edward.

GROSS OPERATING INCOME — Includes receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water, refrigeration, telephony or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigerator, telephone or telegraph service in the Village of Fort Edward, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold,

the cost of materials used, labor or services or other costs, interest or discount paid or any other expenses whatsoever.

PERSON — Persons, corporations, companies, associations, joint-stock associations, copartnerships, estates, assignee of rents, any person acting in a fiduciary capacity or any other entity and persons, their assignees, lessees, trustees or receivers, appointed by any court whatsoever, or by any other means, except the state, municipalities, political and civil subdivisions of the state or municipality and public districts.

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

§ 79-5. Keeping of records.

Every utility subject to tax under this Article shall keep such records of its business and in such forms as the Village Treasurer may require, and such records shall be preserved for a period of three (3) years, except that the Village Treasurer may consent to their destruction within that period or may require that they be kept longer.

§ 79-6. Filing of return.

Every utility subject to tax hereunder shall file annually, on or before the 25th day of March, a return for the twelve (12) calendar months preceding such return date or any portion thereof for which the tax imposed hereby is effective; provided, however, that in lieu of

the annual return required by the foregoing provisions, any utility may file quarterly, on or before September 25, December 25, March 25 and June 25, a return for the three (3) calendar months preceding each such return date, and in the case of the first such return, for all preceding calendar months during which the tax imposed hereby was effective. Every return shall state the gross income or gross operating income for the period covered thereby. Returns shall be filed with the Village Treasurer on a form to be furnished by him for such purpose and shall contain such other data, information or matter as he may require to be included therein. The Village Treasurer, in order to ensure payment of the tax imposed, may require at any time a further or supplemental return, which shall contain any data that may be specified by him, and he may require any utility doing business in the Village of Fort Edward to file an annual return, which shall contain any data specified by him, regardless of whether the utility is subject to tax under this Article. Every return shall have annexed thereto an affidavit of the head of the utility making the same or of the owner or of a copartner thereof of a principal corporate officer to the effect that the statements contained therein are true.

§ 79-7. Payment of tax.

At the time of filing a return as required by this Article, each utility shall pay to the Village Treasurer the tax imposed by this Article for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

§ 79-8. Insufficient or unsatisfactory return.

- A. In case any return filed pursuant to this Article shall be insufficient or unsatisfactory to the Village Treasurer, and if a corrected or sufficient return is not filed within twenty (20) days after the same is required by notice from him, or if no return is made for any period, the Village Treasurer shall determine the amount of tax due from such information as he is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. He shall give notice of

such determination to the person liable for such tax. Such determination shall finally, and irrevocably fix such tax, unless the person against whom it is assessed shall, within 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. Such decision may be reviewed by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York if application therefor is made within ninety (90) days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the Village Treasurer and an undertaking filed with him, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that, if such proceeding is dismissed or the tax confirmed, the applicant will pay all costs and charges which may accrue in the prosecution of such proceeding or, at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, interest, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax, interest and penalties as a condition precedent to the granting of such order.

- B. Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three (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.

§ 79-9. Notice procedure.

Any notice authorized or required under the provisions of this Article may be given by mailing the same to the persons for whom it is intended, in a 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.

§ 79-10. Late 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, for cause shown, may extend the time for filing any return and, if satisfied that the delay was excusable, may remit all or any portion of the penalty fixed by the foregoing provisions of this section.

§ 79-11. Refunds.

If, within one (1) year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the Village Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Village Treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Village Treasurer. However, no refund shall be made of tax or penalty paid pursuant to a determination of the Village Treasurer as hereinbefore provided unless the Village Treasurer, after a hearing as hereinbefore provided or of his own motion, shall have reduced the tax or penalty or it shall have been established in a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this Article. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of, and the Village Treasurer may receive additional evidence with respect thereto. After making his determination, the Village Treasurer shall give notice thereof to the person interested, and

he shall be entitled to any order to review such determination under said Article 78, subject to the provision hereinbefore contained relating to the granting of such an order.

§ 79-12. Tax to be part of operating costs.

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

§ 79-13. Action to enforce payment.

Whenever any person shall fail to pay any tax or penalty imposed by this Article, the Village Attorney shall, upon the request of the Village Treasurer, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Village Treasurer. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by § 186-a of the Tax Law is made a lien.

§ 79-14. Powers and duties of Treasurer.

In the administration of this Article, the Village Treasurer shall have power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his powers and the performance of his duties, and to prescribe the form of blanks, reports and other records relating to the administration and enforcement of the tax, to take testimony and proofs, under oath, with reference to any matter within the line of his official duty under this Article, and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

§ 79-15. Confidentiality of returns.

- 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 Fort Edward to divulge or make known in any manner the amount of gross income or gross operating income, or any particulars set forth or disclosed in any return under this Article. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Village of Fort Edward, New York, 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 are 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 Fort Edward, New York, of the return of any person who shall bring action to set aside or review the tax based thereon or against whom an action has been instituted in accordance with the provisions of this Article.

- B. Any offense against the foregoing secrecy provisions shall be punishable by a fine not exceeding one thousand dollars (\$1,000.) or by imprisonment not exceeding one (1) year, or both, and if the offender is an officer, agent, clerk or employee of the Village of Fort Edward, he shall be dismissed from office and shall be incapable of holding any office or

employment in the Village of Fort Edward, New York, for a period of five (5) years thereafter.

- C. 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 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.

§ 79-16. Disposition of taxes and penalties.

All taxes and penalties received by the Village Treasurer under this Article shall be paid into the treasury of the village and shall be credited to and deposited in the general fund of the village.

ARTICLE III

Solar and Wind Energy Exemption
[Adopted 1-7-1991 as L.L. No. 2-1991]

§ 79-17. No exemption provided.

The Village Board of the Village of Fort Edward hereby provides that no exemption under § 487 of the New York State Real Property Tax Law shall be applicable within the jurisdiction of the Village of Fort Edward, County of Washington, State of New York, with respect to any solar or wind energy system constructed subsequent to the effective date of this Article.

§ 79-18. Definitions.

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

SOLAR OR WIND ENERGY SYSTEM — The same as in § 487 of the New York State Real Property Tax Law.

Chapter 85

VEHICLES, ABANDONED AND JUNKED

§ 85-1. Legislative intent; purpose.

§ 85-2. Definitions.

§ 85-3. Outdoor storage prohibited.

§ 85-4. Notice to comply.

§ 85-5. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 10-5-64. Section 85-2 added and § 85-5 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. 90.

§ 85-1. Legislative intent; purpose.

The seriousness of the matter of the outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles upon privately owned properties within the village increases with the passage of time. It is a source of vexation and annoyance, not only to the members of the traveling public, but to the owners and occupants of adjoining lands. The outdoor storage of such vehicles upon private lands is unsightly. It constitutes an attractive nuisance to children and a peril to their safety, in case of fire and explosion, whenever gasoline is left in the fuel tanks of such vehicles. It depreciates the value of neighboring properties. The preservation of peace and good order, the suppression of vice, the benefit of trade, the preservation of public health, the protection of property and the prevention and extinguishment of fires and explosions compel the Board of Trustees of

the Village of Fort Edward to legislate upon this subject matter. It is hereby declared that the adoption of this chapter has for its purpose the effective termination of such obnoxious practice.

§ 85-2. Definitions.¹

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

ABANDONED, JUNKED, DISCARDED AND/OR UNLICENSED MOTOR VEHICLE — Any nongaraged motor vehicle, originally intended for use on public highways, which is abandoned, stored, left or vacated by its owner or any other person or is permitted or condoned to be abandoned, stored, left or vacated by its owner or any other person on private premises in the village outside any establishment duly licensed by the village and which vehicle is currently unregistered by the State of New York or any other state and is either not operable or no longer intended or in condition for legal use on the public highway. The term shall include vehicles in such condition as to cost more to repair in order to place such motor vehicle in operating condition than the value of the motor vehicle at any given time and shall include any motor vehicle which has not been licensed with the proper authorities for a period of at least thirty (30) days from the expiration of the last valid licensing, with the exception of those motor vehicles in the possession of authorized used car dealers or garagemen for the purpose of sale or repair.

§ 85-3. Outdoor storage prohibited.

It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise, to store or deposit, or cause or permit to be stored or deposited, an abandoned, junked, discarded or unlicensed motor vehicle or motor vehicles upon any private land or upon the surface of such land within the corporate limits of the Village of Fort Edward.

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

§ 85-4 VEHICLES, ABANDONED AND JUNKED § 85-5

§ 85-4. Notice to comply. [Amended 9-8-87 by L.L. No. 2-1987]

If the provisions of the foregoing section are violated, the Village Clerk shall serve written notice, either personally or by mail, upon the owner, occupant or person having charge of any such land to comply with the provisions of this chapter. The notice shall be in substantially the following form:

"To the owner, occupant or person having charge of land known on the Assessment Map of the Village of Fort Edward as Lot(s) _____, Number(s) _____, page _____, Block, _____, or Number_____ Street or Avenue.

"Notice is hereby given that an abandoned, junked, discarded and/or unlicensed motor vehicle has been found stored or deposited outside upon the above-described property in the Village of Fort Edward. This automobile must be removed within five (5) days from the date of this notice.

"In the case you fail or refuse to comply with this notice on or before the expiration of the said five (5) days from the date of this notice, the Village of Fort Edward, acting through its duly authorized Police Department, will issue an appearance ticket returnable before the Village Court of the Village of Fort Edward, and you will be subject to the penalties provided by § 85-5 of the Code of the Village of Fort Edward."

§ 85-5. Penalties for offenses. [Amended 4-7-86 by L.L. No. 1-1986]

Any owner, occupant, lessee, agent or tenant who shall neglect and refuse to remove said abandoned, junked, discarded and unlicensed motor vehicle, as directed by this chapter, or who shall fail or refuse to comply with the provisions of any notice herein provided for or who shall violate any of the provisions of any notice herein provided for or who shall violate any of the provisions of this chapter or who shall resist or obstruct the duly authorized agents, servants, officers and employees of the village in the removal and destruction thereof shall, upon conviction thereof, be fined a sum of not exceeding two hundred fifty dollars (\$250.) or imprisoned for up to fifteen (15) days, or both, for each violation thereof.



Chapter 92

VEHICLES, UNLICENSED MOTOR-DRIVEN

- § 92-1. Legislative intent.
- § 92-2. Definitions.
- § 92-3. Operation on public property or village-owned land prohibited.
- § 92-4. Operation on private property restricted.
- § 92-5. Careless or negligent operation prohibited.
- § 92-6. Operation by village personnel.
- § 92-7. Responsibilities of parents and guardians.
- § 92-8. Notice of alleged violation.
- § 92-9. Impoundment of vehicles in violation.
- § 92-10. Penalties for offenses.
- § 92-11. Conflicts with state law.

[HISTORY: Adopted by the Board of Trustees of the Village of Fort Edward 7-15-85 as L.L. No. 1-1985. Section 92-10 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Abandoned and junked vehicles — See Ch. 85.

§ 92-1. Legislative intent.

The Board of Trustees recognizes the potential adverse impact on the health, safety and general welfare of the residents of the Village

of Fort Edward and to property within the village by the use of unlicensed motor-driven vehicles and, therefore, deems it appropriate to control the use of said vehicles.

§ 92-2. Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated:

PUBLIC PROPERTY — All streets, sidewalks, easements or any other areas dedicated or commonly used for vehicular or pedestrian traffic.

UNLICENSED MOTOR-DRIVEN VEHICLE — Any type of unlicensed motor-driven vehicle or conveyance, including but not necessarily limited to snowmobiles, two-wheeled motor vehicles known as “trail bikes” and “motor scooters” and four-wheeled or three-wheeled motor vehicles commonly known as “go-carts” or “all-terrain vehicles,” but not including mopeds or any vehicle used for agricultural, landscaping or lawn maintenance purposes.

VILLAGE-OWNED LAND — All parks, recreation areas, ball parks, lake and river areas, storage facilities, garage areas, parking areas and any and all other village-owned land and premises.

§ 92-3. Operation on public property or village-owned land prohibited.

It shall be unlawful for any person to operate any unlicensed motor-driven vehicle upon any public property or village-owned land in the Village of Fort Edward.

§ 92-4. Operation on private property restricted.

- A. The operation of an unlicensed motor-driven vehicle is prohibited upon private property unless the operator of said unlicensed motor-driven vehicle has the express permission of the

owner of said private property to operate said vehicle on said property.

- B. Any driver or operator of an unlicensed motor-driven vehicle who enters or remains upon private property which is either fenced or otherwise enclosed in a manner designed to exclude intruders, to where notice against trespassers is given by posting in a conspicuous manner or where notice against trespassing has been personally communicated to such person by the owner of such land or other authorized person, shall be presumed to be operating without the permission of the owner of said property.

§ 92-5. Careless or negligent operation prohibited.

It shall be unlawful to operate any unlicensed motor-driven vehicle in a careless, reckless or negligent manner so as to endanger the safety of any person or the property of any person.

§ 92-6. Operation by village personnel.

- A. It shall not be unlawful for any employee of the Village of Fort Edward to operate unlicensed motor-driven vehicles for the purpose of maintaining, repairing or doing any public work within the scope of his employment.
- B. Nothing herein shall prohibit the use or operation of unlicensed motor-driven vehicles on premises duly approved for such use by the appropriate officials or municipal regulatory bodies of the Village of Fort Edward.

§ 92-7. Responsibilities of parents and guardians.

It shall be unlawful for the parent, guardian or any person having the care, custody and control of any child under the age of sixteen (16) years knowingly to permit such child to operate an unlicensed motor-driven vehicle in violation of the terms of this chapter.

§ 92-8. Notice of alleged violation.

Whenever any child under the age of sixteen (16) years is alleged to have violated this chapter, his parent, guardian or any person having the care, custody or control of the child shall be notified by the Chief of Police or any person designated by him to give such notice.

§ 92-9. Impoundment of vehicles in violation.

The police shall immediately impound any unlicensed motor-driven vehicle operated in violation of this chapter. The unlicensed motor-driven vehicle shall be returned upon payment of the fine or upon the direction of the court.

§ 92-10. Penalties for offenses.¹

Any operator or parent, as defined in § 92-8, who shall violate any of the provisions of this chapter shall, upon conviction thereof, be sentenced to a fine not exceeding two hundred fifty dollars (\$250.).

§ 92-11. Conflicts with state law.

Should any section or portion of this chapter be in conflict with the laws of the State of New York applicable to the operation, registration, ownership or control of unlicensed motor vehicles, then, in that instance, said laws of the State of New York shall prevail.

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

VEHICLES AND TRAFFIC

Chapter 90

VEHICLES AND TRAFFIC

[Comprehensive vehicles and traffic legislation was being considered for adoption by the Board of Trustees at the time of the printing of this Code. Upon final adoption, said vehicles and traffic legislation will be included here.]

