

Code of the Village of Youngstown

COUNTY OF NIAGARA

STATE OF NEW YORK

SERIAL NO. 6

GENERAL CODE PUBLISHERS CORP.

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Rochester, NY 14624

1998

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OF THE
VILLAGE OF YOUNGSTOWN

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CERTIFICATION

VILLAGE OF YOUNGSTOWN

Office of the Village Clerk

I, **SHIRLEY A. SMITH**, Clerk of the Village of Youngstown, New York, hereby certify that the chapters contained in this volume are based upon the original local laws, ordinances and resolutions of the Board of Trustees of the Village of Youngstown, 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 Youngstown, County of Niagara, State of New York, as adopted by local law of the Board of Trustees on September 10, 1998.

Given under my hand and the Seal of the Village of Youngstown, County of Niagara, State New York, this 10th day of September, 1998, at Youngstown, New York.

s/**SHIRLEY A. SMITH**



Village Clerk

PREFACE

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

Contents of Code

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Board of Trustees of the Village of Youngstown, 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.

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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 are listed beneath the chapter title in order to facilitate the location of the individual item of legislation.

Reserved Chapters

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

Pagination

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

Numbering of Sections

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

Scheme

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

Histories

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

PREFACE

Codification Amendments and Revisions

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

General References; Editor's Notes

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

Appendix

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

Disposition List

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

Index

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

Instructions for Amending the Code

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

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

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PART I

ADMINISTRATIVE LEGISLATION

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Chapter 1

GENERAL PROVISIONS

ARTICLE I Adoption of Code

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| <p>§ 1-1. Legislative intent.</p> <p>§ 1-2. Continuation of existing provisions.</p> <p>§ 1-3. Repeal of enactments not included in Code.</p> <p>§ 1-4. Enactments saved from repeal; matters not affected.</p> <p>§ 1-5. Severability.</p> <p>§ 1-6. Copy of Code on file.</p> | <p>§ 1-7. Amendments to Code.</p> <p>§ 1-8. Code book to be kept up-to-date.</p> <p>§ 1-9. Sale of Code book; supplementation.</p> <p>§ 1-10. Penalties for tampering with Code.</p> <p>§ 1-11. Changes in previously adopted legislation; new provisions.</p> <p>§ 1-12. Incorporation of provisions into Code.</p> <p>§ 1-13. When effective.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Adoption of Code [Adopted 9-10-1998 by L.L. No. 2-1998]

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

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Village of Youngstown, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 250, together with an Appendix, shall be known collectively as the "Code of the Village of Youngstown," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Village of Youngstown" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

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

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

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

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

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

- A. Any right or liability established, accrued or incurred under any legislative provision of the Village of Youngstown prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Village of Youngstown or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law, brought pursuant to any legislative provision of the Village of Youngstown.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Youngstown.
- E. Any local law or ordinance of the Village of Youngstown 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 Youngstown or any portion thereof.
- F. Any local law or ordinance of the Village of Youngstown 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 Youngstown or other instruments or evidence of the village's indebtedness.

- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the village.
- N. Any local law adopted subsequent to 4-9-1998.

§ 1-5. Severability.

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

§ 1-6. Copy of Code on file.

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

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Village of Youngstown" or any new local laws or resolutions, when enacted or adopted in such form as to indicate the intention of the Board of Trustees to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be

printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Board of Trustees deems desirable.

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

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

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

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

§ 1-10. Penalties for tampering with Code.

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

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

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Village of Youngstown, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of

this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)¹

§ 1-12. 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 Youngstown, 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 1-13, inclusive.

§ 1-13. When effective.

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

¹ Editor's Note: In accordance with § 1-11B, the chapters, articles and sections which were amended, added or deleted by this local law are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 4-10-1998 by L.L. No. 2-1998." Schedule A, which contains a complete description of all changes, is on file in the Village Clerk's office.



Chapter 8

ASSESSMENTS

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| <p>§ 8-1. Legislative intent.</p> <p>§ 8-2. Termination of assessing unit.</p> <p>§ 8-3. Position of Assessor abolished.</p> <p>§ 8-4. Board of Assessment Review abolished.</p> | <p>§ 8-5. Levy of taxes.</p> <p>§ 8-6. Filing copies.</p> <p>§ 8-7. When effective.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 12-11-1989 by L.L. No. 4-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Taxation — See Ch. 209.

§ 8-1. Legislative intent.

The intent of the Board of Trustees of the Village of Youngstown is to implement § 1402, Subdivision 3, of the Real Property Tax Law providing for the voluntary termination of the village's status as an assessing unit, as provided in the Village Law and the Real Property Tax Law. It is also the intent of this chapter to abolish the position of Assessor (or Board of Assessors) and to terminate any and all responsibility as provided by law for the review of the assessments of real property located within the Village of Youngstown.

§ 8-2. Termination of assessing unit.

On or after the effective date of this chapter, the Village of Youngstown shall cease to be an assessing unit.

§ 8-3. Position of Assessor abolished.

The position of Assessor in the Village of Youngstown is hereby abolished.

§ 8-4. Board of Assessment Review abolished.

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

§ 8-5. Levy of taxes.

On or after the effective date of this chapter, taxes in the Village of Youngstown shall be levied on a copy of the applicable part of the assessment roll of the Town of Porter with the taxable status date of such town controlling for village purposes.

§ 8-6. Filing copies.

Within five days of the effective date of this chapter, the Board of Trustees of the Village of Youngstown shall file a copy of such chapter with the Clerk and Assessor of the Town of Porter and with the State Board of Equalization and Assessment.¹

§ 8-7. When effective.

This chapter shall take effect immediately upon filing with the Secretary of State; provided, however, that such chapter is subject to a permissive referendum, and the Village Clerk shall forthwith proceed to notice such fact and conduct such referendum if required by petition.²

¹ Editor's Note: The State Board of Equalization and Assessment was changed to the State Board of Real Property Services by L.1994, c. 385.

² Editor's Note: This chapter was approved at referendum held 11-9-1989.

Chapter 15

DEFENSE AND INDEMNIFICATION

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| § 15-1. Short title. | § 15-6. Legal expenses: application and procedure for payment or reimbursement. |
| § 15-2. Applicability. | § 15-7. Legal expenses repayment. |
| § 15-3. Legislative intent. | § 15-8. Indemnification. |
| § 15-4. Definitions. | § 15-9. Conditions. |
| § 15-5. Legal defense expenses. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 8-23-1979 by L.L. No. 2-1979. Amendments noted where applicable.]

§ 15-1. Short title.

This chapter shall be known as and may be cited as the "Village of Youngstown Officer and Employee Legal Expenses and Indemnification Law."

§ 15-2. Applicability.

This chapter shall apply to all the territory within the confines of the Village of Youngstown.

§ 15-3. Legislative intent.

- A. It can be said without question that American citizens and government are currently utilizing litigation with unprecedented frequency to resolve countless alleged wrongs and disputes of all types and natures. Such a heightened degree of litigation has proven beneficial to the future and furtherment of human and civil rights, but it is also subject to abuse in that frivolous lawsuits have also increased dramatically. One target of such lawsuits are public servants, both officers and employees of every level and area of government. New York State Law does afford some protection to some officials and employees, but leaves virtually defenseless the majority of officers and employees of local government. Thus, a local public servant who is the subject of a lawsuit has no choice but to stand alone in his own defense, incurring at times immense legal expenses and suffering the possibility of an overwhelming adverse judgment.
- B. It is the intent of this chapter to provide relief from legal expenses incurred while defending actions which challenge the reasonable use of discretion by a public servant and/or which allege negligence, illegality or unethicity in the performance of municipal duties, through the payment of legal defense funds to officers and employees of the Village of Youngstown. It is also the intent of this chapter to provide indemnification of village public servants in the event that an adverse judgment in such actions is entered against them.

§ 15-4. Definitions.

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

EMPLOYEE — A person hired by the Village of Youngstown on a full-time, permanent basis, who receives wages or salary directly from the Village of Youngstown, who in his municipal job or position owes no allegiance to any other person or entity but the Village of Youngstown, and who is not an officer of the Village of Youngstown.

INDEMNIFICATION — The act of making compensation for an incurred loss.

JUDGMENT — Costs and expenses of a successful plaintiff, if awarded, and all damages awarded to a plaintiff in a successful action.

LEGAL EXPENSES — Includes reasonable attorneys' fees and all costs and disbursements necessary to the subject action, but does not include any costs or expenses of the plaintiff, or damages awarded to the plaintiff, should said plaintiff be successful in his action.

MUNICIPAL DUTIES — Those responsibilities, both explicit and implicit, which may reasonably be determined to be a part of the position for which the subject person was hired or elected.

OFFICER — The incumbents of the offices of Mayor, Trustee, Village Clerk, Deputy Clerk, Superintendent of Public Works, Treasurer, Deputy Treasurer or any of them and any member of any board, committee, commission or authority who shall have been appointed to such position by act of the Village Board regardless of whether such member serves with or without compensation.¹

§ 15-5. Legal defense expenses.

There is hereby authorized the payment or reimbursement by the Village of Youngstown of legal expenses incurred by officers and employees of the Village of Youngstown.

§ 15-6. Legal expenses: application and procedure for payment or reimbursement.

- A. Any village officer or employee who is the defendant in an action founded upon an allegation of abuse of discretion, or negligence, illegality or unethicity in the performance of his duties, may make application to the Village Board, within 10 days of the service of such document. Upon application as provided herein, the village shall provide for the defense of the officer or employee in any civil action or proceeding arising out of any alleged act or omission which occurred or allegedly occurred while the employee was acting within the scope of his public employment or duties. Said application shall be in the form prescribed by the Village Board and shall include whatever information said Board deems relevant to its determination; however, said application must include the following: the title of the action, including the name and address of the plaintiff, the content of the charges, a recounting of all the facts and circumstances which

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

led to the initiation of the action, what, if any, damages are alleged and the name and address of the attorney representing the defendant. Said application shall be accompanied by a copy of all pleadings in the action and by a sworn statement of the subject attorney, which shall state the amount of said attorney's fee, his estimation of what must be done to resolve the litigation, what disbursements are involved and what legal services he proposes to provide for the stated fee, including the estimated time to be spent in the provision of legal services. Nothing herein shall prevent a defendant village officer or employee from submitting another application at a later date for additional financial assistance, if unforeseen or unexpected additional legal expenses are incurred.²

- B. After reception of an application, and no later than one month thereafter, the Village Board shall study the validity and merits of the defendant village officer or employee's request and shall determine by resolution whether or not the claim against the officer or employee, as alleged, or actually, arose out of the scope of employment and or performance of duties by such officer or employee. In order to assist in its determination, the Village Board may question any person whom it deems possessing information relevant to such determination, including the defendant's attorney, and may inspect all the pleadings and papers of the subject action, so long as no paper is demanded and studied in public session which might violate the attorney-client privilege, invade the privacy of either the defendant or his attorney, or compromise the ability of either to successfully conclude the subject litigation. In order to avoid any such situation, the Village Board, for this reason, may meet in executive session pursuant to, and as permitted by, the Open Meetings Law. In the event that the Village Board determines that the claim did so arise, it shall appropriate and pay sufficient funds to be paid after the rendering of the described legal services in accordance with the submitted applications.

§ 15-7. Legal expenses repayment.

In the event that any officer or employee of the Village of Youngstown is successful in defending against an action and is therein awarded costs pursuant to the directives of § 51 of the General Municipal Law, including a sum for legal expenses, and if said defendant officer or employee has previously been assisted in the satisfaction of legal expenses through an allocation or allocations from the Village of Youngstown, said successful defendant officer or employee shall tender the moneys awarded by the court to the Village of Youngstown for repayment of said legal expenses to the extent that the village has paid such expenses.

§ 15-8. Indemnification.

In the event that a plaintiff is successful in an action against a defendant officer or defendant employee of the Village of Youngstown, and if any judgment rendered in said action is the result of or arises out of the performance of an act or duty by such officer or employee which is within the scope of the acts or duties of said officer or employee, the Village of Youngstown shall indemnify said officer or employee to the full extent of such judgment.

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

§ 15-9. Conditions.³

- A. The obligation to indemnify and save harmless shall not apply to acts of intentional wrongdoing or recklessness on the part of the officer or employee.
- B. The officer or employee must serve a copy of the final judgment or settlement upon the chief administrative officer of the village, personally or by certified or registered mail, within 30 days of the date of entry of such settlement.

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

Chapter 22

ETHICS, CODE OF

§ 22-1. Purpose.

§ 22-2. Definitions.

§ 22-3. Standards of conduct.

§ 22-4. Filing claims.

§ 22-5. Distribution of Code of Ethics.

§ 22-6. Penalties.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 11-19-1970. Amendments noted where applicable.]

§ 22-1. Purpose.

Pursuant to the provisions of § 806 of the General Municipal Law, the Village Board of the Village of Youngstown recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Village of Youngstown. These rules shall serve as a guide for official conduct of the officers and employees of the Village of Youngstown. The rules of ethical conduct of this chapter, as adopted, shall not conflict with, but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 22-2. Definitions.

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

INTEREST¹ — A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this chapter, a municipal officer or employee shall be deemed to have an interest in the contract of:

- A. His spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves.
- B. A firm, partnership or association of which such officer or employee is a member or employee.
- C. A corporation of which such officer or employee is an officer, director or employee.
- D. A corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

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

MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the Village of Youngstown, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a fire chief or assistant fire chief.²

§ 22-3. Standards of conduct.

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

- A. Gifts. He shall not, directly or indirectly, solicit any gift having a value of \$75 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.³
- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- C. Representation before one's own agency. He shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Board of Trustees and any officer or employee of the Village of Youngstown, whether paid or unpaid, who participates in the discussion or gives official opinion to the Board of Trustees on any legislation before the Board of Trustees shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.
- F. Investments in conflict with official duties. He shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with his official duties.

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

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

- G. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- H. Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Village of Youngstown in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

§ 22-4. Filing claims.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the Village of Youngstown or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 22-5. Distribution of Code of Ethics.⁴

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

§ 22-6. Penalties.

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

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

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Chapter 31

LOCAL LAWS, PUBLICATION OF

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| <p>§ 31-1. Public hearing required; notice of hearing.</p> <p>§ 31-2. Inspection of proposed local laws.</p> | <p>§ 31-3. Proof of publication and posting.</p> <p>§ 31-4. Numbering of local laws.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 4-18-1968. Amendments noted where applicable.]

§ 31-1. Public hearing required; notice of hearing.

No local law shall be adopted by the Board of Trustees of the Village of Youngstown until a public hearing has been held thereon in its final form before such Board of Trustees not less than three nor more than 30 days after public notice has been given of the time and place of the holding of such public hearing. Such notice shall be given by the Village Clerk by causing the same to be published once in the official newspaper of the village. Such notice shall contain the title of the proposed local law and a brief explanatory statement thereof.

§ 31-2. Inspection of proposed local laws.

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, make copies of such proposed local law available at his office for inspection by and distribution to any interested person during business hours.¹

§ 31-3. Proof of publication and posting.²

Proof of publication of the notice of public hearing required by § 31-1 hereof shall be filed in the office of the Village Clerk.

§ 31-4. Numbering of local laws.³

Each local law shall be numbered consecutively beginning with number one for each calendar year. When a local law is finally adopted, and certified copies thereof are required by § 27 of the Municipal Home Rule Law to 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.

¹ Editor's Note: Former Section 3, regarding posting of adopted local laws in the Clerk's office, which immediately followed this section, was deleted 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).

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



Chapter 34

PLANNING BOARD

§ 34-1. Creation and organization.

§ 34-2. Alternate members to be appointed.

§ 34-3. Authorization to appoint; authority of alternates.

§ 34-4. Powers; entry in minutes.

§ 34-5. Terms of office.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 3-11-1999 by L.L. No. 3-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Historic Preservation — See Ch. 128.
Subdivision of land — See Ch. 197.

Zoning — See Ch. 250.

§ 34-1. Creation and organization.

The Planning Board as constituted and empowered under § 7-718 of the Village Law on the effective date of this chapter, shall be continued. Vacancies occurring in such Board shall be filled in accordance with Village Law. The Planning Board shall have all the powers and perform all the duties prescribed by statute and by this chapter.

§ 34-2. Alternate members to be appointed.

From time to time the Planning Board of the Village of Youngstown has experienced difficulty in securing a quorum necessary for the conducting of business due either to conflict of interest, absence, illness or inability of some members to attend meetings. In order to alleviate that problem, the Board of Trustees of the Village of Youngstown deems that it is necessary to appoint alternate Board members to function as set forth.

§ 34-3. Authorization to appoint; authority of alternates.

The Board of Trustees is hereby authorized to appoint two alternate members to the Planning Board. When sitting as a regular member, the alternate members shall have the same qualifications, authority and power as a duly and regularly appointed member of the Board.

§ 34-4. Powers; entry in minutes.

The alternate Board members shall sit as members of the Board exercising full power as if they were regular members, when regular members on the Board are unable to attend, so as to make up a quorum for the Board to conduct business. Such alternate members may participate in decisionmaking only to the extent necessary and only after they have been thoroughly informed

as to the facts and law of the case. Insofar as practicable, service of the alternate Board members shall rotate among them. When such alternate Board member shall sit as a full member of the Board, the Village Clerk or the Secretary of the Board shall make an entry in the minutes of the Board meeting certifying that a regular member or members of the Board were unable to attend and that the alternate member or members were sitting as a full member of the Board and giving the date, time, place and purpose of such meeting.

§ 34-5. Terms of office.

Said appointment of alternate members shall be for a period of two years.

Chapter 36

PROCUREMENT POLICY

§ 36-1. Applicability.

§ 36-2. Evaluation of purchases.

§ 36-3. Documentation required; exceptions.

§ 36-4. Procurement guidelines.

§ 36-5. Exemptions from solicitation.

§ 36-6. Effective date; annual review.

§ 36-7. Failure to comply.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 6-5-1995. Amendments noted where applicable.]

§ 36-1. Applicability.

The Village of Youngstown does hereby adopt the following procurement policy which is intended to apply to all goods and services which are not required by law to be publicly bid.

§ 36-2. Evaluation of purchases.

Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases. The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase or any other written documentation that is appropriate. Such documentation is to be attached to the voucher or purchase order related to such purchase.

§ 36-3. Documentation required; exceptions.

All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchase contracts over \$10,000 and public works contracts over \$20,000; goods purchased from agencies for the blind or severely handicapped pursuant to § 175-b of the State Finance Law;¹ goods purchased from correctional institutions pursuant to § 186 of the Correction Law; purchases under state contracts pursuant to § 104 of the General Municipal Law; purchases

¹ Editor's Note: Section 175-b of the State Finance Law was repealed by L.1995, c. 83, § 33. See now § 162, Subdivision 6, of the State Finance Law.

under county contracts pursuant to § 103, Subdivision 3, of the General Municipal Law; or purchases pursuant to § 36-7 of this policy.

§ 36-4. Procurement guidelines.

A. Requirements.

Amount of Purchase	Requirement
\$1 to \$1,500	At the discretion of department head
\$1,501 to \$2,500	Two telephone quotations or verbal quotes with documentation attached to voucher or purchase order
\$2,501 to \$9,999	Three written quotations (if possible), documentation attached
Over \$10,000	Formal sealed bids in conformance with General Municipal Law § 103 for the purchase of commodities, equipment or goods
\$10,000 to \$19,999 for public works projects/ contracts	Three written quotations, documentation attached
\$20,000 and up for public works projects/ contracts	Formal sealed bids in conformance with General Municipal Law § 103

- B.** In all circumstances, whenever other than the lowest quote is awarded, there must be written documentation of the reason for the award.
- C.** Proper documentation, acceptable to the Board of Trustees, must be given if the required number of quotes cannot be accommodated.

§ 36-5. Exemptions from solicitation.

Pursuant to General Municipal Law § 104-b, Subdivision 2f, the procurement policy may contain circumstances when, or types of procurements for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality.

- A.** In determining whether a service fits into this category, the Board of Trustees shall take into consideration the following guidelines: whether the services are subject to state licensing or testing requirements; whether substantial formal education or training is a necessary prerequisite to the performance of the services; whether the services require a personal relationship between the individual and municipal officials. Professional or technical services shall include but not be limited to the following: services of an attorney;

services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of municipally owned property; and computer software or programming services for customized programs or services involved in substantial modification and customizing of prepackaged software.

- B. Emergency purchases pursuant to § 103, Subdivision 4, of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately, and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the residents. This section does not preclude alternate proposals if time permits.
- C. Purchases of surplus and secondhand goods from any source. It is noted that it is difficult to try to compare prices of used goods, and a lower price may indicate an older product.

§ 36-6. Effective date; annual review.

This policy shall go into effect January 9, 1992, and will be reviewed as needed by the Board of Trustees.

§ 36-7. Failure to comply.

Unintentional failure to fully comply with the provisions of this policy shall not be grounds to void action taken or cause action to be taken against any officer or employee of the Village of Youngstown.



Chapter 45

TERMS OF OFFICE

ARTICLE I

Mayor and Trustees

§ 45-1. Legislative intent.

§ 45-2. Purpose and findings.

§ 45-3. Term of Mayor established.

§ 45-4. Terms of Trustees established.

§ 45-5. Applicability.

§ 45-6. When effective; permissive referendum.

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

GENERAL REFERENCES

Code of Ethics — See Ch. 22.
Planning Board — See Ch. 34.

Zoning Board of Appeals — See Ch. 50.

ARTICLE I

Mayor and Trustees

[Adopted 2-22-2007 by L.L. No. 1-2007¹]

§ 45-1. Legislative intent.

It is the intent and purpose of this article to lengthen the term of office of the Mayor and each member of the Village Board of Trustees from two years to four years in accordance with the provisions of Village Law. By reducing the initial term of the Mayor and Trustee class of 2007 to three years, the Village will stagger the terms of office to provide for the election of two Trustees every two years.

§ 45-2. Purpose and findings.

The Village Board of the Village of Youngstown finds that certain key elective positions within the Village, such as Mayor and Village Trustee, would benefit from a longer term of office so as to provide greater continuity for the Village. These positions require a great amount of skill and knowledge; therefore, there is a need for a longer term. It is the purpose of this article to expand the terms of office for the Mayor and the Village Trustees from two years to four years.

§ 45-3. Term of Mayor established.

The Mayor of the Village shall serve for a term of four years.

1. Editor's Note: This local law was adopted as Ch. 3 but was renumbered to maintain the alphabetical organization of the Code.

- A. In the election to be held in 2007, the Mayor shall run for a term of three years.
- B. In the election to be held in 2010, the Mayor shall run for a term of four years.

§ 45-4. Terms of Trustees established.

The term of office for an elected Village Trustee shall be and is hereby expanded to four years, to be implemented as follows:

- A. In the election to be held in 2007, two Trustees shall run for terms of three years.
- B. In the election to be held in 2008, two Trustees shall run for terms of four years.
- C. In the election to be held in 2010, two Trustees shall run for terms of four years.

§ 45-5. Applicability.

This article shall not apply to any person holding an office as of the date of adoption of this article and shall apply only to those persons elected to the office of Mayor or Village Trustee at the next general election held by the Village, but not earlier than May 2007.

§ 45-6. When effective; permissive referendum.

This article shall take effect upon posting and filing and following such permissive referendum as may be called by the resident electors of the Village or, in the absence of such permissive referendum, upon the expiration of the time period within which a permissive referendum may be called for.²

2. Editor's Note: Per the Village Clerk, no petition for a permissive referendum was filed.

Chapter 48

YOUTH COMMISSION

§ 48-1. Commission established.

**[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 9-11-1975.
Amendments noted where applicable.]**

§ 48-1. Commission established.

The resolution creating the Youth Commission in March of 1972 is hereby rescinded, and, in its place, a Youth Commission is created according to Article 13 of the General Municipal Law. Said commission shall be of seven members, with terms running from one to seven years.



Chapter 50

ZONING BOARD OF APPEALS

ARTICLE I Alternate Members

§ 50-1. Purpose.

§ 50-2. Authorization to appoint alternates; authority of alternates.

§ 50-3. Powers; entry in minutes.

§ 50-4. Terms of office.

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

GENERAL REFERENCES

Planning Board — See Ch. 34.
Historic preservation — See Ch. 128.
Subdivision of land — See Ch. 197.

Zoning — See Ch. 250, particularly Art. VII,
Board of Appeals.

ARTICLE I Alternate Members [Adopted 3-11-1999 by L.L. No. 2-1999]

§ 50-1. Purpose.

From time to time the Board of Appeals of the Village of Youngstown has experienced difficulty in securing a quorum necessary for the conducting of business due either to conflict of interest, absence, illness or inability of some members to attend meetings. In order to alleviate that problem, the Board of Trustees of the Village of Youngstown deems that it is necessary to appoint alternate Board members to function as set forth below.

§ 50-2. Authorization to appoint alternates; authority of alternates.

The Board of Trustees is hereby authorized to appoint two alternate members to the Zoning Board of Appeals. When sitting as a regular member, alternate members shall have the same qualifications, authority and power as a duly and regularly appointed member of the Board.

§ 50-3. Powers; entry in minutes.

The alternate Board members shall sit as members of the Board, exercising full power as if they were regular members, when regular members are unable to attend, so as to make up a quorum for the Board to conduct business. Such alternate members may participate in decisionmaking only to the extent necessary and only after they have been thoroughly informed as to the facts and law of the case. Insofar as practicable, service of the alternate Board members shall rotate among them. The Village Clerk or the secretary of the Board shall make an entry in the minutes of the Board meeting certifying that a regular member or members of

the Board were unable to attend and that the alternate member or members were sitting as a full member of the Board and giving the date, time, place and purpose of such meeting.

§ 50-4. Terms of office.

Said appointment of alternate members shall be for a period of two years.

PART II

GENERAL LEGISLATION

Chapter 57

ALCOHOLIC BEVERAGES

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| § 57-1. Purpose. | § 57-4. Consumption of alcoholic beverage. |
| § 57-2. Definitions. | § 57-5. Containers found in vehicles. |
| § 57-3. Possession of alcoholic beverage containers. | § 57-6. Exceptions. |
| | § 57-7. Penalties for offenses. |

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 11-6-1980 by L.L. No. 3-1980. Amendments noted where applicable.]

GENERAL REFERENCES

Amusement devices — See Ch. 62.

Alcoholic beverages in parks — See Ch. 148, § 148-12.

§ 57-1. Purpose.

It is hereby declared that the consumption and possession of alcoholic beverages in public places is a matter of public interest, and the regulation thereof by the provisions hereinafter prescribed and enacted as a necessity in the interest of the public safety and the promotion of the public welfare.

§ 57-2. Definitions.

For the purpose of this chapter, the following terms and words shall apply:

ALCOHOLIC BEVERAGE — All alcohol, spirits, liquor, wine, beer, hard cider and every liquid containing alcohol capable of being consumed by a human being.

PUBLIC PLACE — Any and all streets, sidewalks, alleys, or other public ways in or through any and all public parks, squares, spaces, grounds, buildings and parking lots all to which the general public has access.

§ 57-3. Possession of alcoholic beverage containers.

No person shall have in his possession any open bottle, can or container containing liquor, beer, wine or other alcoholic beverage while such person is on any public highway, public street, public parking area or in any vehicle or public place, excepting those premises duly licensed for the sale and consumption of alcoholic beverages on the premises, whatsoever in said village except as hereinafter provided.

§ 57-4. Consumption of alcoholic beverage.

No person shall consume liquor, beer, wine or other alcoholic beverage while such person is on any public highway, public street, public parking area or in any vehicle or public place, excepting those premises duly licensed for sale and consumption of alcoholic beverages on the premises, whatsoever in the village except as hereinafter provided.

§ 57-5. Containers found in vehicles.

Any open bottle, can or container, containing or having contained liquor, beer, wine or other alcoholic beverage found in any vehicle shall be presumptive evidence that the same is in the possession of all the occupants thereof and in violation of this chapter.

§ 57-6. Exceptions.

This chapter shall not apply to:

- A. The village parks when an appropriate permit has been duly issued by the village.¹
- B. Such specific public places as shall be made specifically exempt and for such times and upon such conditions as by resolution of the Board of Trustees they shall determine from time to time.

§ 57-7. Penalties for offenses. [Amended 4-23-1981 by L.L. No. 3-1981²]

Any person violating any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

¹ Editor's Note: See Ch. 148, Parks and Recreation Areas.

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

Chapter 62

AMUSEMENT DEVICES

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| § 62-1. Short title. | § 62-6. Licenses and permits; conditions of licensing. |
| § 62-2. Legislative findings; declaration of policy. | § 62-7. Location restrictions; exceptions. |
| § 62-3. Definitions; word usage. | § 62-8. Placement of devices. |
| § 62-4. Conflicts with other laws. | § 62-9. Suspension or revocation of licenses and permits; review. |
| § 62-5. Game arcades prohibited; games and amusement devices restricted. | § 62-10. Penalties for offenses. |

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 10-22-1981 by L.L. No. 4-1981. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 57.

§ 62-1. Short title.

This chapter and all amendments, codifications and recodifications hereof shall be known and may be cited as the “Games and Arcades Control Law of the Village of Youngstown.”

§ 62-2. Legislative findings; declaration of policy.

The unrestricted establishment of commercial game rooms and arcades would pose substantial hazards to the peace, comfort, health, safety and welfare of village residents. Likewise, the unregulated proliferation of games and other amusement devices as incidental uses within established business premises would pose equally serious problems in the maintenance of an orderly and peaceful flow of commerce, in the preservation of the public safety and welfare and in the promotion of legitimate and necessary uses within the business community. It is the purpose of this chapter to assure the protection and preservation of the village’s comprehensive planning; the safeguarding of the general health, welfare, morals and comfort of the village citizenry; and the restriction and prohibition of certain unsuitable uses which, by their nature or evolution within the community, would seriously impede or adversely affect proper land use and development, the efficient delivery of essential municipal services, the orderly regulation of pedestrian and vehicular traffic and the reasonable enjoyment of recreational activity within the community as a whole.

§ 62-3. Definitions; word usage.

- A. For purposes of the chapter, and all amendments or additions hereto, the following words and phrases shall have the meanings described herein, as and whenever the same shall appear in this chapter:

GAME ARCADE — Any lot, premises, facility, building or structure open to the public in which five or more bowling alleys, electronic or mechanical games or amusements, billiard or pool tables, or any other games or amusement devices of any kind, as such terms are defined herein, or any combination of five or more such games or devices as aforesaid, are situated, stored, possessed, operated, used or maintained and for which a fee is charged, either directly or by membership, ticket or other indirect fees, either for admission to any such place or premises or for access to or use of any such games or amusement devices as aforesaid.

GAMES AND AMUSEMENT DEVICES — Any electric, mechanical, computerized, electronic or other device, machine or implement which is either designed and intended or used, operated or maintained as a game, amusement or means of entertainment, including but not limited to the following: pinball machines, shooting galleries, computerized games, electronic games, skillboards, billiard or pool tables, electronic bowling or shuffleboard tables, bowling alleys and casino-type games.

PERSON — Includes any natural person, firm, corporation, copartnership, association, joint-stock association, company, organization, club society or other entity, except the State of New York, the United States, the Village of Youngstown, and any divisions, boards, commissions, agencies or departments thereof when acting in their official capacities.

- B. Word usage.

- (1) “And” and “or”: Unless the context shall clearly require otherwise, the words “and” and “or” shall be interpreted to mean and include each other and shall be interchangeable.
- (2) “Shall” and “may”: The word “shall,” whenever it appears, shall always mean “must” and shall prescribe mandatory conduct; the word “may,” whenever it appears, shall always mean “might” and shall prescribe permissive or discretionary conduct.
- (3) Singular and plural: Unless the context shall clearly require a different interpretation, whenever the singular form of a word shall appear herein, it shall mean and include the plural thereof, and whenever the plural form of a word shall appear herein, it shall mean and include the singular thereof.

§ 62-4. Conflicts with other laws.

Insofar as it may actually conflict with the provisions of any other law, ordinance, rule, order or regulation, this chapter, and all amendments, codifications and recodifications hereof, shall be deemed to supersede and take precedence and control over every such contrary provision, but only to the extent and degree necessary to effect the purposes of this chapter and carry out its provisions and for no other reason.

§ 62-5. Game arcades prohibited; games and amusement devices restricted.

- A. It shall be unlawful for any person to establish, construct, use, operate or maintain any games arcade anywhere within the Village of Youngstown, and under no circumstances shall any license, permit, special exception or other authorization therefor be granted, issued or otherwise allowed by any board, commissioner, officer, agent or employee of the village.
- B. It shall be unlawful for any person to own, lease, store, possess, use, operate or maintain more than four games or amusement devices for business or commercial purposes in or upon any premises within the Village of Youngstown, or to so own, lease, store, possess, use, operate or maintain any such game or amusement device, except in conformity with the provisions of this chapter, and unless licenses and permits have previously been obtained therefor.

§ 62-6. Licenses and permits; conditions of licensing.

- A. It shall be unlawful for any person to own, lease, store, possess, use, operate or maintain any game or amusement device for commercial or business purposes, in or upon any premises within the Village of Youngstown, except as an incidental use, and not as the main use, on business premises, and only after having previously obtained all licenses and permits required by this section.
- B. A separate premises permit shall be required for each building, facility, structure or other premises in which games or amusement devices are owned, leased, stored, possessed, used, operated or maintained for business or commercial purposes, and a separate license shall be required for every game or amusement device so owned, leased, stored, possessed, used, operated or maintained in or upon such premises.
- C. Applications for permits and licenses shall be made in writing on forms provided by the Village Clerk and shall be filed in the office of the Village Clerk during regular business hours. Every such application shall provide for such information as the Board of Trustees may, from time to time, direct or require by rule, resolution or order. No application shall be accepted for filing unless fully completed, signed and notarized and unless accompanied by payment of all application fees provided for elsewhere in this section.
- D. No license or permit may be granted or issued pursuant to this section unless and until all of the provisions of this chapter are fully complied with. In addition to the foregoing requirement, the Board of Trustees, as licensing body, shall consider the following factors before passing upon any application hereunder: the possible effects on the public health, peace, safety, comfort and welfare, including but not limited to the size, floor area, design and location of the premises; the nature and type of game or amusement device proposed to be used; the proposed hours and days of operation; the proximity of residential uses; the impact on municipal services, facilities and public areas; compatibility with surrounding business uses; potential increase in pedestrian and vehicular traffic; the adequacy of existing and proposed fire safety devices, such as sprinklers, alarms, extinguishers and fire exits; the potential for increased noise and other noxious disturbances; and compliance with all fire, building, zoning, plumbing and other ordinances and laws.

E. Granting licenses or permits; renewal.

- (1) In the event that the Board of Trustees shall deem it advisable to grant the application for a permit or license, the Village Clerk, after payment of the annual fees for licenses and permits provided for elsewhere in this section, shall issue the appropriate license and/or permit. Licenses and permits shall be issued on an annual basis only and shall expire on December 31 next succeeding the date of issuance thereof, and no such license or permit shall be transferable.
- (2) In the event that a license or permit issued hereunder shall not be renewed, and the annual renewal fee paid therefor, on or before January 15 next succeeding the date of expiration of such license or permit, then the same shall be null and void of no further force or effect, and the holder thereof shall be required to file a new application and pay a new application fee before any such license or permit may be validly reinstated by the Board of Trustees and lawfully reissued and renewed by the Village Clerk.

F. Fees.

- (1) The fees required under the provisions of this section shall be as set forth from time to time by resolution of the Board of Trustees. Said fee resolution is on file in the office of the Village Clerk.¹
- (2) All fees provided for herein shall be nonrefundable and without proration.
- (3) The Board of Trustees may, from time to time, amend, repeal, abolish or otherwise modify any fee provided for herein by order or resolution of the Board. Except for good cause shown, and unless specifically provided for therein, no such order or resolution shall be retroactive, in either its effect or application, from the date of its adoption.

§ 62-7. Location restrictions; exceptions.

- A. It shall be unlawful for any person to own, lease, store, possess, use, operate or maintain any game or amusement device for business and commercial purposes within the Village of Youngstown, and no license or permit shall be granted or issued therefor within any of the following restricted locations or premises:
- (1) Any area of the village which is zoned for a use classification other than commercial classification under Chapter 250, Zoning, of the Code of the Village of Youngstown.
 - (2) Any open area, open court or other mandatory open portion on any lot, plot or premises.
 - (3) Within or upon any place, premises or building, other than a bar or bar-restaurant, in which any type of food, beverage, liquor or alcoholic beverage is or may be sold, offered for sale, purchased, dispensed, served or consumed or in which the same is permitted to be brought into or possessed in or upon any part of portion of such place, premises or building.

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

- B. The provisions of this section shall not apply to any establishment actually licensed by the Village of Youngstown for the use, operation or maintenance of any game or amusement device prior to the effective date of this chapter, solely in respect to any such game or amusement device actually covered under the provisions of any such license, for a period of one year from the effective date of this chapter. Upon the expiration of the term provided for hereby, this section shall apply fully, with equal force and effect to every person, place, premises and building within the village.

§ 62-8. Placement of devices.²

Every game and amusement device within the village shall be so situated and placed within and upon premises that it shall not:

- A. Block or otherwise obstruct any window, door, doorway, ventilating duct, fire exit, boiler, furnace, radiator, baseboard or other heating device, stairs or stairway, toilet or other sanitary facility.
- B. Obstruct, encumber or otherwise interfere with the free, clear passage of any person into, through or from such premises.

§ 62-9. Suspension or revocation of licenses and permits; review.

- A. Any license or permit issued pursuant to the provisions of this chapter may be suspended or revoked by order of the Board of Trustees, or by order of the Village Clerk, for a violation of any of the provisions of this chapter. The effective date of any such revocation or suspension shall be deemed served, in compliance with this section, on the date that same shall be either personally served or delivered to the person to whom the license or permit was issued or on the date such notice is mailed, return receipt requested, by either certified or registered mail, to the last known address of the holder thereof, as the same shall appear on the most recent application for such license or permit.
- B. Any person whose license or permit has been suspended or revoked pursuant to the provisions herein shall have the right to a hearing before the Board of Trustees to review such suspension or revocation, provided that such person files a written petition requesting such hearing in the office of the Clerk within 30 days of the date of service of the notice provided for hereinabove. The Board of Trustees, within 30 days of the date of filing of such petition, shall fix the date for such hearing and shall hold the same, and render its decision thereon, within 60 days of the date of the hearing.
- C. It shall be unlawful for any person whose license or permit has been suspended or revoked, or whose license or permit has become null and void after expiration and nonrenewal thereof, to use, operate or maintain any game or amusement device for business or commercial purposes, or to allow any other person to use, operate or maintain the same, within the Village of Youngstown during any period of time after which such license or

² Editor's Note: Former Subsection A of this section, regarding off-street parking requirements, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

permit has been suspended, revoked or become null and void and before which such license and permit has been actually and validly reissued, reinstated or restored.

§ 62-10. Penalties for offenses.³

Any person violating any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both. Each day that a violation of this chapter shall continue shall constitute a separate violation hereof.

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

Chapter 67

ANIMALS

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- § 67-34. Sanitation and nuisances.
- § 67-35. Review of application; issuance and expiration of license.
- § 67-36. Renewal.
- § 67-37. Penalties for offenses.

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

GENERAL REFERENCES

Noise — See Ch. 145.

Parks and recreation areas — See Ch. 148.

ARTICLE I
Dogs At Large
[Adopted 2-23-1978 by L.L. No. 1-1978]

§ 67-1. Purpose.

The purpose of this article shall be to preserve the public peace and good order in the Village of Youngstown and to contribute to the public welfare and preservation and protection of the person and the property of the inhabitants by declaring and enforcing certain regulations and restrictions on the activities of dogs within the Village limits.

- A. No person owning, possessing, harboring or having the care, custody, control or charge of a dog or dogs shall allow, suffer or permit the same to run at large or cause injury to persons or property.
- B. The Board of Trustees of the Village is hereby authorized and empowered to impound any dog found running or being at large in violation of the preceding section, or creating or constituting a public nuisance and may thereafter be sold by said Board in the manner prescribed by Article 7 of the Agriculture and Markets Law. [Amended 9-10-1998 by L.L. No. 2-1998]

§ 67-2. Definitions.

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

AT LARGE — Other than on the premises of the owner (or on the premises of another person with the consent of such other person).

DOG — Both male and female dogs, both licensed and unlicensed.

OWNER — Any person owning, harboring or having custody of any dog. In the event that the owner shall be a child under the age of 16 years, then the head of the household in which the child resides shall be deemed to have custody and control of said dog and shall be responsible for any acts in violation of this article.

§ 67-3. Control of dogs.

- A. Leash requirements. No owner of a dog shall allow, suffer or permit the same to be at large within the corporate limits of the Village of Youngstown unless restrained by a leash not exceeding eight feet in length and handled by an attendant of adequate ability to control the actions of such dog.
- B. Seizure and impounding of dogs. Any dog running at large contrary to the provisions of Subsection A above shall be subject to seizure and impounding by any peace officer or any other person or agency designated by the Village or authorized by law to seize and impound such dog.

- C. Notice to owner. Every reasonable attempt will be made to find the owner of any seized dog. The person or agency which seized the dog shall give notice to the owner stating that the dog has been seized and will become the property of the Niagara County SPCA unless redeemed within the period herein provided.
- D. Disposition of impounded dogs. If the dog's owner cannot be located then it will be taken to the Niagara County SPCA for boarding. The owner of a dog which has been seized may redeem the dog within seven days, except that the owner of a dog bearing a license tag may redeem the dog within 10 days. If not so redeemed, the dog shall become the property of the SPCA. [Amended 9-10-1998 by L.L. No. 2-1998]

§ 67-4. Records. [Amended 9-10-1998 by L.L. No. 2-1998]

The Dog Control Officer of the Town of Porter shall keep a record and description of each animal impounded, the date of the receipt of such animal, the date and manner of its disposal and, if redeemed, the name and the address of the person by whom redeemed.

§ 67-5. Interference with authorities prohibited.

No person shall hinder, resist or oppose the Dog Control Officer, any police officer, agent or employee or representative of the Village in the performance of their duties under this article. Violators of this section will be subject to prosecution under the Penal Law of the State of New York.¹

ARTICLE II**Harboring**

[Adopted 10-10-1985 by L.L. No. 2-1985]

§ 67-6. Purpose.

The purpose of this article shall be to preserve the public peace and good order in the Village of Youngstown and to promote the public welfare, preservation of the value of the property of the inhabitants of the Village and their general health and welfare by declaring it unlawful to keep, harbor and/or maintain farm animals and certain other animals on or within any premises or structures within the Village of Youngstown and adopting and enforcing certain penalties for violations thereof.

§ 67-7. Definitions.

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

ANIMAL — Any domestic, exotic, wild animal or fowl and pets, including dogs and cats.

HOUSEHOLD — Any dwelling on any land used for human occupancy or shelter, including attached garage or carport.

OUTBUILDING — Any structure of any nature erected on land used for any purpose other than human occupancy or shelter.

OWNER — Any person or group of persons living in one dwelling. The head of the household shall be deemed to be the owner and shall be responsible for any violations of this article.

§ 67-8. Harboring or keeping certain animals prohibited.

- A. It shall be unlawful to harbor or keep upon any land or within or about any household or other outbuilding any animal within the Village of Youngstown, except as provided in Subsection B following.
- B. It shall be lawful to keep, harbor and maintain no more than two dogs and/or two cats in one household. Any dogs or cats in excess of such number shall be in violation of this article. It shall also be lawful to keep other common domestic pets, such as small birds, rabbits, gerbils, hamsters or small fish. [Amended 9-10-1998 by L.L. No. 2-1998]

1. Editor's Note: Former Section 6, dealing with penalties for violations of this article, which immediately followed this section, was deleted 9-10-1998 by L.L. No. 2-1998.

- C. Any litter of dogs or cats harbored as provided in Subsection B above shall be confined to an inside structure and then removed from the household as soon as said pups or kittens can be separated from the mother animal.

§ 67-9. Notice to owner.

Any notice of violation of this article may be given in writing or in person to the owner by the Village Clerk or such other person or employee as the Board of Trustees may hereafter from time to time designate.

§ 67-10. Disposition of animals.

- A. Any animal being kept at a household in violation of the provisions of this article shall be removed from said household or outbuilding within 24 hours following notice to the owner.
- B. If, after 24 hours following such notice, the animal or animals being kept in violation of this article are not removed from the household or outbuilding, they may be removed in accordance with any existing law of the State of New York or local law or ordinance of the Village of Youngstown, now or hereafter enacted or adopted.

§ 67-11. Interference with authorities.

Any person who shall interfere with any person designated to enforce the provisions of this article shall be subject to the same fines and penalties as the owner of the animal, in addition to any other offenses which such person may be charged under the laws of the State of New York.

§ 67-12. Penalties for offenses. [Amended 9-10-1998 by L.L. No. 2-1998]

Any person violating any of the provisions of this article shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both, for each day an animal is kept in the household or outbuilding after receiving notice as hereinabove provided, in addition to any expenses incurred for the removal of such animal or animals by the Village or its agents and representatives.

ARTICLE III

Public Defecation of Dogs, Horses and Other Domestic Animals

[Adopted 6-13-1996 by L.L. No. 2-1996]

§ 67-13. Purpose. [Amended 8-12-2010 by L.L. No. 1-2010]

This article is enacted to control the defecation of dogs, horses and other domestic animals upon the streets, sidewalks, lawns and park areas in the Village of Youngstown.

§ 67-14. Removal of feces. [Amended 8-12-2010 by L.L. No. 1-2010]

Any person owning or in charge of any dog, horse and other domestic animal which soils, defiles, defecates on or commits any nuisance on any common thoroughfare, sidewalk, passageway, play area, park or any place where people congregate or walk or upon any private property, without the permission of the owner of said property, shall immediately remove all feces deposited by any such dog, horse or other domestic animal in a sanitary manner.

§ 67-15. Disposal of feces. [Amended 8-12-2010 by L.L. No. 1-2010]

The feces removed from the aforementioned designated areas shall be disposed of by the person owning or in charge of any such dog, horse or other domestic animal in a sealed, nonabsorbent, leakproof container.

§ 67-16. Guide dogs.

The provisions of this article shall not apply to blind persons who may use dogs as guides and are not at the time accompanied by another person who has no sight impairment.

§ 67-17. Penalties for offenses. [Amended 9-10-1998 by L.L. No. 2-1998]

Any person violating any of the provisions of this article shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

§ 67-18. Enforcement.

This article may be enforced by any employee of the Village or any citizen or resident who may witness such violation by reporting same to the Village Clerk.

ARTICLE IV**Raising Fowl**

[Adopted 10-25-2012 by L.L. No. 1-2012]

§ 67-19. Unlawful acts.

- A. It shall be unlawful for any person to keep any chicken, pigeon, turkey, duck or any fowl in any residential or commercial district, in any building or structure or on the same lot or premises except as provided herein.
- B. It shall be unlawful for any person to keep any chicken, pigeon, turkey, duck or any fowl in any other district as located within the Village.

§ 67-20. Exceptions for chicken hens; license required.

It shall be lawful for any person to keep, permit or allow any domesticated chicken hens in any residential district under the following terms and conditions and after having received a license from the Village Clerk to keep said chicken hens as prescribed herein under the following terms and conditions:

- A. No more than five chicken hens shall be allowed for each single-family dwelling.
- B. No chicken hens shall be allowed in multifamily complexes, including duplexes.
- C. No roosters shall be allowed at any time.
- D. Chicken hens are to be restricted to the rear or backyard of any lot in any residential zoning district or the rear or backyard of a residential use in any other zoning district.
- E. Chicken hens shall be kept as pets only and for personal use only; no persons shall sell eggs or meat or engage in chicken breeding or fertilizer production for commercial purposes.
- F. Persons wishing to keep chicken hens within the Village must obtain a license from the Office of the Village Clerk after payment of an annual fee of \$25 for the first chicken hen and \$5 for each additional chicken hen up to five and after inspection and approval of the coop and cage that chicken hens are to be kept in by the Animal Control Officer.

§ 67-21. Application for license.

An application for a license to have chicken hens on the premises shall contain the following information.

- A. The name, phone number and property address of the applicant.
- B. The location of the subject property.
- C. The size of the subject property.
- D. The number of chicken hens applicant seeks to keep on the property.
- E. A description of any coops or cages that will house the chicken hens, together with a description of any fencing barriers or enclosures surrounding the curtilage of the property.
- F. A scale drawing showing the precise location of cages, coops, enclosures, fences, and the manner in which feces and other waste materials will be removed from the property or be treated such so as to not result in unsanitary conditions or any attraction of rodents and insects.
- G. A signed statement from the property owner if the applicant is not the property owner, granting the applicant permission to engage in the keeping of chicken hens as described in the license application.
- H. The addresses of all properties within a fifty-foot radius of the subject property.

§ 67-22. Setbacks and limitations.

- A. The coops or cages housing such chicken hens must be situated at least 20 feet away from any door or window of a dwelling, school, church or other occupied structure, including the applicant dwelling.
- B. The coops or cages housing such chicken hens may not be located in front or side yard areas and shall not be located within 40 feet of a rear or side yard lot line.
- C. Minimum lot size for any person requesting a permit shall be 3/4 of an acre.

§ 67-23. Enclosures, coops and cages.

- A. The chicken hens shall be kept within both a coop and fenced outdoor enclosure.
- B. The chicken hens must be kept in the coop and fenced outdoor enclosure at all times and shall not be allowed to run free in the fenced outdoor enclosure unless a reasonable individual over the age of 18 years is directly monitoring said activity and is able to immediately respond should said chicken hens need to be returned to their individual cages.
- C. The chicken coop shall be a covered, predator-resistant, well-ventilated structure providing a minimum of four square feet per chicken hen.
- D. Outdoor enclosures shall be adequately fenced to contain the chicken hens and to protect the chicken hens from predators.
- E. The coop must be kept in a clean, dry and sanitary condition at all times.
- F. The outdoor enclosure shall be cleaned on a regular basis to prevent the accumulation of animal waste.
- G. The total area of all coops or cages on a lot shall not be greater than 32 square feet for up to five chicken hens and shall not exceed 10 feet in height.
- H. Chicken feed or other food used to feed the chicken hens shall be stored in a rodent-proof, fastened container, stored within a structure, which shall only be unfastened for the retrieval of food and immediately fastened thereafter.
- I. The chicken hens shall be fed only from an approved trough; scattering of food on the ground is prohibited.

§ 67-24. Sanitation and nuisances.

- A. Chicken hens shall only be kept in conditions that limit odors and noise and the attraction of insects and rodents so as not to cause a nuisance to occupants or nearby buildings or properties and to comply with the pickup provisions of both New York State and Niagara County sanitary codes.
- B. Chicken hens shall not be kept in a manner that is injurious or unhealthful to any animals otherwise being kept on the property.

§ 67-25. Slaughtering.

There shall be no outdoor slaughtering of chicken hens.

§ 67-26. Review of application; issuance and expiration of license.

- A. Upon receipt of a chicken license application and the requisite fee, the Village Clerk shall immediately advise the Office of Animal Control of said application, including the number of chicken hens sought to be licensed and the location of the proposed coop or cages.
- B. The Village Clerk shall immediately notify those property owners who own properties within 50 feet of the applicant property and provide them with an opportunity to provide written comments as to their support or opposition of the proposed coop.
- C. The Village Board shall also be immediately notified of the chicken license application.
- D. If the Village Clerk receives no written comments evidencing opposition to or concern regarding the proposed license within 20 days of receipt of the application fee, the Clerk shall advise the Village Board of the same.
- E. The Village Board shall thereafter place the application for a license upon the agenda at the next scheduled Village Board meeting for review and comment.
- F. The Village Board shall determine in its discretion, and taking into account the entire record before it, whether or not a license shall be issued to the applicant; the Village Board shall be empowered to impose further conditions on the license that it deems to be necessary to preserve the public safety and welfare.
- G. Upon approval of a majority of the Village Board and upon verification of compliance with the design and building regulations, the Mayor shall direct the Village Clerk to issue a license for said operation.
- H. The license issued to the applicant shall include the licensee's proper name, property address for which the license is valid, the number of chicken hens allowed at the property address, a unique license number, the date the license was issued and expiration date exactly one year from the date of the issuance and any additional conditions imposed by the Village Board.
- I. Only one chicken license shall be issued per applicant and per property.
- J. No licensee shall be eligible to obtain an additional license for multiple properties, nor shall more than one license be issued to more than one property address.

§ 67-27. Renewal.

- A. Not later than 60 days prior to the renewal date of the prior license, the applicant shall make an application for renewal of the same.

- B. Upon receipt, the Village Clerk shall immediately transmit said application to the Village Board, together with any and all memoranda or complaints concerning the licensed premises as have been received by the Village since the granting of the prior license.
- C. The Village Board may, in its discretion, choose to not renew any chicken license for any reason as is set forth above under § 67-26.
- D. If a license is renewed, pursuant to the provisions hereof, the applicant may continue to keep chicken hens pursuant to the terms and conditions set forth herein and imposed on the initial license.
- E. In the event that a license is not renewed, then the licensee shall, within 10 days of the notice of nonrenewal, dismantle and take down any and all chicken coops or other structures as were erected pursuant to the granting of the previous license.

§ 67-28. Penalties for offenses.

Any person violating any of the provisions of this article shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

ARTICLE V

Keeping Birds of Prey

[Adopted 10-25-2012 by L.L. No. 2-2012]

§ 67-29. Unlawful acts; definitions.

- A. It shall be unlawful for any person to keep any bird of prey in any district within the Village except as is set forth herein.
- B. As used in this article, the following terms shall have the meanings indicated:

BIRDS OF PREY — Eagles, ospreys, kites, hawks, harriers, falcons and owls.

§ 67-30. Exceptions; license required.

It shall be lawful for any person to keep, permit or to allow one bird of prey in any residential district under the following terms and conditions and after having received a license from the Village Clerk to keep said bird of prey as prescribed herein under the following terms and conditions:

- A. No more than one such animal shall be allowed for each single-family dwelling.
- B. No bird of prey shall be allowed in any multifamily complex, including duplexes.
- C. Said animals are to be restricted to the rear or to the backyard of any lot in any residential zoning district or the rear or backyard of a residential use in any other zoning district.

- D. Persons wishing to keep a bird of prey within the Village must obtain a license from the office of the Village Clerk after payment of an annual fee of \$25 and inspection and approval of said housing for the bird by the Animal Control Officer.

§ 67-31. Application for license.

Application for a license to have a bird of prey on the premises shall contain the following information:

- A. The name, phone number and property address of the applicant.
- B. The location of the subject property.
- C. The size of the subject property.
- D. A description of any coops or cages that will house the bird of prey, together with a description of any fencing barriers or enclosures surrounding the curtilage of the property.
- E. A scale drawing showing the precise location of cages, coops, enclosures, fences, and the manner in which feces and other waste materials will be removed from the property or be treated such so as to not result in unsanitary conditions or any attraction of rodents and insects.
- F. A signed statement from the property owner if the applicant is not the property owner, granting the applicant permission to engage in the keeping of birds of prey as described in the license application.
- G. The addresses of all properties within a fifty-foot radius of the subject property.
- H. A valid permit issued by the New York State Department of Environmental Conservation allowing the applicant to harbor said animal.

§ 67-32. Setbacks and limitations.

- A. The cage housing said bird of prey must be situated at least 20 feet away from any door or window of a dwelling, school, church or other occupied structure, including the applicant dwelling.
- B. The cage housing such bird of prey may not be located in front or side yard areas and shall not be located within five feet of a rear or side yard lot line.

§ 67-33. Enclosures and cages.

- A. The bird of prey shall be kept within an approved structure.
- B. The cage shall be a covered, predator-resistant, well-ventilated structure providing a minimum of 64 square feet.
- C. The cage must be kept in a clean, dry and sanitary condition at all times.

- D. The outdoor enclosure shall be cleaned on a regular basis to prevent the accumulation of animal waste.
- E. The total area of the cages shall not be greater than 144 square feet and shall not exceed 10 feet in height.
- F. Feed or other food used to feed the bird of prey shall be stored in a rodent-proof, fastened container, stored within a structure, which shall only be unfastened for the retrieval of food and immediately fastened thereafter.

§ 67-34. Sanitation and nuisances.

The bird of prey shall be kept in a condition that limits odors and noise and the attraction of insects and rodents so as not to cause a nuisance to occupants or nearby buildings or properties and to comply with the provisions of New York State Department of Environmental Conservation and Niagara County codes.

§ 67-35. Review of application; issuance and expiration of license.

- A. Upon receipt of the application and the requisite fee, the Village Clerk shall immediately advise the Office of Animal Control of said application, including the location of the proposed cage.
- B. The Village Clerk shall immediately notify those property owners who own properties within 50 feet of the applicant property and provide them with an opportunity to provide written comments as to their support or opposition of the proposed cage.
- C. The Village Board shall also be immediately notified of the bird of prey application.
- D. If the Village Clerk receives no written comments evidencing opposition to or concern regarding the proposed license within 20 days of receipt of the application fee, the Clerk shall advise the Village Board of the same.
- E. The Village Board shall thereafter place the application for a license upon the agenda at the next scheduled Village Board meeting for review and comment.
- F. The Village Board shall determine in its discretion, and taking into account the entire record before it, whether or not a license shall be issued to the applicant; the Village Board shall be empowered to impose further conditions on the license that it deems to be necessary to preserve the public safety and welfare.
- G. Upon approval of a majority of the Village Board and upon verification of compliance with the design and building regulations, the Mayor shall direct the Village Clerk to issue a license for said operation.
- H. The license issued to the applicant shall include the licensee's proper name, property address for which the license is valid, the number of bird of prey allowed at the property address, a unique license number, the date the license was issued and expiration date exactly one year from the date of the issuance and any additional conditions imposed by the Village Board.

- I. Only one license shall be issued per applicant and per property.
- J. No licensee shall be eligible to obtain an additional license for multiple properties, nor shall more than one license be issued to more than one property address.

§ 67-36. Renewal.

- A. Not later than 60 days prior to the renewal date of the prior license, the applicant shall make an application for renewal of the same.
- B. Upon receipt, the Village Clerk shall immediately transmit said application to the Village Board, together with any and all memoranda or complaints concerning the licensed premises as have been received by the Village since the granting of the prior license.
- C. The Village Board may, in its discretion, choose to not renew any bird of prey license for any reason as is set forth above under § 67-35.
- D. If a license is renewed, pursuant to the provisions hereof, the applicant may continue to keep the bird of prey pursuant to the terms and conditions set forth herein and imposed on the initial license.
- E. In the event that a license is not renewed, then the licensee shall, within 10 days of the notice of nonrenewal, dismantle and take down other structures as were erected pursuant to the granting of the previous license.

§ 67-37. Penalties for offenses.

Any person violating any of the provisions of this article shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

Chapter 74

BINGO

§ 74-1. Definitions.

§ 74-2. Applicability of other laws.

§ 74-3. Conduct authorized.

§ 74-4. Restrictions.

§ 74-5. Penalties for offenses.

§ 74-6. When effective; referendum.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 4-7-1958. Amendments noted where applicable.]

GENERAL REFERENCES

Games of chance — See Ch. 124.

§ 74-1. Definitions.

The terms “bingo,” “game,” “authorized organization” and “license” as used herein shall have the same meanings as ascribed to them by Chapter 854 of the Laws of 1957 of the State of New York or any amendments thereto.

§ 74-2. Applicability of other laws. [Amended 7-23-1963]

This chapter shall be subject to the provisions of and the requirements set forth in the Bingo Licensing Law of the State of New York (Article 14-H of the General Municipal Law, as enacted by Chapter 854 of the Laws of 1957), the State Lottery Control Law of the State of New York (Article 19-B of the Executive Law, as enacted by Chapter 853 of the Laws of 1957), the rules and regulations of the State Lottery Control Commission of the State of New York, and any amendments to such laws, rules and regulations, and such laws, rules and regulations, and any amendments thereto, shall in all respects govern the conduct of bingo games under this chapter within the Village of Youngstown, applications for and the issuance of licenses therefor and all other matters pertinent thereto mentioned and referred to in and by said laws, rules and regulations and amendments thereto.

§ 74-3. Conduct authorized. [Amended 7-23-1963]

It shall be lawful for any authorized organization, upon obtaining a license therefor as provided by law, to conduct the game of bingo within the territorial limits of the Village of Youngstown, subject to the provisions of this chapter, the provisions of Article 14-H of the General Municipal Law (Chapter 854, Laws of 1957) and the provisions of Article 19-B of the Executive Law.

§ 74-4. Restrictions. [Amended 7-23-1963]

The conduct of bingo games, as hereby authorized, shall be subject to the following restrictions:

- A. No person, firm, association, corporation or organization, other than a licensee under the provisions of Article 14-H of the General Municipal Law, shall conduct such game or shall lease or otherwise make available for conducting bingo a hall or other premises for any consideration whatsoever, direct or indirect.
- B. No bingo games shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.
- C. No authorized organization licensed under the provisions of Article 14-H of the General Municipal Law shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of bingo games from other than a supplier licensed under the Bingo Control Law or from another authorized organization.
- D. The entire net proceeds of any game of bingo and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.
- E. No prize shall exceed the sum or value of \$250 in any single game of bingo.
- F. No series of prizes on any one bingo occasion shall aggregate more than \$1,000.
- G. No person except a bona fide member of any such organization shall participate in the management or operation of such game.
- H. No person shall receive any remuneration for participating in the management or operation of any game of bingo.

§ 74-5. Penalties for offenses.

The unauthorized conduct of a bingo game and any willful violation of any provision of this chapter shall constitute and be punishable as a misdemeanor.

§ 74-6. When effective; referendum. [Amended 7-23-1963]

This chapter shall not become operative or effective unless and until:

- A. The provisions of Article 14-H, General Municipal Law (as enacted by Chapter 854 of the Laws of 1957), shall become operative in the Village of Youngstown by the approval of a proposition therefor by a vote of the majority of the qualified electors in said village voting thereon, as provided by § 496 of the General Municipal Law.
- B. This chapter shall have been approved by a majority of the qualified electors of the Village of Youngstown voting on a proposition therefor submitted at a general or special election within said village.¹

¹ Editor's Note: This chapter passed at referendum on 5-6-1958.

Chapter 79

BOATING

ARTICLE I

Safe Boating Zone

§ 79-1. Purpose.

§ 79-2. Establishment of zone.

§ 79-3. Speed limit.

§ 79-4. Penalties for offenses.

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

GENERAL REFERENCES

Vehicles and traffic — See Ch. 232.
Water — See Ch. 241.

Waterfront — See Ch. 245.
Zoning — See Ch. 250.

ARTICLE I

Safe Boating Zone

[Adopted 4-8-1999 by L.L. No. 5-1999]

§ 79-1. Purpose.

- A. Over time the Village of Youngstown has experienced dramatic growth in pleasure boating activity. In addition there has been dramatic growth in the number of high-speed commercial vessels in the same waters.
- B. As a result of this growth, the safety of all boaters using the Niagara River has become a serious concern for the village, and the village believes that the enactment of a Safe Boating Zone with the restrictions contained herein will enhance the safety and enjoyment of all persons using the Niagara River.

§ 79-2. Establishment of zone.

There is hereby established a Safe Boating Zone as follows:

Beginning at the point of intersection of the South line of the Village of Youngstown and the Eastern shore of the Niagara River to a point at the intersection of said South line extended West and the International boundary line between the U.S. and Canada; thence North along said International boundary to a point of intersection of said international boundary and the North line of the Village of Youngstown extended West; thence East along the extended Village line to the intersection of said Village line and the Eastern shore of the Niagara River; thence South along said shore to the point of beginning.

§ 79-3. Speed limit.

All vessels traveling within the Safe Boating Zone here established shall travel across the water at a speed not to exceed 6 miles per hour (mph) during the period May 1 and thru November 1 of each year.

§ 79-4. Penalties for offenses.

A violation of any provision of this article shall be an offense punishable by a fee not to exceed \$250 and/or imprisonment for not more than 15 days.

Chapter 83

BUILDING CONSTRUCTION

- | | |
|---|--|
| § 83-1. Title. | § 83-7. Other applicable provisions. |
| § 83-2. Definitions. | § 83-8. Invalidation of permit. |
| § 83-3. Duties of Code Enforcement Officer. | § 83-9. Applications to be made by owner or agent. |
| § 83-4. Excavation and demolition; moving of buildings. | § 83-10. Applicability. |
| § 83-5. Application for permits. | § 83-11. Activities not in compliance. |
| § 83-6. Permit for occupancy. | § 83-12. Penalties for offenses. |

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 1-31-1946 as Ch. VIII of the Ordinances of the Village of Youngstown. Amendments noted where applicable.]

GENERAL REFERENCES

Unsafe buildings — See Ch. 90.
Fire prevention — See Ch. 114.
Historic preservation — See Ch. 128.
Property maintenance — See Ch. 162.

Sewers — See Ch. 183.
Streets and sidewalks — See Ch. 193.
Zoning — See Ch. 250.

§ 83-1. Title.

This chapter shall be known as the "Building Code of the Village of Youngstown, Niagara County, New York."

§ 83-2. Definitions. [Amended 12-4-1957]

The following words and terms as used in this chapter are defined as follows:

BUILDING — Includes any structure having walls and covered by a roof or roofs; also any combination of any materials, whether portable or fixed, to form a structure affording shelter, support or enclosure for persons, animals or property. The word "building" shall be construed when used in this chapter as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer of the Village of Youngstown or other official duly designated to perform his duties. [Added 12-4-1957]

STRUCTURE — Includes anything constructed or erected the use of which requires temporary or permanent location on a support of the soil or which is attached to anything on the soil.

TEMPORARY STORAGE STRUCTURE — Any structure of a nonpermanent nature which is placed upon a parcel, including dumpsters and personal storage units (such as PODS®).
[Added 9-10-2009 by L.L. No. 2-2009]

§ 83-3. Duties of Code Enforcement Officer. [Added 12-4-1957]

- A. Enforcement. It shall be the duty of the Code Enforcement Officer to enforce the regulations and restrictions provided by this chapter.
- B. Examination of plans. It shall be the duty of the Code Enforcement Officer to investigate applications and examine plans and specifications for the construction, alteration, removal or demolition of buildings or structures and to issue permits therefor. He shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of the law are complied with and that construction is prosecuted safely. He shall also enforce the regulations and restrictions provided by Chapter 250, Zoning, of the Code of the Village of Youngstown.
- C. Reports. The Code Enforcement Officer shall make a report to the Village Board of Trustees once each month, or more often if requested, of permits issued and orders promulgated.
- D. Records. The Code Enforcement Officer shall keep records of applications, of permits issued, of inspections made, of reports rendered and of notices or orders issued.
- E. Right of entry. The Code Enforcement Officer, in the proper discharge of his duties, shall have authority at any reasonable hour to enter any premises, building or structure.
- F. Permits. It shall be the duty of the Code Enforcement Officer to examine each application promptly. If he finds no objections to same, and it appears that the proposed work will be in compliance with the laws, ordinances and zoning applicable thereto, and that the proposed construction or work will be safe, he shall issue a permit for the proposed work as soon as practicable. If his examination proves otherwise, the Code Enforcement Officer shall refuse to grant a permit, note his findings on the building permit application and deliver a copy to the Board of Trustees as soon as practicable.
[Amended 9-10-1998 by L.L. No. 2-1998]
- G. Workmen's compensation insurance. No permit shall be issued under the provisions of this chapter until the persons who shall execute the work authorized by such permit shall have submitted to the Code Enforcement Officer satisfactory evidence that workmen's compensation insurance has been provided for all employees engaged in that work.
- H. State or federal approvals.
 - (1) No permit for the construction or alteration of any building or structure which is to be occupied wholly or in part as a place of assembly, mercantile establishment or factory, within the meaning of the Labor Law, or which is required to conform to any state law or duly authorized rules under such a law administered by a state commission, bureau or board, shall be issued by the Code Enforcement Officer under the provisions of this chapter, until the properly constituted authority has approved the plans for the same or has endorsed such plans to the effect that such

approval is not necessary or has by rule excepted such plans from the necessity of approval.

- (2) Where the approval of the federal government or the state, or any agency thereof, is required for the construction of buildings or structures over which the federal or state government has jurisdiction, and for which a building permit is required, the plans for same shall have the proper endorsement of the legally constituted authorities of the federal or state government having jurisdiction before a building permit will be issued.

§ 83-4. Excavation and demolition; moving of buildings.

- A. No excavations for a building or structure, and no erection or demolition of any building or structure, shall be commenced without a permit therefor previously obtained from the Village Board or other official authorized to issue such permits.
- B. The moving of any building or structure from any place within or without the village to a new site within or without the village shall be deemed to be an erection or construction and be subject to the provisions hereof.

§ 83-5. Application for permits. [Added 12-4-1957]

- A. Application for permits. It shall not be lawful to construct, alter, remove or demolish or to commence the construction, alteration, removal or demolition of a building or structure, or part thereof, without first filing with the Code Enforcement Officer an application for, and obtaining, a permit for such construction, alteration, removal or demolition, or to have a temporary storage structure in connection with any activities as set forth in this section upon the premises. Fees for permits under this section shall be as set forth from time to time by resolution of the Board of Trustees.¹ **[Amended 9-10-1998 by L.L. No. 2-1998; 9-10-2009 by L.L. No. 2-2009]**
- B. Plans. Applications for permits shall be accompanied by a lot or plot plan drawn to scale showing the actual dimensions of the lot, the exact size and location of the building to be erected and by plans and specifications for the proposed structure conforming to the Building Code of the village. All applicable portions of Article 5 of the Education Law of the State of New York, as amended, must be complied with.
- C. Construction work requiring permits.
 - (1) It shall be necessary to obtain such permits for the following types of construction work:
 - (a) Dwellings and additions to dwellings.
 - (b) Enclosed temporary structures, accessory buildings, such as private garages, private boat houses, private barns, etc., and additions to same.

1. Editor's Note: The current fee resolution is on file in the office of the Village Clerk.

- (c) All other enclosed buildings and additions.
 - (d) New unenclosed buildings, docks, wharves, platforms, storage slabs, walls, retaining walls, reviewing stands and any other building as herein defined.
 - (e) Installation of mechanical equipment and any plumbing, heating, ventilation or electrical apparatus or equipment.
 - (f) The moving of any building or structure as provided by § 83-4 of this chapter.
 - (g) The wrecking or demolition of any building or structure, or part or parts thereof, as provided by § 83-4 of this chapter.
 - (h) Signs and billboards, where permitted.
 - (i) Liquid containers over 600 gallons' capacity.
 - (j) Miscellaneous, including final inspection of plumbing and electrical work.
 - (k) House trailers.
 - (l) Freestanding placement of dumpsters or portable storage units (such as PODS®) or any similar unit when the same is not being used in conjunction with any other activity requiring a permit pursuant to this section. **[Added 9-10-2009 by L.L. No. 2-2009]**
- (2) The foregoing list is intended solely as a guide and shall not be deemed to include all types of construction work requiring permits. A building permit shall be required, but no fee charged therefor, for such work undertaken by the state or federal government or by any other political subdivision.

§ 83-6. Permit for occupancy.

No building hereafter erected and no building hereafter altered or reconstructed to the extent of 25% of the value of such building shall be used or occupied, in whole or in part, for any purpose whatever until a permit shall have been issued by the Village Board, or other authorized official, certifying that the building and the intended use thereof as therein specified comply in all respects within provisions of this chapter, and until such permit for occupancy shall have been so issued, such building shall not be occupied or used for any purpose whatever. The application for such permit shall clearly state the intended use of such building, and no other or further use is permitted than shall be set forth in the permit issued upon such application.²

2. Editor's Note: Former Section 5, as amended 9-24-1992 by L.L. No. 6-1992, regarding the square foot content of structures, which immediately followed this section, was deleted 9-10-1998 by L.L. No. 2-1998. See now § 250-28 of the Code of the Village of Youngstown.

§ 83-7. Other applicable provisions. [Amended 9-10-1998 by L.L. No. 2-1998]

See New York State Uniform Fire Prevention and Building Code.

§ 83-8. Invalidation of permit.

Any permit hereafter issued for the construction of a building shall be invalid if construction thereof is not commenced within eight months of the date of the permit or if said construction is commenced but has been abandoned for a period of six months.

§ 83-9. Applications to be made by owner or agent.

All applications hereafter made for permits to build shall be made by the owner of the property or his duly authorized agent to the Code Enforcement Officer on forms to be supplied by him. No excavation or construction shall be commenced until such application has been approved and a permit issued by the Code Enforcement Officer or other authorized officer.

§ 83-10. Applicability.

The provisions of this Building Code shall apply to all alterations in buildings and structures made subsequent to the date that said code shall become effective.

§ 83-11. Activities not in compliance.

- A. No person shall construct, erect or place or cause to be constructed, erected or placed upon real property in the Village of Youngstown, including roads, highways and public places located therein, any building or structure, whether temporary or permanent, including trailers, cars, vehicles, tents, sheds, barracks, construction camps or any other structure of a character intended to be, or capable of being, used for housing, shelter, occupancy, feeding or entertainment of any person which does not comply in all respects with the provisions of this chapter.
- B. No owner, lessee or occupant of real property shall lease or permit the use of premises owned, leased or occupied by him for the purposes prohibited by Subsection A above.

§ 83-12. Penalties for offenses. [Amended 9-10-1998 by L.L. No. 2-1998]

Any violation of the provisions of this chapter or the New York State Uniform Fire Prevention and Building Code shall be punishable as provided in § 382, Subdivision (2), of the Executive Law.

Chapter 90

BUILDINGS, UNSAFE

- | | |
|---|---|
| § 90-1. Removal or repair. | § 90-6. Application to the Supreme Court. |
| § 90-2. Inspection and report. | § 90-7. Order to vacate premises. |
| § 90-3. Notice and order. | § 90-8. Assessment of expenses. |
| § 90-4. Survey; appointment of surveyors. | § 90-9. Penalties for offenses. |
| § 90-5. Completion of survey; report. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 12-3-1959. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 83.

Property maintenance — See Ch. 162.

§ 90-1. Removal or repair.¹

Any building or structure in a business, industrial or residential section of the Village of Youngstown that from any cause may now be or shall hereafter become dangerous or unsafe to the public may be removed or repaired, or caused to be removed or repaired, pursuant to the provisions of, and in the manner prescribed by, the provisions of this chapter.

§ 90-2. Inspection and report.

The Board of Trustees may at any time, either on complaint or upon its own motion, direct an official, appointed by said Board for that purpose, to make an inspection of any building or structure appearing to be dangerous or unsafe to the public and to report his findings upon such inspection to the Board of Trustees within such time as said Board shall direct. Such report shall contain the finding of such inspector as to whether or not such building or structure is dangerous or unsafe to the public. If such inspector shall find the same to be dangerous or unsafe to the public, said report shall set forth the particulars in which the same is unsafe or dangerous to the public.

§ 90-3. Notice and order.

In the event that such report states that such building or structure is dangerous or unsafe to the public, the Board of Trustees may cause notice to be served upon the owner thereof or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the same, either personally or by registered mail addressed to

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

the last known address, if any, of the owner or some one of the owner's executors, legal representatives, agents, lessees, or other person having a vested or contingent interest in the same, as shown by the records of the receiver of taxes and/or in the office of the Niagara County Clerk, which notice shall contain a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous and an order of the Board of Trustees requiring same to be made safe and secure or removed within such reasonable time thereafter as shall be fixed by such Board. If service of such notice be made by registered mail, a copy thereof shall be posted on such premises on the day of such mailing or within two days thereafter. Such notice shall also contain a statement of the time fixed by the Board of Trustees within which the person served therewith shall commence and complete the repair, securing or removal of said buildings or structures and shall also contain a demand that the person served therewith file with the Board of Trustees, within five days or such other reasonable time thereafter as may be fixed by said Board, a written designation of the surveyor appointed by him pursuant to § 90-4 to make the survey hereinafter provided for. Such notice shall further state that, in the event that such building or other structure shall be reported unsafe or dangerous under such survey, an application will be made at a special term of the Supreme Court in the judicial district in which the property is located not less than five nor more than 10 days thereafter for an order determining said building or other structure to be a public nuisance and directing that it shall be repaired and secured or taken down and removed.

§ 90-4. Survey; appointment of surveyors.

In the event of the neglect or refusal of the person served with said notice and order to comply therewith, the Board of Trustees may cause a survey of said premises to be made by an official of the village and a practical builder, engineer or architect to be named by the Board of Trustees and a practical builder, engineer or architect appointed by the person notified as above. In the event of the refusal or neglect of the person served with such notice and order to appoint such surveyor and file the written designation thereof with said Board as directed by such notice and order, the two surveyors named by the Board of Trustees shall make the survey and report.

§ 90-5. Completion of survey; report.

Said surveyors shall make such survey within such time as may be fixed by the Board of Trustees, and upon the completion of such survey they shall forthwith file their report thereof with the Board of Trustees. Such report shall be made in writing and shall contain the findings of the surveyors as to the condition of the premises surveyed and a statement as to whether or not such surveyors find such building or structure to be dangerous or unsafe to the public. If such surveyors find such building or structure to be unsafe or dangerous to the public, their report shall contain a statement of the particulars in which the same is unsafe or dangerous. The report and findings of a majority of such surveyors shall be deemed the report and findings of all of them for the purposes of this chapter. The Board may cause a copy of such report to be posted upon the said premises. The said surveyors shall be entitled to such compensation as may be provided by the Board of Trustees for their services in making such survey and report.

§ 90-6. Application to the Supreme Court.

In the event that a building or other structure shall be reported unsafe or dangerous under such survey, the Board of Trustees may, on behalf of the village, make an application at a special term of the Supreme Court in the judicial district in which the property is located not less than five nor more than 10 days thereafter for an order determining the building or other structure to be a public nuisance and directing that it shall be repaired and secured or taken down and removed.

§ 90-7. Order to vacate premises.²

The Board of Trustees 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.

§ 90-8. Assessment of expenses.³

All costs and expenses incurred by the Village of Youngstown in connection with any work done to remove the danger, or in connection with the demolition and removal of any such buildings or structures shall be assessed against the land on which such building or structure is located, and a bill for such expense 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 10 days after the bill is presented or posted, a legal action may be brought to collect such assessment or to foreclose such lien. As an alternative to the maintenance of any such action, the Board of Trustees 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 proceeding, 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 Youngstown.

§ 90-9. Penalties for offenses.⁴

Any person violating any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

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

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

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



Chapter 94

BURNING

§ 94-1. Burning unlawful.

§ 94-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 2-4-1965; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Junkyards — See Ch. 133.

Solid waste — See Ch. 188.

§ 94-1. Burning unlawful.

It shall be unlawful for any person, firm or corporation to burn within the Village of Youngstown the following substances: rubber, rubber products, plastics, plastic products, auto seats, upholstery, wood, leaves, brush, paper, cardboard or any substance giving off a noxious smoke, gas or odor, whether in the open or otherwise.

§ 94-2. Penalties for offenses.

Any person violating any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

Chapter 99

CURFEW

§ 99-1. Curfew established.

§ 99-4. Penalties for offenses.

§ 99-2. Vocations restricted.

§ 99-5. Amendments.

§ 99-3. Parental responsibility.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 7-5-1962. Amendments noted where applicable.]

§ 99-1. Curfew established. [Amended 2-10-1977 by L.L. No. 1-1977; 12-18-1980 by L.L. No. 4-1980¹]

No person under the age of 16 years shall be or remain in or upon any of the streets, alleys or public places of the Village of Youngstown at night from the hours of 9:30 p.m. in the evening to 5:00 a.m. from October 1 through April 30 and from 10:00 p.m. to 5:00 a.m. from May 1 through September 30, unless such person is accompanied by a parent, guardian or other person having charge and custody of such minor person, or unless such minor is in the performance of any errand or duty directed by such parent, guardian or other person having charge and custody of such minor person, or unless such minor person is legally employed and his or her employment makes it necessary for him or her to be upon said streets, alleys or public places during the night time after said specified hours in going to and from his or her employment, or unless said minor person is traveling to and from school-sponsored activities or is engaged in supervised recreational activities.

§ 99-2. Vocations restricted.

No minor person under the age of 16 years shall engage in any vocations, such as peddling or selling, upon the streets, alleys or public places of the village after the hours specified in § 99-1 of this chapter or in any other vocations which require the presence of such minor child upon said streets, alleys or upon said public places.

§ 99-3. Parental responsibility.

No parent, guardian or other person having charge, care and custody of any person under the age of 16 years shall allow or permit any child, ward or other person under such age to go or be in or upon any of the streets, alleys or public places in said village during the time prohibited in § 99-1 of this chapter, unless there exists a reasonable necessity therefor.

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

§ 99-4. Penalties for offenses.²

Any person violating any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

§ 99-5. Amendments. [Amended 12-18-1980 by L.L. No. 4-1980]

The Village Board of Trustees shall have the exclusive right, by resolution adopted from time to time, to change the curfew times and dates.

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

Chapter 109

FEES

§ 109-1. Authority to set by resolution.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 2-5-1958. Amendments noted where applicable.]

§ 109-1. Authority to set by resolution.

Except as otherwise provided by law or these ordinances, all fees and charges for any permits, certificates, equipment or services issuable by the Board of Trustees or any village official, including but not limited to building permits, permits for or certificates of occupancy, water meters, water service, sewer service and sewer permits, shall be payable in such amount, upon such terms and at such times as shall be prescribed by resolution of the Board of Trustees.¹

¹ Editor's Note: The current fee resolution is on file in the office of the Village Clerk.

Chapter 112

FIREARMS

§ 112-1. Firearms.

§ 112-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 1-31-1946 as § 9 of Ch. II of the Ordinances of the Village of Youngstown. Amendments noted where applicable.]

§ 112-1. Firearms.

No person, unless otherwise authorized by law, shall discharge or fire any firearm or other weapon likely to endanger any person or property, including any air rifle or air pistol, nor shall any person carry or transport any such firearm or weapon while the same is loaded, within the limits of the village.

§ 112-2. Penalties for offenses.¹

Any person violating any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

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

Chapter 114

FIRE PREVENTION

ARTICLE I **General Provisions**

- § 114-1. Applicability.**
- § 114-2. Effective date.**
- § 114-3. Administration.**
- § 114-4. Rules and regulations.**
- § 114-5. Permits.**
- § 114-6. Inspections.**
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- § 114-10. Removal of dangerous buildings or structures.**
- § 114-11. Review Board.**

ARTICLE II **Smoke Detectors**

- § 114-12. Intent; multiple-dwelling units; maintenance.**
- § 114-13. New two-family and multiple dwellings.**
- § 114-14. Existing two-family and multiple dwelling.**

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

GENERAL REFERENCES

Building construction — See Ch. 83.

ARTICLE I **General Provisions**

[Adopted 5-25-1978 by L.L. No. 4-1978]

§ 114-1. Applicability.

This article shall provide the basic method for administration and enforcement of the New York State Uniform Fire Prevention and Building Code in the Village of Youngstown and shall establish powers, duties and responsibilities in connection therewith.

§ 114-2. Effective date.

This article shall take effect on the first day of June 1978.

§ 114-3. Administration. [Amended 7-15-1982 by L.L. No. 3-1982]

There is hereby designated the Code Enforcement Officer to administer and enforce the New York State Uniform Fire Prevention and Building Code within the Village of Youngstown.

§ 114-4. Rules and regulations.

- A. The Board of Trustees may adopt rules and regulations for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code. Such rules and regulations shall not conflict with the New York State Uniform Fire Prevention and Building Code, this article or any other provision of law.
- B. The Board of Trustees shall publish all rules and regulations at least five days prior to the effective date thereof in the official designated newspaper having general circulation within the village.

§ 114-5. Permits.

- A.¹ Upon payment of fee as prescribed in the schedule of fees adopted by the Board of Trustees, permits shall be issued and shall specify:
 - (1) Activity or operation for which permit is issued.
 - (2) Address or location where activity or operation is to be conducted.
 - (3) Name and address of permittee.
 - (4) Permit number and date of issuance.
 - (5) Period of permit validity.
- 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) Acetylene generators: to operate an acetylene generator having a calcium carbide capacity exceeding five pounds.
 - (2) Automobile tire rebuilding plants: to operate an automobile tire rebuilding plant.²
 - (3) Bowling establishments: for bowling pin refinishing and bowling lane resurfacing operations involving the use and application of flammable or combustible liquids or materials.
 - (4) Cellulose nitrate motion-picture film: to store, keep or have on hand more than 25 pounds of cellulose nitrate motion-picture film.
 - (5) Cellulose nitrate plastics (pyroxylin):

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

² Editor's Note: The entry for "automobile wrecking yards," which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. I, General Provisions, Art. I).

- (a) To store, keep or have on hand more than 25 pounds of cellulose nitrate plastics (pyroxylin).
 - (b) To manufacture articles of cellulose nitrate plastics (pyroxylin) which shall include the use of cellulose nitrate plastics (pyroxylin) in the manufacture or assembling of other articles.
- (6) Combustible fibers: to store, handle or use combustible fibers in quantities in excess of 100 cubic feet, except agricultural products on a farm.
- (7) Combustible materials: to store combustible materials, including but not limited to empty combustible packing cases, boxes, barrels or similar containers, rubber tires, baled cotton, rubber, cork or other similar materials in excess of 2,500 cubic feet gross volume on any premises.
- (8) Compressed gases:
- (a) To store, handle or use at normal temperatures and pressures more than:
 - [1] Two thousand cubic feet of flammable compressed gas; or
 - [2] Six thousand cubic feet of nonflammable compressed gas.
 - (b) To store, handle or use any quantity of liquefied natural or hydrogen gas.
- (9) Cryogenics: to store, handle or use cryogenic fluids, except cryogenics used as a motor fuel and stored in motor vehicle tanks, as follows:
- (a) Production, sale or storage of cryogenic fluids.
 - (b) Storage or use of flammable cryogenic fluids, cryogenic oxidizers or liquefied oxygen in excess of 10 gallons.
- (10) Dry-cleaning plants: to use in excess of four gallons of solvents or cleaning agents classified as flammable or combustible.
- (11) Dust-producing plants: to operate any grain elevator, flour, starch or feed mill, woodworking plant or plant pulverizing aluminum, coal, cocoa, plastics, magnesium, spices, sugar, sulfur or other materials producing explosive-potential dust.
- (12) 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.
- (13) Flammable and combustible liquids:
- (a) To store, handle or use flammable liquids in excess of 6½ gallons inside dwellings; or in excess of 10 gallons inside any other building or other occupancy; or in excess of 60 gallons outside of any building.
 - (b) This provision shall not apply to:

- [1] Liquids in the fuel tank of a motor vehicle, aircraft, portable or stationary engine, boat or portable heating plant.
- [2] Paints, oils, varnishes or similar flammable mixtures, when such liquids are stored for maintenance, painting or similar purposes.
- (c) To store, handle or use combustible liquids in excess of 25 gallons inside a building, or in excess of 60 gallons outside of a building. This provision shall not apply to fuel oil used in connection with oil-burning equipment.³
- (d) For processing, blending or refining of flammable or combustible liquids.
- (14) Flammable finishing: for spraying, coating or dipping operations utilizing flammable or combustible liquids.
- (15) Fruit ripening process: to conduct a fruit ripening process using ethylene gas.
- (16) Fumigation and thermal insecticidal fogging: to conduct fumigation or thermal insecticidal fogging operations.
- (17) Hazardous chemicals:
 - (a) To store, handle or use more than 55 gallons of corrosive liquids; or more than 50 pounds of oxidizing materials; or more than 10 pounds of organic peroxides; or more than 50 pounds of nitromethane; or 1,000 pounds or more of ammonium nitrate, ammonium nitrate fertilizers and fertilizer mixtures containing 60% or more ammonium or any amount of toxic materials or poisonous gas.
 - (b) To store, handle or use any quantity of air-reactive, water-reactive or unstable materials.⁴
- (18) Liquefied petroleum gas:
 - (a) For each installation of liquefied petroleum gas employing a container or an aggregate of interconnected containers of over 2,000 gallons water capacity, and for each permanent installation, irrespective of size of containers, made at buildings in which 20 or more persons congregate for civic, political, educational, religious, social or recreational purposes.
 - (b) Installers shall maintain a record of all installations and replacement of portable cylinders and have it available for inspection.
- (19) Lumberyards: to operate a lumberyard.
- (20) Magnesium: for melting, casting, heat treating, machining or grinding of more than 10 pounds of magnesium per working day.
- (21) Matches:

³ Editor's Note: Former Subsection c, regarding the requirement for a permit, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁴ Editor's Note: The former entry for "junkyards," which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (a) To manufacture matches.
- (b) To store matches in excess of 25 cases. (Note: one case equals one matchman's gross of 14,400 matches.)
- (22) Organic coatings: to perform organic coating operations utilizing more than one gallon of organic coating on any working day.
- (23) Ovens and furnaces: to operate industrial processing ovens and furnaces operating at approximately atmospheric pressures and temperatures not exceeding 1,400° F. which are heated with oil or gas fuel or which during operation contain flammable vapors from the material in the oven or catalytic combustion system.
- (24) Places of assembly: to maintain, operate or use a place of assembly.
- (25) Service stations and repair garages: to operate a service station or repair garage.
- (26) Welding and cutting: to operate a welding and cutting business.
 - (a) A record of all locations where welding or cutting operations are performed shall be maintained and kept available for inspection by the permit holder.
- E. Consolidated permits. When more than one 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 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.

§ 114-6. Inspections. [Amended 7-10-1982 by L.L. No. 3-1982]

- A. The Code Enforcement Officer, or any of his duly authorized assistants, shall conduct periodic inspections for compliance with the provisions of the New York State Uniform Fire Prevention and Building Code. Such inspections may be made at any reasonable time.⁵
- B. If entrance to make an inspection is refused or cannot be obtained, the Code Enforcement Officer may apply for a warrant to make an inspection to any court of competent jurisdiction.

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

§ 114-7. Violations orders.

- A. A person owning, operating, occupying or maintaining property or premises within the scope of the New York State Uniform Fire Prevention and Building Code or this article shall comply with all the provisions of the New York State Uniform Fire Prevention and Building Code, this article and all orders, notices, rules, regulations or determinations issued in connection therewith.
- B. Whenever the Code Enforcement Officer finds that there has been a violation of the New York State Uniform Fire Prevention and Building Code, this article or any rule or regulation adopted pursuant to this article, a violation order shall be issued to the person or persons responsible. [Amended 7-15-1982 by L.L. No. 3-1982]
- C. Violation orders shall be in writing, shall identify the property or premises, shall specify the violation and remedial action to be taken, shall provide a reasonable time limit for compliance and shall state the time within which an appeal may be taken.
- 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, enclosed in a postpaid wrapper 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 Board of Trustees of the Village of Youngstown.

§ 114-8. Penalties for offenses.

- A. Failure to comply with any provision of the New York State Uniform Fire Prevention and Building Code, this article, rules or regulations adopted pursuant to this article or a violation order shall be punishable by a fine of not more than \$1,000 or imprisonment not to exceed one year, or both, and each day such violation continues shall constitute a separate offense.⁶
- B. An action or proceeding in the name of the Village of Youngstown may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the New York State Uniform Fire Prevention and Building Code, this article, rule or regulation adopted pursuant to this article, 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 described by law.

§ 114-9. Records. [Amended 7-15-1982 by L.L. No. 3-1982]

The Code Enforcement Officer shall keep official records of all permits, inspection reports, recommendations, complaints and violation orders.

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

§ 114-10. 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 Code Enforcement Officer 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 Board of Trustees 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, as provided in Chapter 90, Unsafe Buildings, of the Code of the Village of Youngstown. [Amended 7-15-1982 by L.L. No. 3-1982⁷]

§ 114-11. Review Board.

- A. A Board of Review is hereby established for the purpose of granting variances where enforcement of any provision or requirement of the New York State Uniform Fire Prevention and Building Code results in practical difficulties or unnecessary hardships. Any such variance shall be consistent with the spirit of the Code and shall not be inconsistent with Subdivision 2 of § 391 of the Executive Law.
- B. The Zoning Board of Appeals is hereby designated as such Board of Review.
- C. The Board of Review may adopt regulations governing its procedures and appropriate forms for efficient administration.
- D. The Code Enforcement Officer and Board of Trustees shall obtain a copy of the Board of Review's decision for its records. [Amended 7-15-1982 by L.L. No. 3-1982]

ARTICLE II**Smoke Detectors**

[Adopted 4-11-1985 by L.L. No. 1-1985]

§ 114-12. Intent; multiple-dwelling units; maintenance.

- A. Declaration of intent. The Board of Trustees hereby finds and declares that smoke detectors, when properly installed and maintained, save lives and minimize property loss in case of fire. In consideration of the foregoing and in accordance with the Board of Trustees' obligation to enact legislation to protect the health, safety and welfare of the inhabitants of the Village of Youngstown, this article is enacted.
- B. Two-family and multiple-dwelling units responsibilities. It shall be the responsibility of every owner of an occupied two-family and multiple-dwelling unit in the Village of Youngstown to comply with the requirements of this article with respect to the installation of smoke detectors. It shall be the responsibility of every owner of an occupied two-family and multiple-dwelling unit in the Village of Youngstown to assure that any smoke detector

⁷ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Former §§ 11.3 and 11.4, regarding orders to vacate premises and costs and expenses incurred by the village, which immediately followed this subsection, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now Ch. 90, Buildings, Unsafe.

required by this article is maintained in accordance with its provisions. The Village of Youngstown shall not be liable for any damage incurred as a result of noncompliance with the terms of this article.

- C. General requirements for smoke detectors. Every smoke detector required to be installed and maintained by this article must be capable of detecting visible or invisible particles of combustion and provide a suitable audible alarm thereof. Every detector required to be installed and maintained by this article must be installed and located so as to avoid dead air space, be reasonably free from false alarms and provide visible indication that the alarm is energized.

§ 114-13. New two-family and multiple dwellings.

- A. In all two-family and multiple dwellings hereafter constructed in the Village of Youngstown at least one smoke detector of a type approved by the Youngstown Code Enforcement Officer shall be directly connected to the lighting circuit of the dwelling unit with no intervening wall switch. Cord-connected installations shall not be permitted. At least one smoke detector shall be installed to protect each sleeping area and must have an alarm which is clearly audible in adjoining sleeping spaces with intervening doors closed.
- B. In all multiple dwellings, a smoke-detector system approved by the Youngstown Code Enforcement Officer shall be installed in all public halls and stairways in a manner that the Youngstown Code Enforcement Officer shall direct. This system shall be connected to an alarm which is clearly audible throughout the building.
- C. In all two-family dwellings, at least one smoke detector shall be installed at the head of each stairway leading to an occupied area in such manner as to assure that rising smoke is not obstructed in reaching the detector and that the detector intercepts rising smoke before it reaches the sleeping area. Such smoke detector shall be directly connected to the lighting circuit of the dwelling unit with no intervening wall switch.
- D. The builder or owner of any new two-family and/or multiple dwelling in the Village of Youngstown shall be responsible for the installation of the required smoke detectors and smoke-detector system prior to the occupation of the building. Every smoke detector and smoke-detector system required by this section shall be maintained in proper working condition at all times.

§ 114-14. Existing two-family and multiple dwelling.

- A. On or before October 1, 1985, at least one smoke detector of a type approved by the Youngstown Code Enforcement Officer shall be installed in every dwelling unit in existing two-family and/or multiple dwellings. Said smoke detector may be wired directly to the power supply or operated by a self-monitored battery or connected to a plug-in outlet. However, in no event may any smoke detector required by this subsection be controlled by any switch other than the main power supply, and any plug-in outlet must be fitted with a plug-restrainer device. At least one smoke detector shall be installed to protect each sleeping area and must have an alarm which is clearly audible in adjoining sleeping spaces with intervening doors closed.

- B. On or before October 1, 1985, a smoke-detector system, approved by the Youngstown Code Enforcement Officer, shall be installed in all public halls and stairways in every multiple dwelling. Such system shall be connected to an alarm which is clearly audible throughout the building and shall be installed in a manner that the Youngstown Code Enforcement Officer shall direct.
- C. In two-family dwellings, on or before October 1, 1985, at least one smoke detector shall be installed at the head of each stairway leading to an occupied area in such manner as to assure that rising smoke is not obstructed in reaching the detector and that the detector intercepts rising smoke before it reaches the sleeping area. Said smoke detector may be wired directly to the power supply or operated by a self-monitored battery or connected to a plug-in outlet. However, in no event may any smoke detector required by this subsection be controlled by any switch other than the main power supply, and any plug-in outlet must be fitted with a plug-restrainer device.
- D. The owner of every two-family and/or multiple dwelling in the Village of Youngstown shall be responsible for the installation of the required smoke detectors and smoke-detector alarm system. Said smoke detectors and alarm system shall at all times be maintained in proper working condition.



Chapter 119

FLOOD DAMAGE PREVENTION

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- § 119-1. Findings.**
- § 119-2. Statement of purpose.**
- § 119-3. Objectives.**

ARTICLE II Definitions

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- § 119-20. Appeals Board.**
- § 119-21. Conditions for variances.**

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 8-12-2010 by L.L. No. 2-2010.¹ Amendments noted where applicable.]

1. Editor's Note: This chapter also repealed former Ch. 119, Flood Damage Prevention, adopted 11-19-1987 by L.L. No. 2-1987, as amended.

GENERAL REFERENCES

Building construction — See Ch. 83.
Subdivision of land — See Ch. 197.

Waterfront — See Ch. 245.
Zoning — See Ch. 250.

ARTICLE I

Statutory Authorization; Purpose

§ 119-1. Findings.

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

§ 119-2. Statement of purpose.

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

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

§ 119-3. 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, 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; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II Definitions

§ 119-4. Terms defined.

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.

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

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

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

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

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

BUILDING — See "structure."

CELLAR — Has the same meaning as "basement."

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

CRITICAL FACILITIES —

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

CUMULATIVE SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50% of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

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

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

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

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

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

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

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

FLOOD INSURANCE STUDY — See "flood elevation study."

FLOOD or FLOODING —

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters;
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- B. "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in A(1) above.

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

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

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

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

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

HISTORIC STRUCTURE — Any structure that is:

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

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

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

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

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

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

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

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

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

PRINCIPALLY ABOVEGROUND — That at least 51% of the actual cash value of the structure, excluding land value, is aboveground.

RECREATIONAL VEHICLE — A vehicle which is:

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

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 119-13B of this chapter.

START OF CONSTRUCTION — The date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. Substantial improvement also means cumulative substantial improvement. The term includes structures which have

incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

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

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

ARTICLE III General Provisions

§ 119-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Youngstown, Niagara County.

§ 119-6. Basis for establishing areas of special flood hazard.

- A. The areas of special flood hazard for the Village of Youngstown, Community No. 360515, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
 - (1) Flood Insurance Rate Map Panel Nos. 3606300018E, 3606300019E, 36063C0156E; the effective date of which is September 17, 2010, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.
 - (2) A scientific and engineering report entitled "Flood Insurance Study, Niagara County, New York, All Jurisdictions" dated September 17, 2010.
- B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at Village Center, 240 Lockport Street, Youngstown, NY 14174.

§ 119-7. Interpretation and conflict with other laws.

- A. This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.

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

§ 119-8. Penalties for noncompliance.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Youngstown from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 119-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood 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 Youngstown, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**ARTICLE IV
Administration**

§ 119-10. Designation of local administrator.

The Code Enforcement Officer is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§ 119-11. Establishment of floodplain development permit; fees; application requirements.

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 119-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee of an amount to be determined from time to time by the Village Board of Trustees. In addition, the applicant shall be responsible for reimbursing the Village of Youngstown for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.

§ 119-12. Application for permit.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 119-15C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 119-17, Nonresidential structures.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management

Agency (FEMA) to revise the documents enumerated in § 119-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

- F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

§ 119-13. Duties and responsibilities of local administrator.

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

- A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:
 - (1) Review all applications for completeness, particularly with the requirements of § 119-12, Application for permit, and for compliance with the provisions and standards of this chapter.
 - (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction Standards, and, in particular, § 119-14A, Subdivision proposals.
 - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
 - (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.
- B. Use of other flood data.
 - (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has

neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 119-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

- (2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.

C. Alteration of watercourses.

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

D. Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

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

F. Stop-work orders.

- (1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 119-8 of this chapter.
- (2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 119-8 of this chapter.

G. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in § 119-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 119-13E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

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

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to Subsections D(1) and (2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to Subsection D(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Article VI, Variance Procedure; and
- (5) Notices required under Subsection C, Alteration of watercourses.

ARTICLE V
Construction Standards

§ 119-14. General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 119-6.

- A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):
- (1) Proposals shall be consistent with the need to minimize flood damage;
 - (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and
 - (3) Adequate drainage shall be provided to reduce exposure to flood damage.
- B. Encroachments.
- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
 - (b) The Village of Youngstown agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Youngstown for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Youngstown for all costs related to the final map revision.
 - (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 119-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or
 - (b) The Village of Youngstown agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Youngstown for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Youngstown for all costs related to the final map revisions.
 - (3) Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the

development site. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation.

§ 119-15. Standards for all structures.

- A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- B. Construction materials and methods.
 - (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
 - (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
 - (3) Enclosed areas below the lowest floor.
 - (a) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - [2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
 - (b) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.
- C. Utilities.
 - (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic

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

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

§ 119-16. Residential structures.

Elevation. The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 119-14A, Subdivision proposals, § 119-14B, Encroachments, and § 119-15, Standards for all structures.

- A. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- B. Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- C. Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 119-6 (at least two feet if no depth number is specified).
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 119-17. Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 119-14A, Subdivision proposals, § 119-14B, Encroachments, and § 119-15, Standards for all structures.

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure shall either:
- (1) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (2) Be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
- (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2).
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 119-18. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in § 119-14, General standards, and § 119-15, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A. Recreational vehicles.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

- (a) Be on site fewer than 180 consecutive days;
 - (b) Be fully licensed and ready for highway use; or
 - (c) Meet the requirements for manufactured homes in Subsections B, C and D.
- (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- C. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- D. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 119-6 (at least two feet if no depth number is specified).

§ 119-19. Critical facilities.

In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical facility shall be located within any area of special flood hazard, or within any five-hundred-year flood zone shown as a B Zone or a shaded X Zone on the Community's Flood Insurance Rate Maps.

ARTICLE VI Variance Procedure

§ 119-20. Appeals Board.

- A. The Zoning Board of Appeals as established by the Village of Youngstown shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

- D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
- (1) the danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location, where applicable;
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§ 119-21. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the items in

§ 119-20D(1) through (12) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure; and
 - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (1) The criteria of Subsections A, D, E and F of this section are met; and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Notification.
 - (1) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
 - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (b) Such construction below the base flood level increases risks to life and property.

- (2) Such notification shall be maintained with the record of all variance actions as required in § 119-13H of this chapter.



Chapter 120

DRAINAGE

§ 120-1. Illegal discharge and illicit connections.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 10-24-2013 by L.L. No. 1-2013. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 119.
Property maintenance — See Ch. 162.

Subdivision of land — See Ch. 197.
Zoning — See Ch. 250.

§ 120-1. Illegal discharge and illicit connections.

- A. Watercourse protection. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
- B. Alteration of water flow prohibited.
- (1) No owner or occupant of land may alter the natural flow of water on his property so as to divert it onto the property of another or onto a public or private road.
 - (2) It shall be unlawful for any person, firm, or corporation hereafter to:
 - (a) Construct, install, or erect a drainage ditch, culvert, drainpipe, sluice or other type of structure for the drainage and disposal of surface waters and stormwaters without written permission by the Village Building Department.
 - (b) Dam, obstruct, alter, divert or restrict the flow of surface waters through any existing ditch, ravine, watercourse, culvert, drainpipe, sluice or other natural or artificial channel by which surface waters have customarily been conducted toward an ultimate disposition into a body of navigable water; without first having obtained permission therefor from the Village Building Department as hereinafter provided.
 - (c) Increase the existing elevation of a lot or plot of real property so as to cause surface runoff to be diverted from his/her/its property onto that of another without the written permission of the homeowner and Village of Youngstown Building Department.
- C. Exceptions. The provisions of the preceding subsection shall not apply:

- (1) To any ditch, drain or water channel located wholly upon the land of a single property owner and so long as there is no adverse effects or interference or change in flow of surface waters from or onto the lands of others, including public and private roads and highways.
- (2) To any work performed by public authority.
- (3) To any grade development of an individual lot required pursuant to the zoning.

D. Enforcement.

- (1) Notice of violation. Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:
 - (a) The performance of monitoring, analyses, and reporting;
 - (b) The elimination of illicit connections or illegal discharge;
 - (c) That violating discharges, practices, or operations shall cease and desist;
 - (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property.
- (2) If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

E. Violations deemed a public nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

F. Remedies not exclusive. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

G. Penalties for offenses.

- (1) Any person violating any provision of this chapter shall pay a penalty of not less than \$50, nor more than \$250 for each and every offense. It shall be deemed a new or additional offense for every twenty-four-hour period during which the condition continues unabated, provided that a new accusatory instrument is issued.
- (2) Upon 10 days' notice by the Village to the owner or occupant of a parcel of land of a violation of this chapter and a requirement to remedy any condition pursuant

hereto and the subsequent failure of said owner or occupant to comply with the notice and requirement, the Village may, at its sole discretion, abate the nuisance or correct the condition at the expense of the property owner, such expense to be paid to the Village within five days following demand. In the event the expense is not paid as required, the Village may proceed pursuant to Chapter 162, Property Maintenance, to levy the amount expended, together with other items set forth in Chapter 162, Property Maintenance, as a tax against the real property which is involved.

Chapter 124

GAMES OF CHANCE

§ 124-1. Title.

§ 124-4. Enforcement.

§ 124-2. Definitions.

§ 124-5. Effective date.

§ 124-3. Games of chance authorized.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 1-28-1982 by L.L. No. 2-1982. Amendments noted where applicable.]

GENERAL REFERENCES

Bingo — See Ch. 74.

§ 124-1. Title.

This chapter shall be known as the "Games of Chance Law of the Village of Youngstown, New York."

§ 124-2. Definitions.

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

AUTHORIZED ORGANIZATION — An authorized organization as defined in Subdivision 4 of § 186 of the General Municipal Law.

GAMES OF CHANCE — A game of chance as defined in Subdivision 3 of § 186 of the General Municipal Law.

VILLAGE — The Village of Youngstown, New York.

§ 124-3. Games of chance authorized.

Authorized organizations may, upon obtaining of a license from the Clerk of the Village of Youngstown, conduct games of chance within the Village of Youngstown as provided in Article 9-A of the General Municipal Law and as provided further in this chapter. Such games of chance shall be conducted in accordance with the general state law and with the rules and regulations of the New York State Racing and Wagering Board and this chapter.

§ 124-4. Enforcement.

The Chief of Police of Youngstown, chief law enforcement officer, shall exercise control over and supervision of all games of chance conducted under an appropriately issued license. Such

officer shall have all those powers and duties set forth in Article 9-A of the General Municipal Law.

§ 124-5. Effective date.

This chapter shall take effect immediately upon filing with the Secretary of State's office, following its approval at referendum by a majority of qualified voters voting thereon at a general election held pursuant to the provisions of § 24 of the Municipal Home Rule Law.¹

¹ Editor's Note: This chapter was approved at referendum 5-18-1982.

Chapter 128

HISTORIC PRESERVATION

§ 128-1. Legislative intent.

§ 128-3. Penalties for offenses.

§ 128-2. Removal from village-owned property; exceptions.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 4-9-1998 by L.L. No. 1-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation areas — See Ch. 148.

§ 128-1. Legislative intent.

The purpose of this legislation is to attempt to preserve any and all artifacts, objects and relics of any nature having historical significance. Since the existence of such items has heretofore been established by previous findings, the following is hereby enacted.

§ 128-2. Removal from village-owned property; exceptions.

- A. It shall be unlawful for any person or organization to dig, use metal detection devices or any other devices or methods of any nature with the intent to remove any artifact, object and/or relic of historical significance from any parks, lands, highways or other property owned, maintained or controlled by the village except as follows: with the unanimous consent of the Board of Trustees on the condition that such activity be monitored by an appropriate person from the Youngstown Historical Society, and further that such objects as may be recovered be donated to the museum of the Historical Society of the Village of Youngstown.
- B. Upon permission being granted by the Board of Trustees, such activity shall be conducted in such a manner as not to interfere with the use and enjoyment of people using such lands or parks or the maintenance of them by village employees.

§ 128-3. Penalties for offenses.

Any violation of this chapter shall constitute a misdemeanor and be fined in accordance with an amount as provided under existing local laws of the village at the time of such violation.

Chapter 133

JUNKYARDS

ARTICLE I **Junk Dealers**

- § 133-1. Permit required.**
- § 133-2. Buildings and structures.**

ARTICLE II **Automobile Wrecking Yards**

- § 133-3. Preservation and general welfare.**
- § 133-4. Fences and setbacks.**

- § 133-5. Maintenance of a safe condition.**
- § 133-6. Inspection.**
- § 133-7. License required.**
- § 133-8. License; fees.**
- § 133-9. Restrictions.**
- § 133-10. Revocation of license.**
- § 133-11. Record of purchases.**
- § 133-12. Penalties for offenses.**
- § 133-13. Effective date; existing establishments.**

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

GENERAL REFERENCES

Solid waste — See Ch. 188.
Abandoned vehicles — See Ch. 226.

Zoning — See Ch. 250.

ARTICLE I **Junk Dealers**

**[Adopted 1-31-1946 as Art. X of the
Ordinances of the Village of Youngstown]**

§ 133-1. Permit required.

No person, firm or corporation shall carry on the business commonly known as “junk dealing” without a special permit from the Village Board, and such Board shall refuse said permit unless it is affirmatively established by the applicant to the Board’s satisfaction that the conduct of said business at the location described will not be detrimental to the public health, safety or general welfare and that public convenience and necessity require the granting of the permit.

§ 133-2. Buildings and structures.

No person engaged in the junk business shall store or display any material except in buildings or structures, which must be constructed in conformity with existing laws.

ARTICLE II
Automobile Wrecking Yards
[Adopted 2-4-1965]

§ 133-3. Preservation and general welfare.

This article is adopted for the purpose of preserving and caring for the safety, health, comfort and general welfare of the inhabitants of the Village of Youngstown, New York.

§ 133-4. Fences and setbacks.

Any area used as an automobile graveyard, for auto wrecking and/or for storing automobiles for the sale of their parts shall be completely enclosed by a substantial and solid fence with openings only for access and egress, which openings shall be kept closed by a solid gate at all times except during business hours. Such fence and gate shall be at least six feet high and in any event of such height as to screen completely all operations and all materials therein from the view of an observer standing on the sidewalk in front of said area and standing on the ground level of each adjacent parcel of property. In no event shall such fence exceed eight feet in height. Said fence shall be no nearer than 40 feet from any public street line. There shall be no storage or placing of such automobiles or automobile parts between the solid fence and the street line. The street line is that line separating a lot from a street right-of-way line. Sidewalks are considered part of the street right-of-way.

§ 133-5. Maintenance of a safe condition.

Such areas shall be maintained in a clean, sanitary, orderly and safe condition.

§ 133-6. Inspection.

The person, persons, association, partnership or corporation operating such areas shall allow an inspection thereof at all reasonable times by police officers or the duly authorized agents, servants, officers or employees of the village to determine whether or not this article and all other ordinances presently enacted or enacted in the future respecting such areas are being complied with.

§ 133-7. License required.

A.¹ Application for license; bond. No person, association, partnership or corporation shall carry on or engage in the business commonly known as "auto wrecking" or deal in used auto parts nor operate or maintain an automobile graveyard within the limits of the Village of Youngstown without a license therefor. Any person, association, partnership or corporation desiring a license under this section shall make the application in writing therefor to the Village Board, and such application shall contain the following information:

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

- (1) The names and residences of the applicants, if an individual or partnership, or the names of the principal officers and their residences if the applicant is an association or corporation.
 - (2) The premises where such business is to be located or carried on, giving the street and number.
 - (3) An accurate sketch of the area being used with accurate dimensions.
 - (4) Whether the applicant or applicants or the officer, manager or person in charge if the applicant is an association or corporation has been convicted of a felony or misdemeanor and, if so, what offense, when and in what court.
 - (5) Such other information as may be required by the Village Board.
- B. Such application shall be signed and acknowledged before a notary public.
- C. Such application shall be accompanied by a surety bond of a responsible surety corporation, to be approved by the Village Attorney, in the penal sum of \$1,000, conditioned for the faithful observance of any and all ordinances which are now in force or which may hereafter be adopted by the Board of Trustees of this village respecting the conduct of the aforesaid types of business and for the payment of any fine that may be imposed for violation of such ordinances.²

§ 133-8. License; fees.³

Upon the filing of the application and the bond, as provided in the preceding subsection, the Village Board shall, upon approval of such application and the approval of the Village Attorney of said bond and the payment to the village of an annual license fee as set forth from time to time by resolution of the Board of Trustees,⁴ issue to the applicant a license to engage in the aforesaid business. No license shall be refused except for a specific reason and for the protection of the safety, health, comfort and general welfare of the inhabitants of the village. All licenses shall be numbered in the order in which they are issued and shall state clearly the location of said business, the date of issuance and expiration of the license and the name and address of the licensee. All licenses issued under this article are to be paid as of the first day of May each year and to be for a period of one year, unless sooner revoked by the Village Board.

§ 133-9. Restrictions.

- A. No one shall carry on the aforesaid business at or from any other place than the one designated in the license therefor, nor shall such business be continued after the license therefor has been revoked or has expired.
- B. No such license shall be granted to any person, association, partnership or corporation who or which shall have been convicted within one year of the date of application of a violation

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

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

⁴ Editor's Note: The current fee resolution is on file in the office of the Village Clerk.

of this article, or to an association or corporation of which a member or officer shall have been so convicted; also to any person who has been convicted of a larceny or of knowingly receiving stolen goods and to any association, or to any partnership or corporation of which any member or officer has or have been so convicted of a larceny or knowingly receiving stolen goods.

§ 133-10. Revocation of license.⁵

The Village Board may at any time, for violation of this article or any other ordinance now in force or hereafter adopted respecting the business described herein or for any other just cause, revoke any license granted under the provisions of this article. Whenever any license shall be so revoked, no refund of any unearned portion of the license fee shall be made, and no license shall be granted to any person, partnership, association or corporation whose license has been so revoked within a period of one year from the date of such revocation. Notice of the revocation and the reason or reasons therefor, in writing, shall be served by the Village Board upon the person, partnership, association or corporation named in the application by mailing the same to the address given in the application, and a copy of such notice of revocation shall be filed in the Village Clerk's office.

§ 133-11. Record of purchases. [Amended 4-1-1965]

Every person, association, partnership or corporation engaged in the aforesaid business shall keep a daily record of all automobiles purchased, the name, residence, age and occupation of the person from whom the automobile was purchased and the day and hour of such purchase. The records shall at all reasonable times be open to the inspection of police officers or any person duly authorized by the Village Board of Trustees. No entry in such records shall be changed, erased, obliterated or defaced.

§ 133-12. Penalties for offenses.⁶

Any person, association, partnership or corporation who himself or itself, or by his or its clerks, agents or employees, shall conduct the aforesaid business without a license, as required by this article, or who shall violate any of the provisions of this article, or who having had his, its or their license revoked shall continue to operate such business, shall upon conviction thereof be punishable for each offense by a fine not exceeding \$250 or a term of imprisonment of not more than 15 days or both such fine and imprisonment. Each day that such business is operated or the place on which it is operated is maintained in violation of this article shall be considered a separate offense hereunder and be punishable as such.

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

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

§ 133-13. Effective date; existing establishments. [Amended 4-1-1965]

This article shall take effect immediately. However, any such automobile graveyard or auto wrecking or used auto parts business existing at the time of the enactment of this article shall comply with all requirements herein on or before the first day of May 1965, with the exception of the fence requirements contained in § 133-2 of this article, which requirements shall be complied with on or before the first day of July 1965.

Chapter 141

LICENSED OCCUPATIONS

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| § 141-1. Title. | § 141-8. Transferability. |
| § 141-2. Auctioneers. | § 141-9. Persons exempt from license fee. |
| § 141-3. Shows and exhibitions. | § 141-10. Remittance of fees. |
| § 141-4. Merchants, dealers and hucksters. | § 141-11. Licensing officer. |
| § 141-5. Canvassers and solicitors. | § 141-12. Fees. |
| § 141-6. Application for license. | § 141-13. Penalties for offenses. |
| § 141-7. Issuance of licenses. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 7-23-1963; amended in its entirety 9-10-1998 by L.L. No. 2-1998. Subsequent amendments noted where applicable.]

§ 141-1. Title.

This chapter shall be known and may be cited as the "Business Control Ordinance of the Village of Youngstown, New York."

§ 141-2. Auctioneers.

No person, unless duly licensed by the licensing officer, shall sell any goods or chattel at public auction within the limits of the Village of Youngstown, except that no license shall be required of a person who sells at public auction at his residence the contents thereof or of a merchant who has conducted a business in the Village for more than one year and liquidates his business.

§ 141-3. Shows and exhibitions.

No company, troupe or individual shall give any exhibition or performance or operate any circus, exhibition, theater, carnival, shooting gallery or similar place of amusement within said Village unless duly licensed by the licensing officer. Such license shall be refused for any of the occupations in this section which shall, in the judgment of the licensing officer, be likely to disturb the peace and order of the Village or be immoral or improper.

§ 141-4. Merchants, dealers and hucksters.

Except as herein provided, all persons who are now engaged or who shall hereafter engage in purchasing, buying, bartering, selling, peddling, hawking or vending goods, wares and merchandise or other personal property or soliciting orders or subscriptions for the sale or purchase thereof, or soliciting for work, labor or services to be rendered to residents of the

Village to be done and performed elsewhere, or soliciting for work, labor or services to be rendered to residents of the Village to be done and performed upon the premises of such resident by going from house to house within said Village, whether he or she be the principal or an employee, agent or representative of another person, firm or corporation, shall procure a license so to do from the licensing officer and shall pay a license fee.

§ 141-5. Canvassers and solicitors.

All persons who are now or who shall hereafter engage in canvassing and/or soliciting for the sale of, or subscriptions to, newspapers, magazines, books, pamphlets or other publications and/or soliciting or canvassing for contributions for, or subscriptions to, any purpose, by going from house to house within the limits of said Village, whether such person be the principal or an employee, agent or representative of any other person, firm or corporation, shall procure a license so to do from the licensing officer.

§ 141-6. Application for license.

All applicants for a license under the provisions of this chapter shall file with the licensing officer an application for the same setting forth, under oath, his or her name, age, place of residence, and if an employee, agent or representative of any other person, firm or corporation, the name and place of business of such other person, firm or corporation, together with such other information as the licensing officer may require. Any applicant who shall have been refused such license by the licensing officer may apply to the Board of Trustees therefor at a meeting thereof, and the same may be granted or refused by the Board. The licensing officer may suspend any such license until the next meeting of the Board of Trustees, and thereupon said license may be revoked or continued by the Board.

§ 141-7. Issuance of licenses.

All of said licenses shall be issued by the licensing officer, who shall collect the fee to be paid therefor, to such persons as he shall deem fit and proper for such trade or occupation. The license must be shown to anyone on demand, and no person not holding such license shall be permitted to engage in any work or occupation thereunder, and no such work or occupation shall be engaged in within said Village on Sundays, or before 10:00 a.m. or after sundown in the evening on other days.

§ 141-8. Transferability.

A license may include more than one person, but each individual must submit their own application, and the license must be of one kind only and shall not be transferable. Except that if the holder of any license is engaged in work as an employee or as the agent or representative of some other person, firm or corporation, then and in that event, said license or permit may be surrendered, and a new license or permit issued to some other employee, agent or representative of said person, firm or corporation for the term thereof without the payment of any license fee. Any person assigning or transferring or attempting to assign or transfer any license issued hereunder, except as herein provided, shall be guilty of violating this chapter.

§ 141-9. Persons exempt from license fee.

No license fee shall be required for peddling meat, fish, fruit or farm produce by farmers and by persons who produce such commodities for sale at roadside stands, and no license fee shall be required for an honorably discharged member of the armed forces of the United States who is crippled as the result of injuries received while in said armed forces or the holder of a license granted pursuant to § 32 of the General Business Law, and no license fee shall be required in any case where by so doing it would unlawfully interfere with interstate commerce. No license fee shall be required of a nonprofit organization, but they must apply for a license.

§ 141-10. Remittance of fees.

The Board of Trustees of said Village reserves to itself at all times the authority and power in order to prevent any undue or unnecessary hardship or when, in the judgment of the Board, the public interests of the Village will be promoted thereby, to remit in whole or in part payment of any fee for any license issued pursuant to the provisions of this chapter.

§ 141-11. Licensing officer.

For the purposes of this chapter the term "licensing officer" shall mean the Mayor of the Village of Youngstown or any other Village officer so designated by the Board of Trustees.

§ 141-12. Fees.

License fees shall be as set forth from time to time by resolution of the Board of Trustees. The current fee resolution is on file in the office of the Village Clerk.

§ 141-13. Penalties for offenses. [Added 10-13-2011 by L.L. No. 2-2011]

A violation of any provision of this chapter shall be an offense punishable by a fine not to exceed \$250 and/or imprisonment for not more than 15 days.

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Chapter 145

NOISE

§ 145-1. Purpose.

§ 145-2. Definitions.

§ 145-3. General prohibition.

§ 145-4. Disturbing, excessive or offensive noises.

§ 145-5. Penalties for offenses.

§ 145-6. Additional remedy.

§ 145-7. Severability.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 9-12-2002 by L.L. No. 4-2002. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 67.

Building construction — See Ch. 83.

Firearms — See Ch. 112.

Picketing — See Ch. 156.

Vehicles and traffic — See Ch. 232.

§ 145-1. Purpose.

The Village Trustees determine that the creation of unreasonable noise within the Village limits of Youngstown is a detriment to the comfort, convenience, safety, health and welfare of the citizens of the Village and that persons within the Village are entitled to have maintained noise levels which are not a detriment to life, health, welfare and enjoyment of property. Therefore, it intends hereby to prohibit all unreasonable noise from all sources subject to its police power in order to preserve, protect and promote health, safety and welfare and the peace, quiet, comfort and repose of persons within the Village.

§ 145-2. Definitions.

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

AMBIENT NOISE — The all-encompassing noise associated with a given environment, being usually a composite of sounds from near and far.

EMERGENCY WORK — Work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.

PERSON — Any individual, firm, corporation, association, club, partnership, society or any other form of association or organization.

PUBLIC RIGHT-OF-WAY — Any street, sidewalk or alley or similar place which is owned or controlled by the Village of Youngstown.

PUBLIC SPACE — Any real property or structure thereon which is owned, controlled or leased by the Village of Youngstown.

SOUND PRODUCTION OR REPRODUCTION DEVICE — Any device, instrument, mechanism, equipment or apparatus for the amplification of any sounds from any radio, phonograph, stereo receiver, tape player, compact disk player, musical instrument, television, loudspeaker or other sound-making or sound-producing device or any device or apparatus for the reproduction or amplification of the human voice or other sound.

VEHICLE — Any land conveyance, self-propelled or propelled by an internal source.

VESSEL — Includes every description of watercraft used or capable of being used as a means of transportation in or upon water including but not limited to nondisplacement craft and seaplanes.

§ 145-3. General prohibition.

- A. It shall be unlawful for any person for any purpose to make, project, continue, cause to be made or permit to be made within the geographical boundaries of the Village of Youngstown or within those areas over which the Village has jurisdiction any disturbing, excessive or offensive noise which causes discomfort or annoyance to any reasonable person of normal sensitivities residing in the area.
- B. The characteristics and condition which should be considered in determining whether a violation of the provisions of this section exists should include but not be limited to the following:
 - (1) The level of the noise;
 - (2) Whether the nature of the noise is usual or unusual;
 - (3) Whether the origin of the noise is natural or unnatural;
 - (4) The level of the ambient noise;
 - (5) The proximity of the noise to sleeping facilities;
 - (6) The nature and zoning of the area from which the noise emanates and the areas where it is received;
 - (7) The time of day or night the noise occurs;
 - (8) The duration of the noise;
 - (9) Whether the noise is recurrent, intermittent or constant.

§ 145-4. Disturbing, excessive or offensive noises.

The following activities, among others, are declared to cause disturbing, excessive or offensive noises in violation of this section and are unlawful, namely:

- A. The use or operation of any sound production or reproduction device in such a manner as to disturb the peace, quiet or comfort of any reasonable person of normal sensitivity in any

area of the Village is prohibited. This provision shall not apply to any person who has been otherwise duly authorized by the Village of Youngstown to engage in such conduct.

- (1) Prima facie violations. Any of the following shall constitute evidence of a prima facie violation of § 145-4A:
 - (a) The operation of any such sound production or reproduction device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 75 feet from the building, structure or vehicle in which it is located.
 - (b) The operation of any such sound production or reproduction device in such a manner as to be plainly audible at a distance of 50 feet and when operated in such a manner as to cause a person to be aware of vibration accompanying the sound at a distance of 50 feet from the source.
- B. The operation of any sound production device on a vessel so that the sound therefrom is plainly audible on land, which annoys or disturbs the peace, quiet or comfort of a reasonable person of normal sensitivities.
- C. The keeping or maintenance or the permitting to be kept or maintained upon any premises owned, occupied or controlled by any person of any animal or animals which by any frequent or long-continued noise shall cause annoyance or discomfort to a reasonable person of normal sensitiveness in the vicinity.
 - (1) Prima facie violations. The following shall constitute evidence of a prima facie violation of § 145-4C:
 - (a) The noise from any such animal or animals that disturbs two or more residents residing in separate residences adjacent to any part of the property on which the subject animal or animals are kept or maintained or three or more residents residing in separate residences in close proximity to the property on which the subject animal or animals are kept or maintained.
- D. To make noise adjacent to a hospital, school, library, nursing home or long-term medical or mental care facility, which noise unreasonably interferes with the workings of such institutions or which disturbs or unduly annoys occupants in said institutions.
- E. Yelling, shouting or screaming at any time or place so as to annoy or disturb the peace, quiet and comfort of a reasonable person of normal sensitivities.
- F. The performance or engagement in construction work, building, excavating, hoisting, grading, demolishing, dredging or pneumatic hammering within the limits of the Village between the hours of 10:00 p.m. and 7:00 a.m. that causes sound which annoys or disturbs a reasonable person of normal sensitivities in a residential real property zone, except for emergency work or work performed by public service utilities.
- G. The sounding of any horn, security alarm or other auditory signaling device emanating from any structure, vehicle, vessel, engine, machine or stationary boiler for a period of time longer than 15 minutes, except as required by law or to provide a warning signal during use thereof. This provision shall not be construed to prohibit the use and operation of a signal device in an emergency vehicle.

- H. The operation of a vehicle without an adequate muffler or exhaust system to prevent any unreasonable noise in violation of the Vehicle and Traffic Law § 375, Subdivision 31.
- I. The use and operation of any lawn maintenance device, including mowers, edgers, trimmers and power-driven hedge shears, between the hours of 10:00 p.m. and 7:00 a.m. that causes sound that annoys or disturbs the peace, quiet and comfort of a reasonable person of normal sensitivities in a residential real property zone. This provision shall not be construed to prohibit the use and operation of Village, county, state or other governmental equipment.

§ 145-5. Penalties for offenses.

Any person violating any of the provisions of this chapter shall be deemed guilty of a violation and upon conviction thereof shall be fined in an amount not to exceed \$250 or be imprisoned for a period not to exceed 15 days, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as an offense and shall be punishable as such hereunder.

§ 145-6. Additional remedy.

A violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

§ 145-7. Severability.

It is the intention of the Village Trustees that each separate provision of this chapter shall be deemed independent of all other provisions herein, and it is further the intention of the Village Trustees that if any provision of this chapter be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

Chapter 148

PARKS AND RECREATION AREAS

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|---|---|
| § 148-1. Title. | § 148-10. Littering, sewage and noxious material. |
| § 148-2. Scope. | § 148-11. Alcoholic beverages. |
| § 148-3. Definitions. | § 148-12. Dogs, cats and other household pets. |
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| § 148-9. Preservation of property and natural features. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 7-11-1974 by L.L. No. 2-1974; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 67.

Trespassing — See Ch. 219.

Removal of artifacts from village-owned property — See
Ch. 128.

§ 148-1. Title.

This chapter shall be known as the "Village of Youngstown Parks Law."

§ 148-2. Scope.

The rules and regulations set forth herein shall apply to and be in effect in all parks under the control, supervision and jurisdiction of the Village of Youngstown.

§ 148-3. Definitions.

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

DIRECTOR OF PARKS — The Board of Trustees of the Village of Youngstown or its duly authorized agent.

PARKS — The grounds, buildings thereon, waters therein and any other property necessary for the operation thereof, and constituting a part thereof, which is now or may hereafter be maintained, operated and controlled by the Village of Youngstown for public park purposes.

PERSON — Any individual, firm, partnership, corporation or association of persons, and the singular number shall include the plural.

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

§ 148-4. Hours.

No person shall be permitted to remain, stop or park within the confines of any village park between the hours of 10:00 p.m. and 7:00 a.m., prevailing local time, in the Village of Youngstown, except in emergency or with special permit of the Board of Trustees. In case of an emergency or when in the judgment of the Board of Trustees the public interest demands it, any portion of the park may be closed to the public or to designated persons until permission is given to reopen.

§ 148-5. Disturbing the peace.

- A. No person shall disturb the peace and good order in any park by fighting, quarreling or wrangling with loud voice or shouts, threatening by violence to the person or property of others or engaging in riotous clamor or tumult.
- B. No person shall congregate with other persons in a public place and refuse to comply with a lawful order of the police or the Board of Trustees to disperse or leave the park.
- C. No person shall beg, hawk or peddle or solicit any park.
- D. No person, except law enforcement officers, shall have or carry any firearm, switchblade, hunting knife, slingshot, dagger, metal knuckles or other dangerous weapons concealed or about his person while in the park.
- E. No person shall use obscene, profane or abusive language while in the park.
- F. No person shall loiter in or near the rest rooms.

§ 148-6. Acts prohibited without permission.

No person shall commit any of the following acts within said parks without written permit of the Board of Trustees or some other person duly authorized to act for them:

- A. Post or display any sign, banner or advertisement of any kind within any park, or play any music, or keep or offer any article for sale, except as otherwise provided by law, or solicit passengers for hire, and then only subject to such rules as shall be prescribed by said Board of Trustees.

- B. Make any public speech, oration or harangue, hold any public meeting or engage in any marching, drilling or driving as members of a military, political or other organization, conduct any funeral procession or vehicle containing the body of a deceased person, use any loudspeaker or other sound-amplifying equipment.
- C. Picnic or cook in any area not designated by the Board of Trustees for that purpose, make or kindle any fire, except in places provided therefor, and then subject to such regulations as may be prescribed.
- D. Write, paint or carve on any trees, bench or park structure; sleep, camp, lodge or reside in any park building, except in such places as designated for said purpose by the Board of Trustees.
- E. Carry, fire or discharge any gun, pistol or firearm, or carry any rocket, torpedo or other fireworks of any description, or use any bow or arrow, or engage in trapping or hunting.
- F. Construct, repair or relocate utility fixtures, such as sewers, hydrants, posts, lines and conduits, or open trenches or make excavations, or engage in any construction in or on park lands, unless there is a valid easement or other license.
- G. Carry any slingshot, ax, saw, shovel or spade within the parks, violate the regulations of the Board of Trustees relating to any building or place, damage any notice posted by order of the Board of Trustees, cut parkway curbs for private drives, locate, grade or construct paths, driveways and roadways across or along any park road, deposit materials in or upon any park or park road.

§ 148-7. Games regulated.

No person shall engage in potentially dangerous games involving thrown or propelled objects, such as footballs, baseballs, horseshoes, roller skates, golf balls or similar objects, except in areas designated for such usage and then only subject to such rules as may be prescribed by the Board of Trustees. All games of any description must be conducted in a safe and orderly manner, and no rough or boisterous practices will be allowed. No one shall play games for which a permit or fee is required without first obtaining such permit and paying such fee.

§ 148-8. Hunting, fishing and injuring wildlife.

No person shall kill, injure or unnecessarily disturb any birds or animals. No person within the confines of the park shall hunt, pursue with dogs, trap or in any other way molest any wild bird or animal found within the confines of the park or rob or molest any bird nest or take the eggs of any bird.

§ 148-9. Preservation of property and natural features.

No person shall injure, deface, disturb or befoul any part of the park nor any buildings, signs, equipment or other property found therein, nor shall any tree, flower, shrub, rock or other mineral be removed, injured or destroyed.

§ 148-10. Littering, sewage and noxious material.

No person, without the specific written consent of the Board of Trustees, shall bring into, leave behind or dump any material of any kind in the park, except the refuse, ashes, garbage and other material of a picnic, camp or other permitted activity, and such material shall be deposited in receptacles or pits provided for such purposes. Refuse is not to be dropped, thrown or scattered on park property. Tin cans, bottles or other glassware or metallic substances containing sharp edges shall be deposited in park receptacles.

§ 148-11. Alcoholic beverages.

- A. The possession or consumption of alcoholic liquors or beverages, including beer, in any park is prohibited without first obtaining a special permit from the Village Board of Trustees, except in such areas as designated by the Board of Trustees.
- B. Drinking alcoholic liquors or beverages, including beer, is prohibited in the parking lots and rights-of-way within any park.

§ 148-12. Dogs, cats and other household pets.

No person shall bring into, permit, have or keep in the park any dog, cat, household pet or other animal destructive to birds and other wildlife, except that dogs or cats are permitted if held in control by leash.

§ 148-13. Indecent conduct and exposure.

No person shall appear in the park in a state of nudity or commit, perform or engage in any lewd, lascivious, obscene or indecent act or behavior, and no person shall make any indecent exposure of his or her person.

§ 148-14. Compliance with orders of police.

No person shall fail or refuse to comply with any reasonable order relating to the regulation, direction or control of traffic, or to any other order lawfully given by any police officer, or willfully resist, obstruct or abuse any police officer or other official in the execution of his office.

§ 148-15. Use of motor vehicles.

- A. No person shall drive any automobile, motorcycle or other vehicle of traffic or burden upon any part of the parks or parkways, except for the proper drives and parking areas, or permit the same to stand upon the drives or any part thereof so as to congest traffic or obstruct the drive. This includes all motorized machines. No unregistered vehicle of any type will be permitted in any area of the park. Paths established as bridle paths, foot paths or bicycle paths shall not be used for vehicular traffic.

- B. Use of parks by said vehicles prohibited. No persons shall cause any bus with or without passengers, nor any cart, wagon, truck or trailer or other vehicle carrying goods, merchandise, manure or other articles to enter or to be driven in any part of the park. This section shall not apply to vehicles engaged in the construction, maintenance or operation of the parks or parkways, nor to vehicles making deliveries to the parks.
- C. Parking prohibited in specific areas during specific hours. No person shall park any vehicle or permit any vehicle to remain standing on any highway or roadway within the boundaries of a village park or parkway in excess of the length of time and between the hours as hereinafter specified. No parking shall be allowed on any of the park roads during the hours of 10:00 p.m. and 7:00 a.m. It shall be unlawful for any person to park, stop or leave standing any vehicle in any parking area in any park, except during the time he remains in the park.
- D. Definition of term "parking." The term "parking" shall be the standing of any vehicle, whether occupied or not, upon any highway otherwise than temporarily, or while actively engaged in loading or unloading, or while standing in obedience to traffic regulations or traffic signals.
- E. Posting of signs. The Park Department shall erect suitable signs on all highways hereinabove restricted as to parking, which signs shall indicate the limitation of no parking and shall indicate that no parking shall be allowed at any time.
- F. Drag racing. No person shall participate in a drag race upon any park drive or park property. "Drag racing" is defined as the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course from the same point to the same point wherein timing is made of the participating vehicles involving competitive accelerations or speeds. The operation of two or more vehicles side by side either at speeds in excess of permitted speeds on park drives, or rapidly accelerating from a common starting point to a speed in excess of such permitted speeds, shall be prima facie evidence of drag racing.
- G. Spotlights. No person shall use or shine spotlights, or unnecessarily or continuously shine automobile headlights unto park lands, except under direction of a police officer or park employee, or except where necessary for the preservation of life or property.

§ 148-16. Permits.

- A. The Board of Trustees is hereby authorized to grant permits in conformity with the rules and regulations contained herein. Nothing contained herein, however, shall affect the terms and conditions of a valid agreement for the use duly executed.
- B. All permits issued shall be in writing by the Board of Trustees, or its duly authorized agent, and are subject to park rules and regulations. A permit to do any act shall authorize the same only insofar as it may be performed in strict accordance with the written terms and conditions thereof, and not in violation of any term or condition thereof, or any law or ordinance or rules or regulations governing the parks. Violation of any such term or condition or any law or ordinance or rules or regulations governing the parks shall

constitute grounds for revocation of said permit by the Board of Trustees, or by their authorized representative, whose action thereon shall be final. No permit for the same purpose shall be issued to the person whose permit has been revoked during the year in which such revocation is made.

§ 148-17. Penalties for offenses.

- A. Any person convicted of a violation of this chapter shall be subject to a fine not to exceed \$250 and/or imprisonment for a term not to exceed 15 days.
- B. Any person violating § 148-10 of these rules and regulations shall be liable for damages incurred to park property.
- C. Any peace officer of the State of New York, Niagara County or any of its municipal subdivisions may, without a warrant, arrest any offender whom he may detect in the violation of any of the provisions of the above sections and take the person so arrested forthwith before a magistrate having competent jurisdiction, and he shall have at all times the right to enter the premises of any building, structure or enclosure in any park, including such grounds, buildings, structures or enclosures which may be leased or set aside for private or exclusive use of any individual or groups of individuals (excluding property under leaseback pursuant to the Environmental Conservation Law) for the purpose of arresting violators hereof and may use all necessary means to attain that end.

Chapter 156

PICKETING

§ 156-1. Declaration of policy.

§ 156-3. Penalties for offenses.

§ 156-2. Picketing residences unlawful.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 2-25-1993 by L.L. No. 1-1993. Amendments noted where applicable.]

§ 156-1. Declaration of policy.

It is declared that the protection and preservation of the home is the keystone of democratic government; that the public health, welfare and the good order of the community requires that members of the community enjoy in their homes and dwellings a feeling of well-being, tranquility and privacy, and, when absent from their homes and dwellings, carry with them the sense of security inherent in the assurance that they may return to the enjoyment of their homes and dwellings; that the practice of picketing before or about residences and dwellings causes emotional disturbances and distress to the occupants; that such practice has as its object the harassing of such occupants; and without resort to such practice full opportunity exists, and under terms and provisions of this chapter will continue to exist, for the exercise of freedom of speech and other constitutional rights; and that the provisions hereinafter enacted are necessary for the public interest to avoid the detrimental results herein set forth.

§ 156-2. Picketing residences unlawful.

It is unlawful for any person to engage in picketing before or about the residence or dwelling of any individual in the Village of Youngstown.

§ 156-3. Penalties for offenses.¹

Any person violating the provisions of this chapter shall be guilty of a violation and shall be punishable by a fine not in excess of \$250 or by imprisonment for not more than 15 days, or both.

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



Chapter 162

PROPERTY MAINTENANCE

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| § 162-1. Purpose. | § 162-9. Litter. |
| § 162-2. Findings. | § 162-10. Responsibilities of occupants. |
| § 162-3. Definitions. | § 162-11. Responsibilities of owners or persons considered to be owners. |
| § 162-4. Construal of provisions. | § 162-12. Inspection and enforcement. |
| § 162-5. Exterior standards. | § 162-13. Costs to become lien. |
| § 162-6. Open areas. | § 162-14. Property under construction. |
| § 162-7. Business units. | § 162-15. Penalties for offenses. |
| § 162-8. Infestation, storage and screening. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 6-13-1996 by L.L. No. 3-1996. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 83.
Unsafe buildings — See Ch. 90.
Solid waste — See Ch. 188.

Trees — See Ch. 214.
Abandoned vehicles — See Ch. 226.

§ 162-1. Purpose.

It is the purpose of this chapter to assist in the continued revitalization of areas throughout the village to attract new businesses, promote the public interest in continued development, ensure regular maintenance and improvements to present structures, safeguard against blight and preserve property values and to establish minimum maintenance standards to safeguard life, limb, health, safety, property and the public welfare in the best interest of the residents of the Village of Youngstown.

§ 162-2. Findings.

It is hereby found, determined and declared that there exists in the Village of Youngstown structures used for residential and nonresidential use which are or may become in the future substandard with respect to structure, equipment or maintenance. It is further found that conditions of the above described property, including but not limited to structural deterioration, lack of maintenance and appearance of the exterior of premises, infestation, lack of essential heating or plumbing, lack of maintenance or upkeep of essential utilities and facilities, existence of fire hazards, inadequate provisions for light and air, unsanitary conditions and overcrowding, constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and inhabitants of the Village of Youngstown. It is further found that such prevention will maintain neighborhood and property values, as well as the desirability and

amenities of residential and nonresidential uses, and it is further found that such prevention will protect and foster the public health, safety and welfare.

§ 162-3. Definitions.

The following terms shall have the meanings indicated:

ACCESSORY BUILDING — A subordinate building located on the same lot with the main building, occupied by or devoted to an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

BUILDING — Any structure having a roof supported by columns or by walls and intended for shelter, housing, protection or enclosure of persons, animals or property. Depending upon its applicability, the use herein of "building" shall include the term "structure."

CODE ENFORCEMENT OFFICER — The officers employed by the Village of Youngstown to enforce the State Uniform Fire Prevention and Building Code.¹

DETERIORATION — The condition or appearance of a building or structure characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, excessive use or lack of maintenance.

DWELLING, MULTIPLE — A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other. Motels or hotels are excluded.

DWELLING UNIT — A room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

EXPOSED TO PUBLIC VIEW — Any premises or open space or any part thereof or any building or structure that may be lawfully viewed by any member of the public from a sidewalk, street, alleyway or from any adjoining or neighboring premises.

EXTERIOR OF PREMISES — Open space on the premises outside of any building located thereon.

EXTERMINATION — The control and elimination of insects, rodents and vermin.

GARBAGE — Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and/or consumption of food. (See also "refuse" and "rubbish.")

GOOD WORKING REPAIR — A standard of maintenance that renders a building safe, habitable and possessed of a neat and orderly appearance.

HARBORAGE — Any condition, man-made or natural, which affords a breeding place or hiding place for rodents, insects or other pests.

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

INFESTATION — The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard, either to the occupants of the premises and/or to surrounding properties and/or residents.

NUISANCE, ATTRACTIVE — Any nuisance which may prove detrimental to the health or safety of children, whether in a building, on the exterior of premises or upon an occupied lot. Attractive nuisances include but are not limited to abandoned wells, shafts, basements, excavations, abandoned swimming pools, abandoned iceboxes and/or refrigerators, motor vehicles, any structurally unsound fences or structures, lumber, trash, fences, debris or vegetation, such as poison ivy, oak or sumac, which may prove hazardous for inquisitive minors.

OPERATOR OR MANAGER — Any person who has charge, care or control of a building or part thereof.

OWNER — Includes any person having individual or joint title to real property in any form defined by the laws as an estate or interest therein, whether legal or equitable, and however acquired.

PERSON — Includes an individual, a partnership, a joint venture, a corporation, an association and any other organization recognized as an entity by the laws of the State of New York.

PREMISES — A building, dwelling and/or grounds.

PROPERTY — Land and whatever is erected on, growing on, placed on or affixed thereto.

REFUSE — All putrescible and nonputrescible solid waste (except body waste), including but not limited to garbage, rubbish, ashes, street cleanings, dead animals and solid market and industrial wastes. (See also "garbage" and "rubbish.")

RUBBISH — Nonputrescible solid waste 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. (See also "garbage" and "refuse.")

STRUCTURE — A combination of materials assembled, constructed or erected at a fixed location, including, for example, a building, stationary or portable carports and swimming pools, the use of which requires location on the ground or attachment to something having location on the ground.

VILLAGE — The Village of Youngstown.

§ 162-4. Construal of provisions.

- A. This chapter established 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 use of the structure, the premises or the equipment of facilities contained therein, as are required by the New York State Uniform Fire Prevention and Building Code.

- 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 Youngstown, Niagara County, 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.

§ 162-5. Exterior standards.

The exterior of the premises and the condition of 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 limitations, the following:

- A. Foundations, porches, decks, steps and walls shall be in good condition.
- B. Vent attachments shall be safe, durable, smoketight and capable of withstanding the action of flue gases.
- C. Exterior balconies, porches, landings, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling and unsightly appearance.
- D. All permanent signs and billboards 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 whose supports have deteriorated so that they no longer meet the structural requirements of the New York State Uniform Fire Prevention and Building Code shall, with their supports, be removed or put into a good state of repair. All nonoperative or broken electrical signs shall be repaired or shall, with their supports, 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.
- E. 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 excessive weathering or deterioration of any nature. Unoccupied storefronts shall be maintained in a clean and neat appearance.
- F. Any awnings or marquees and accompanying structural members shall be maintained in a good state of repair. In the event that said awnings or marquees are made of cloth, plastic or of similar material and are exposed to public view, such material shall not show evidence of excessive weathering, discoloration, ripping, tearing, holes or other deterioration. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.
- G. 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. 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.

- H. Exterior walls, including doors and windows and the areas around doors, windows, chimneys and other parts of the building, shall be so maintained as to keep water from entering the building. 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.
- I. 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 exposed exterior surfaces of structures not inherently resistant to deterioration shall be coated, treated or sealed to protect them from deterioration or weathering. Wood, masonry or other exterior materials that will naturally resist deterioration do not have to be treated, but must be otherwise maintained in a sound, secure workmanlike manner. Exterior surfaces that have been painted or otherwise coated must be maintained in a neat, orderly, serviceable manner. Floors, walls, ceilings, stairs and fixtures of buildings 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.
- J. Roof drains, overflow pipes, air-conditioning drains and any other device used to channel water off or out of a building shall be maintained in a clean, safe, sanitary condition. Every floor, exterior wall, roof, porch or appurtenance thereto shall be maintained in a safe and operable condition and shall not drain onto a public sidewalk, walkway, street, alleyway or adjoining property.
- K. Lawns shall be cut, and bushes, shrubs and hedges shall be trimmed regularly during the growing season so as to avoid an unsightly appearance.

§ 162-6. Open areas.

- A. Surface or subsurface water shall be appropriately drained to protect buildings and structures and to prevent the development of stagnant ponds.
- 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 and vacant lots shall be kept clean and free of physical hazards and 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. All temporary excavations shall be kept covered or barricaded so as to protect the general public from injury.
- E. All land must be kept free of dead or dying trees and accumulations of brush, shrubs, weeds, grass, stumps, roots, excessive and/or noxious growths, garbage, refuse or debris

which would either tend to start a fire or increase the intensity of a fire already started or cause poisoning or irritation to people or animals or cause or tend to cause or enhance an unhealthy or dangerous or obnoxious conditions on said property or on any adjacent or neighboring property.

§ 162-7. Business units.

- A. Business units 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. 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 replacement of trees and shrubs which may die and/or otherwise be destroyed, the maintenance and cutting of lawns and the replacement and/or repair of fences which may become in disrepair.
- D. Persons owning or occupying property shall keep all walkways, public or private, abutting said premises free from litter and trash of whatever nature.

§ 162-8. Infestation, storage and screening.

- A. Grounds, building 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 closed or appropriately screened with wire mesh or other suitable materials.
- C. No materials, goods or supplies may be stored in any front yard or in an exterior or interior side yard. Materials may be stored in a rear yard, provided that the area used for storage is screened from neighboring properties by a fence or hedge and that the method and manner of storage complies with the other provisions hereof.

§ 162-9. Litter.

- A. Residential, 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 appropriate private receptacles for collection.
- B. Dumpsters and similar large receptacles shall be shielded from the public view by means of appropriate landscaping, hedges, fences or screening. This section shall not apply to receptacles for clothing and the like donated to charity.

- C. Shopping centers, supermarkets and similar business units shall provide permanent, attractive, decorated litter receptacles for public use in sufficient quantity so that a person will not have to walk in excess of 50 feet to use any such receptacle.

§ 162-10. 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.
- B. 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.
- C. Keeping exits from the building or occupant's portion thereof clear and unobstructed.
- D. Disposal of garbage and refuse into appropriate facilities in a clean and sanitary manner, in accordance with any applicable provisions of the village.
- E. Extermination of insects, rodents or other pests within the premises.
- F. Maintenance of yards, lawns and courts in a clean, sanitary and safe condition and free from infestation by rodents or vermin, insofar as said occupant occupies or controls said yards, lawn or any parts thereof.
- G. The installation and removal of required screens.
- H. Keeping domestic animals and pets in an appropriate manner and under control, in accordance with any other regulations of the village.²
- I. Elimination of all prohibited uses for that part of the premises which he occupies, controls or to which he has accessibility.

§ 162-11. Responsibilities of owners or persons considered to be owners.

- A. Responsibilities.
- (1) Owners of premises shall be responsible for 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, condition and operation of service facilities and for furnishing adequate heat and hot water supply where they have contracted to do so.

² Editor's Note: See also Ch. 67, Animals.

- B. 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 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 record owner, and notice to any such person of any order or decision of the Code Enforcement Officer shall be deemed and taken to be 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 or more violations of this chapter, said occupant shall be deemed and taken to be an owner within the intent and meaning of this chapter.

§ 162-12. Inspection and enforcement.

- A. The Code Enforcement Officer is hereby authorized and directed to make inspections to determine compliance with this chapter. Inspections shall be made between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, and every operator or owner shall cooperate with the Code Enforcement Officer in providing access to the premises.
- B. 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 which 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.
- C. 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 attempts to serve the owner or occupant by the first two methods set out above are unsuccessful.
- D. Upon failure to comply with said notice, the Code Enforcement Officer shall issue an appearance ticket returnable in the Town of Porter Court.

§ 162-13. Costs to become lien.

The amount of the cost of the filing of legal papers, fees of expert witnesses, search fees and advertising charges incurred in the course of any proceeding taken under this chapter determined in favor of the municipality, as well as the cost of the repairs, alterations or improvements or the vacation, enclosing or removal or demolition, if any, or the amount of the

balance thereof remaining after deduction of the sum, if any, realized from the sale of the materials derived from such building or from any contracts for removal or demolition thereof shall be a municipal lien against the real property upon which such cost was incurred. The amount so charged shall forthwith become a lien upon such lands and shall be added to and become part of the taxes.

§ 162-14. Property under construction.

- A. For purposes of enforcement of this chapter, if work is being done on the property, either the prime or general contractor or the owner shall be held responsible.
- B. Materials may be stored in any area of the property upon which construction is being carried on, provided that the method of storage and the materials stored are in compliance with the requirements of this chapter. In no event shall such storage be permitted for a period exceeding one year.
- C. Drainage crossing the property being developed must be maintained during the period of development, and no materials may be stored, land disturbed or other work done to interfere with drainage or to divert or cause runoff of groundwater or stormwater in an unnatural fashion.
- D. The person responsible as set forth herein shall take all necessary and reasonable steps to ensure that there will not be an unusual or unwarranted amount of dust and debris blown onto or across neighboring or nearby properties.
- E. Construction roads must be oiled or kept wet or properly treated to decrease the spread of dust and mud.
- F. A temporary cover, such as rye grass or a mulch, must be applied on land that has been stripped of its protective vegetation during the course of its construction to prevent the spread of dust and mud.
- G. All excavations in or near a public or private walkway or street must be properly guarded and protected at all times by lights, flags, barricades or other warnings sufficient in kind and amount to warn the public of the danger of falling into the excavation.
- H. Temporary electrical service must be through electric lines that are weather- and waterproof; such lines must not cross public walkways or highways on the ground, nor shall they be placed on the ground in areas subject to construction equipment traffic.
- I. Grounds and buildings must be kept free of debris, such as broken glass, boards with fastenings protruding and other articles making travel around the job site dangerous and unsafe.

§ 162-15. Penalties for offenses.

A violation of any provision of this chapter shall be an offense punishable by a fine not to exceed \$250 and/or imprisonment for not more than 15 days.

Chapter 176

REFRIGERATORS, ABANDONED

§ 176-1. Doors or latches to be removed.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 12-2-1953. Amendments noted where applicable.]

GENERAL REFERENCES

Junkyards — See Ch. 133.

Solid waste — See Ch. 188.

§ 176-1. Doors or latches to be removed.

- A. It shall be unlawful for any person, firm or corporation to leave outside of any building or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, freezing unit, chest or any other container of a similar kind and size, equipped with tight-fitting door or doors and door-locking or door-latching devices, unless such door or doors or such door-locking or door-latching devices, or both, have first been removed therefrom in such a manner that said icebox, refrigerator, freezing unit, chest or similar container would thereby become so dismantled as to be harmless to children who might otherwise become locked or trapped therein.
- B. Pursuant to Chapter 188, § 188-4, of the Code of the Village of Youngstown, the village will not accept for collection any “white goods,” including refrigerators, which contain chlorinated fluorocarbons (CFC’s) or hydro-chlorinated fluorocarbons (HCFC’s), unless a certificate as specified in that section is produced.¹

¹ Editor’s Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 183

SEWERS

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- § 183-18. Appeals.
- § 183-19. Reservations.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 3-11-1982 by L.L. No. 1-1982. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 83.
Subdivision of land — See Ch. 197.

Water — See Ch. 241.
Zoning — See Ch. 250.

ARTICLE I General Provisions

- § 183-1. Short title.

This chapter may and shall be cited as the "Village of Youngstown Sewers Law."

§ 183-2. Purpose.

The Village of Youngstown, to protect the health, safety and welfare of its citizens, and to protect and preserve the environment, has heretofore initiated the installation of sanitary sewers in parts of the village. However, the effectiveness of said sanitary sewer system is contingent on its proper utilization. Any misuse will hamper its effectiveness and compromise its purpose. Therefore, it is the purpose of this chapter to enact rules and regulations to govern the use of said sanitary sewer system and thereby ensure its proper utilization and effectiveness of operation.

§ 183-3. Applicability.

This chapter shall apply to all the territory within the confines of the borders of the Village of Youngstown.

§ 183-4. Construal of provisions.

All laws, ordinances, codes and regulations, or parts of laws, ordinances, codes and regulations, which are inconsistent herewith, or in conflict herewith, or repugnant to any provisions of this chapter shall be deemed not to apply, provided that nothing herein shall be construed so as to prevent the adoption and enforcement of a law, ordinance, code or regulation which is more restrictive or establishes a higher standard than those provided in this chapter.

§ 183-5. Definitions; word usage.

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

ABNORMAL POLLUTANT — Industrial waste, substance or wastewater characteristic, in excess of that found in normal wastewater, but which is otherwise acceptable for disposal into a public sewer under the terms of this chapter.

ABNORMAL POLLUTANT SURCHARGE — The charge levied against any person for services rendered during treatment of abnormal pollutants or waste. This charge is intended to partially defray the added cost of transporting and treating abnormal pollutants or waste. This charge shall be in addition to the usual annual charge for sanitary sewer service.

ABNORMAL WASTEWATER — Any wastewater having a suspended solids, BOD or phosphate content in excess of that found in normal wastewater, but which is otherwise acceptable for disposal into a public sewer under the terms of this chapter.

ABNORMAL WASTEWATER PERMIT — A permit approved by and issued by the administrator permitting the discharge or deposit of abnormal wastewater into a sanitary sewer system upon payment of a surcharge.

ABNORMAL WASTEWATER SURCHARGE — The charge levied against any person for services rendered during treatment of abnormal sanitary wastewater or waste. This charge is intended to partially defray the added cost of transporting and treating abnormal

wastewater or waste. This charge shall be in addition to the usual charge for sanitary sewer service.

ADMINISTRATOR — The Superintendent of Public Works of the Village of Youngstown Sewer System or such other person hereafter designated by the Village Board.

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

BOD STRENGTH INDEX — The measure of the biochemical oxygen demand content of wastewater in parts per million (milligrams per liter).

BUILDING — Includes houses, structures, establishments or properties used for human occupancy, employment, recreation or other purpose.

BUILDING DRAIN — That part of the lowest horizontal piping of a sewerage system which receives discharge from sewerage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

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

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

COOLING WATER — The water discharged from any system, such as air conditioning, cooling or refrigeration.

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

INDUSTRIAL WASTE PERMIT — A permit to deposit or discharge industrial waste into any sanitary sewer in the village.

INDUSTRIAL WASTES — The liquid wastes derived from industrial manufacturing processes, trade, business and institutions, as distinct from sanitary wastewater.

LABORATORY DETERMINATION — The measurements, tests and analyses of the characteristics of waters and wastes, in accordance with the methods contained in the latest edition of Standard Methods for Examination of Water and Wastewater, a joint publication of the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation, or in accordance with any other method prescribed by the village by rules and regulations promulgated pursuant to this chapter.

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

NORMAL WASTEWATER — Wastewater which, when analyzed, shows by weight a daily average of not more than 2,500 pounds per million gallons (300 parts per million) of suspended solids, not more than 2,500 pounds per million gallons (300 parts per million) of BOD and not more than 83 pounds per million gallons (10 parts per million) of phosphorous as P and which is otherwise acceptable for the public sewer under the terms of this chapter.

OBJECTIONABLE WASTE — Any wastes which can harm either the sewers, sewer treatment process or equipment, or which have an adverse effect on the receiving stream, or which can otherwise endanger life, limb, public property or constitute a nuisance.

OWNER — Owner of record of the freehold of the premises or lesser estate therein, a mortgagee, or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building.

P (denoting "phosphorous") — The total phosphorous determined under standard laboratory procedures, expressed in milligrams per liter.

PERSON — Any individual, firm, company, association, society, corporation, including municipal corporations or groups.

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

POLLUTANT — Any substance or wastewater characteristic present in polluted water or waste.

POLLUTED WATER OR WASTE — Any water or liquid waste containing any of the following: phenols or other substances to an extent imparting taste and odor in receiving waters; toxic or poisonous substances in suspension, colloidal state or solution, or noxious odorous gases; more than 10,000 parts per million by weight of dissolved solids, of which more than 2,500 parts per million are chloride; more than 10 parts per million of suspended solids and/or BOD; color exceeding 50 parts per million, or having a pH value of less than 5.5 or more than 9.5; and/or any water or waste not approved for discharge into a stream or waterway by the appropriate state or federal authority.

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

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

RULES AND REGULATIONS — Any additional rules and regulations adopted by the Village Board of the Village of Youngstown.

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

SEWER — A pipe or conduit for carrying wastewater.

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

SS STRENGTH INDEX — The measure of the suspended solids content of wastewater in parts per million (milligrams per liter).

STANDARD METHODS — The latest edition of Standard Methods for the Examination of Water and Wastewater prepared and published jointly by the American Public Health Association, American Waterworks Association and the Water Pollution Control Federation.

STORM SEWER or STORM DRAIN — A sewer which carries storm- and surface waters and drainage, but excludes wastewater and industrial wastes.

STRENGTH INDEX — Both the biochemical oxygen demand index and the suspended solids strength index.

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

SYSTEM — The trunk sewers, interceptors, pumping stations, treatment plant, outfall conduits and so forth designed to collect, transmit, treat and dispose of estimated flows and loadings of participants and other users of the system.

UNPOLLUTED WATER OR WASTE — Any water or liquid waste containing none of the following: phenols or other substances to an extent imparting taste and odor in receiving waters; toxic or poisonous substances in suspension, colloidal state or solution, or noxious or odorous gases; not more than 10,000 parts per million, by weight, of dissolved solids, of which not more than 2,500 parts per million may have a pH value of less than 5.5 nor higher than 9.5.

VILLAGE — Village of Youngstown, New York.

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

WASTEWATER FACILITIES — All facilities for collection, pumping, treating and disposing of wastewater and sludge.

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

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

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

§ 183-6. 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 any human or animal excrement, garbage or other objectionable waste.
- B. It shall be unlawful, when sewer and treatment facilities are available, to discharge into any natural outlet within the village any wastewater, industrial wastes or other polluted waters, unless specifically permitted by village rules and regulations, and except where a New York State Pollutant Discharge Elimination System (NYSPDES) permit has been duly

issued and is currently valid for such discharge. A valid copy of such a permit and any modification thereof must be filed with the administrator for an exception under this section of this chapter.

- C. It shall be unlawful to construct or maintain any private sewage disposal system to service any property which has access to the public sewer system, unless specifically permitted by the Village of Youngstown or as hereinafter provided. If application is made to the administrator for a temporary facility and if said applicant has heretofore obtained the approval of the Niagara County Health Department, said administrator may consent to the usage of the same for a period not to exceed 180 days.
- D. Any structure used for human occupancy shall have toilet facilities provided therein which meet the requirements of the applicable state and local codes, laws and regulations. Any such structure located upon property which has access to a public sanitary sewer shall have such facilities connected to said sewer in accordance with the provisions of this chapter.¹

ARTICLE II Use of Public Sewer System

§ 183-7. Building sewers and connections.

- A. No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenances thereto without first obtaining a written permit from the administrator or Village Board, as provided for herein or hereinafter established by resolution.
- B. There shall be two classes of building sewer permits:
 - (1) For normal-type wastewater service, which excludes any service having abnormal wastewater or any of those types of other discharge prescribed in Subsections A and B of § 183-10 herein, the owner or his agent shall make application to the administrator on a special form furnished by the administrator.
 - (2) For any other wastewater service, the owner or his agent shall make application to the Village Board on a special form furnished by the administrator. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the administrator or the Village Board and shall be accompanied by an application fee, as hereinafter established by resolution of the Village Board. Upon payment of the application fee and approval by the administrator or Village Board, as provided for above, a permit shall be issued allowing for the commencement of the installation and connection of the building sewer.
 - (3) Approval for a street opening of any highway, road or street must also be obtained from the village, town, county or state, as the case may be, and a street opening bond will be required, together with a permit from such other government entity responsible for the road, street or highway in question.

¹ Editor's Note: Former § 1-6, Private sewage disposal, which immediately followed this section, was deleted at time of adoption of Code (see Ch. I, General Provisions, Art. I).

- C. All costs and expense incidental to the installation, connection, maintenance and, where necessary, pumping of the building sewer shall be borne by the owner or owners. The owner shall indemnify the village for any loss or damage to the village sanitary sewer system or other municipal property which may, directly or indirectly, have been occasioned by the installation, connection and maintenance of the building sewer.
- D. A separate and independent building sewer shall be provided for every building. However, in the situation where one building stands at the rear of another on an interior lot, and no building sewer is available or can be constructed to the rear building through an adjoining alley, yard or driveway, the building sewer from the front building may be extended to the rear building, and the whole considered as one building sewer.
- E. Old building sewers may be used in connection with old or new buildings only when they are found, upon examination and testing by the administrator, to meet all requirements of this chapter.
- F. All wyes installed in the village sanitary sewer system in front of the building shall have a six-inch outlet. Private laterals connected thereto may have either a six-inch or a four-inch inside diameter and must consist of polyvinyl chloride plastic pipe (PVC) SDR 35 and shall include a trap which shall be six-inch PVC with a four-inch solvent welded cement riser. Pipe shall be laid in a granular bed in accordance with typical building sewer detail. If installed in filled or unstable ground, the building sewer shall be laid on a suitable concrete bed or cradle or other suitable bedding material approved by the administrator. Infiltration of groundwater into any sewer shall not exceed 100 gallons per inch diameter per mile of sewer per day. The administrator may require infiltration tests on any sewer. **[Amended 7-26-190 by L.L. No. 2-1990²]**
- G. All building sewers shall be installed in accordance with all the applicable requirements of Chapter 83, Building Construction, of the Code of the Village of Youngstown, general specifications, this chapter and any other rules and regulations of the village promulgated by the government unit responsible for highways, roads or streets. (See construction standards.)
- H. Building sewers shall use gravity to carry wastewater from the building to the village sanitary sewer system. The slope of such building sewers must not be less than $\frac{1}{8}$ inch per foot of a six-inch building sewer and not less than $\frac{1}{4}$ inch per foot of a four-inch building sewer. In some situations, due to buildings constructed below road level or constructed some distance from the road, gravity will not be sufficient in providing momentum for carrying wastewater from the subject building to the village sanitary sewer system, thus necessitating some form of pumping. Such pumping shall be by a method and utilize equipment previously approved by the administrator.
- I. Whenever possible, a building sewer shall be brought to the building at an elevation above the basement floor and must be accessible for maintenance. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth of the building sewer shall be sufficient to afford protection from frost and shall be laid at uniform grade. Changes in direction greater than 45° shall be provided with

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

cleanouts accessible for cleaning as per this chapter or with manholes when approved by the administrator.³

- J. The connection of the building sewer to the public sewer shall conform to the requirements of Chapter 83, Building Construction, of the Code of the Village of Youngstown and other applicable rules and regulations of the Village of Youngstown and/or the procedures set forth in the appropriate specifications of the American Society for Testing Materials and the Water Pollution Control Federation Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the administrator before installation.
- K. No person shall make any connection of roof downspouts, sump pumps, exterior foundation drains, areaway drains, yard drains, footing drains, floor drains, drain tile or other sources of surface runoff or groundwater to a building sewer, a building drain which in turn is connected directly or indirectly to a public sewer, or directly to the public sewer. Unless the above items deliver the stormwater by gravity to a drainage ditch or storm sewer, a sump pump must be installed to accomplish such delivery. **[Amended 7-26-1990 by L.L. No. 2-1990]**
- L. Items in Subsection K above will be connected to the storm sewer pipe or a ditch with a minimum four-inch sewer drain pipe, and an inspection shall be made by the Department of Public Works administrator.⁴
- M. All distribution boxes, septic tanks, leach beds and other prior methods of wastewater disposal must be physically and permanently disconnected from the building sewer and private sewer.
- N. The person who had previously secured a building sewer permit shall notify the administrator when the building sewer is ready for inspection and connection to the public sewer, and no trenches shall be backfilled nor any part of the building sewer covered unless they conform with the construction standards requirements, and until the entire building sewer is inspected and approved by the administrator.⁵
- O. All excavations for building sewers shall be adequately guarded with barricades and lights to protect the public from danger. Streets, sidewalks, parkways or other public property disturbed in the course of the work shall be restored in a manner satisfactory to the village and or government entity responsible for street.
- P. The administrator shall determine when and if existing service connections and/or fixtures need replacing and shall then notify the owner.
- Q. On or after sewer connection, the sewer administrator shall take a reading of the water meter or effect whatever is necessary in order to determine the amount of water being used by a property owner, and each owner of property shall be liable for sewer rents from the date of sewer connection, regardless of whether said property owner has actually

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

connected to the sewer system, unless such connection has been precluded by some action of the village.

- R. Owners of buildings connected to the village sanitary sewer system by building sewers shall be required to keep such building sewers and connections in proper operating order and shall make all necessary repairs, including the replacement of existing service connections and/or fixtures with acceptable materials as determined by the administrator, within 48 hours after official notice of any defect, leak, stoppage or other malfunction.

§ 183-8. Discharging water to public sewers.

- A. No person shall discharge or cause to be discharged any stormwater, groundwater, roof runoff, subsurface drainage or drainage from downspouts, yard drains, sump pumps, yard foundations and ponds or lawn sprays into any sanitary sewer, except as provided by the rules and regulations. Water from swimming pools, or industrial process water from such sources as water drains and blowoff pipes, or cooling water from various equipment, shall not be discharged into sanitary sewers if a closed storm sewer is available. If a closed storm sewer is not available, such water may, upon approval of the administrator, be discharged into an open ditch by indirect connection where such discharge is cooled, if required, and whereby such water flows into the open ditch at a rate not in excess of five gallons per minute, provided that the water does not contain materials or substances in suspension or solution in violation of the limits prescribed by this chapter.
- B. Stormwater and all other unpolluted drainage shall be discharged into such sewers which are specifically designated as storm sewers or into a natural outlet approved by the administrator. Industrial cooling water or industrial process waters may be discharged, on approval of the administrator, into a storm sewer or natural outlet.
- C. Every user of a public sewer system who has any storm, surface or foundation drainage, or any waters from a sump pump, already entering or part of an existing private sewage system, which is to be connected to a public sewer system shall disconnect such pipes, spouts and/or drains so as to preclude all such waters from entering the public sewer system and shall thereafter provide other means to remove such waters away from their buildings.

§ 183-9. Industrial waste.

- A. Ninety days after the effective date hereof, it shall be unlawful for any person to deposit or discharge industrial waste into any public sewer in the Village of Youngstown without having first obtained an industrial waste permit from the Village of Youngstown and without having first complied with all of the applicable provisions hereof. Within 90 days after the effective date hereof, any person desiring to deposit or discharge, or who is now depositing or discharging, industrial waste into any public sewer in the Village of Youngstown shall make application to the administrator for a permit. Application forms will be furnished by the administrator on request. The administrator shall review all applications for approval or disapproval. The administrator, upon approval of such applications, will grant an industrial waste permit only when the evidence submitted by the

applicant demonstrates that the waste or wastewater to be deposited by the applicant in the public sewer will comply with all the regulations of this chapter.

- B. Within 180 days after the effective date hereof, any person discharging industrial waste into a public sewer in the Village of Youngstown shall construct a suitable control manhole downstream from any treatment or storage tanks or other approved works utilized by such person for pretreatment, wherever required by the administrator. Such control manhole shall be for the purpose of facilitating observations, measurements and sampling of all waste created and discharged by such person. The control manhole shall be constructed at a location and in a manner approved by the administrator and shall be constructed and installed at the expense of the person discharging the waste. Said person shall also be responsible for the maintenance of said control manhole so that at all times it is in a safe, acceptable and proper operating condition.
- C. If any person depositing or discharging industrial waste into the public sewer fails to secure an industrial waste permit within the time prescribed herein, or if any person allows or causes waste of unacceptable quality under the requirements of this section of this chapter to be discharged into any public sewer in the Village of Youngstown, the administrator is authorized, if such person is using Village of Youngstown water, to disconnect such person's service line from the Village of Youngstown water system and/or the public sewer system, and the same shall only be reconnected at the owner's expense. If such person does not use Village of Youngstown water, the administrator is authorized to disconnect such person's service line from the sewer system, and the same shall only be reconnected at the owner's expense. The administrator shall notify the occupant or user of the premises wherein the waste is generated 48 hours before disconnecting either service line. No disconnected sewer or water connection shall be reconnected until the condition causing such disconnection has been corrected.
- D. The inspectors, agents or representatives of the Village of Youngstown charged with the enforcement of this section of this chapter shall be deemed to be performing a governmental function for the benefit of the general public, and neither the Village of Youngstown, the administrator, nor the individual inspector, agent or representative shall be held liable for any loss or damage, whether real or asserted, caused or alleged to have been caused as a result of the performance of such governmental function. The owners or occupants of premises where industrial wastes is created or discharged into the sewer shall allow the administrator free access at all reasonable times to all parts of such premises for the purpose of inspection and/or sampling, or the performance of any of their duties hereunder, and the failure or refusal of such owners or occupants to comply with this provision shall constitute grounds for the disconnection of water and/or sewer service.
- E. Each industrial waste permit shall be accompanied by three copies of a permit map drawn in a scale sufficient to show the locations of all sewers, pipes and drains which collect and convey wastewater, industrial wastes and/or cooling waters from their point of origin to the public sewers. Each pipe or sewer shall be labeled and noted as to the substance it is conveying. Each inlet or entrance point into the sewer system shall be shown on the maps, and each point shall be labeled with all substances or wastes which can enter the system at that point.

- F. Industrial users shall submit yearly reports, or more often if deemed necessary by the administrator, indicating the volume of flow measurements and characteristics and concentrations for each waste entering public sewers and/or watercourses for their particular facility. All tests and reports shall be performed and prepared at the expense of the person discharging the waste. Each report, test, measurement and analysis shall be identified by the appropriate village industrial permit number, control manhole location and point of discharge into the public sewer or watercourse.

§ 183-10. Prohibited discharges; acid waste; powers of administrator; pretreatment.

A. Prohibited waters and wastes.

- (1) No person shall discharge or cause to be discharged any of the following described waters or wastes into any public sewer:
 - (a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
 - (b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant, including but not limited to cyanides in excess of two milligrams per liter as CN in the wastes as discharged to the public sewers.
 - (c) Any waters or wastes having a pH lower than 5.5 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to buildings, equipment and personnel of the wastewater facilities.
 - (d) Solid or viscous substances in such quantities, or of such size, so as to be capable of causing obstruction to the flow in sewers, or of causing other interference with the proper operation of the wastewater facilities. Such solid or viscous substances include but are not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, paint, plastics, wood, unground garbage, whole blood, paunch, manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
 - (e) Any noxious or malodorous substances capable of forming a gas which, either singly or by interaction with other substances, is capable of causing objectionable odors or hazards to life, or of forming solids in concentrations exceeding limits established in this chapter, or of creating any other condition deleterious to structures or treatment processes, or which requires unusual provisions, attentions or expense to handle.
 - (f) Cooling water, unless it is unpolluted and below 150° F. (65° C.) or even below a lesser temperature ceiling.
- (2) If in the opinion of the administrator, such wastes could harm the sewers, sewer treatment process or equipment, have an adverse effect on the receiving stream, or

otherwise endanger life, limb, public property or constitute a nuisance, said administrator may prohibit such discharges.

- B. No person shall discharge or cause to be discharged into the public sewer the following described substances or materials if, in the opinion of the administrator, such substances or materials could harm the sewers, sewer treatment process or equipment, have an adverse effect on the receiving stream, or otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these substances or materials, the administrator shall give consideration to such factors as the quantities of the subject substances or materials in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant and other pertinent factors. The substances or materials prohibited are:

- (1) Any liquid or vapor having a temperature higher than 150° F. (65° C.).
- (2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32° F. (0° C.) and 150° F. (65° C.).
- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of $\frac{3}{4}$ horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the administrator.
- (4) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.
- (5) Any waters or wastes containing iron, chromium, copper, zinc and other objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such a degree that any such material received in the composite wastewater at the wastewater treatment plant exceeds the concentrations prescribed herein or exceeds the limits established by the administrator for such materials.
- (6) Salts of a heavy metal solution or suspension in concentrations exceeding the following (and other elements which will damage collection facilities or are otherwise detrimental to treatment processes):

Substance	Concentration (milligrams per liter)
Arsenic	0.5
Barium	1.0
Boron	1.0
Cadmium	0.1
Chromium (total) as Cr	0.25
Chromium (trivalent) as Cr	0.05
Chromium (hexavalent) as Cr	0.05
Copper as Cu	0.2
Lead	0.05
Manganese	1.0
Mercury	0.005

Substance	Concentration (milligrams per liter)
Nickel as Ni	1.0
Selenium	0.02
Silver	0.05
Zinc as Zn:	0.5

- (7) Any waters or wastes containing phenols or other taste- or odor-producing substances in concentrations exceeding limits which may be established by the administrator as necessary, after treatment of the composite wastewater, to meet the requirements of the state, federal or other public agencies having jurisdiction over such discharge into the receiving waters.
 - (8) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the administrator in compliance with applicable state or federal regulations.
 - (9) Any water or wastes having a pH in excess of 9.5.
 - (10) Materials which exert or cause:
 - (a) Unusual concentrations of inert suspended solids, including but not limited to fuller's earth, lime slurries and lime residues, or dissolved solids, including but not limited to sodium chloride and sodium sulfate.
 - (b) Excessive discoloration, including but not limited to dye wastes and vegetable tanning solutions.
 - (c) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities so as to constitute a significant load on the wastewater facilities.
 - (d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
 - (11) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amenable to such treatment only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over the discharge into the receiving waters.
 - (12) Any water or waste that contains more than 10 parts per million of the following gases: hydrogen sulfide, sulfur dioxide or nitrous oxide.
- C. Drains receiving acid waste (pH 5.5 — 7.0) shall be constructed of acid-resisting material. Such drains located outside of a building shall be constructed of vitrified clay or earthenware pipe or other approved acid-resisting material. Joints shall be watertight and made of acid-resistant material. In no case shall corrosive waste be discharged into a drain, sanitary sewer, storm sewer or soil or waste pipe without being first diluted or neutralized in such manner so as to render said waste noncorrosive. Such waste shall be treated by passage through a properly trapped dilution or neutralizing catch basin which shall function automatically.

D. Powers of administrator.

- (1) If any waters or wastes are discharged, or are proposed to be discharged, into the public sewers, which said waters or wastes contain the substances or materials or possess the characteristics enumerated in Subsection B of this section, and which in the judgment of the administrator may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise may create a hazard to life or constitute a public nuisance, the administrator may:
 - (a) Reject the wastes;
 - (b) Require pretreatment to achieve an acceptable condition before discharge to the public sewers;
 - (c) Require control over the quantities and rates of discharge; and/or
 - (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Subsections I and J of § 183-13.
- (2) If the administrator permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the requirements of all applicable codes, rules and regulations, ordinances and laws.

- E. Grease, oil and sand separators shall be provided when, in the opinion of the administrator, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients, except that such separator shall not be required for private living quarters or dwelling units. All separators shall be of a type and capacity approved by the administrator and shall be located so as to be readily and easily accessible for cleaning and inspection.
- F. All major contributory industries as defined by 40 CFR 128.24 must comply with federal pretreatment standards and any other applicable requirements promulgated by the Environmental Protection Agency in accordance with § 307 of the Federal Water Pollution Control Act Amendments of 1972 as well as pretreatment standards required by the Village and/or Town of Lewiston or Porter.
- G. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his own expense.

**ARTICLE III
Charges, Costs and Use**

§ 183-11. Sewer assessments.

The village shall provide by ordinance, law or resolution for the timely assessment and taxation of property to raise and provide moneys for sewer system construction and financing costs.

§ 183-12. Industrial cost recovery.

The village shall provide by ordinance, law or resolution for the payment by industrial users of their portion of the costs of wastewater treatment plant and facilities. (See Description of Industrial Cost Recovery and ICR Rules and Regulations.)⁶

§ 183-13. Criteria relating to charges.

- A. All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined as herein provided.
- B. To determine the sewage flow from any establishment, the administrator may use one of the following methods:
 - (1) The amount of water supplied to the premises by the village or a private water company as shown upon the water meter if the premises are metered.
 - (2) If the premises are supplied with river water or water from private wells, the amount of water supplied from such sources as estimated by the village.
 - (3) If such premises are used for an industrial or commercial purpose which is of such a nature that the water supplied to the premises cannot be entirely discharged into the public sewer system, the estimate of the amount of wastewater discharged into the public sewer system made by the village.
 - (4) The number of gallons of wastewater discharged into the public sewer system, as determined by measurements and samples taken at a wastewater flow meter and sampling device installed by the owner of the property served by the public sewer system at his own expense, in accordance with the terms and conditions of the permit issued by the village pursuant to this section.
 - (5) A figure determined by the village by any combination of the foregoing methods or by any other equitable method.
- C. The volume of flow used in computing abnormal wastewater surcharges shall be based upon metered water consumption as shown in the records of meter readings maintained by the Village Water Department. In the event that any industry discharging waste into the public sewer system presents evidence to the administrator demonstrating that a substantial portion of the total amount of water used for all purposes does not reach the sewer system, an estimated percentage of total water consumption to be used in computing charges may be established by the administrator.
 - (1) Any person discharging industrial waste into the public sewers of the Village of Youngstown who procures any part or all of his water supply from sources other than the Village Water Department, all or part of which is discharged into the public sewer, shall install and maintain at his expense water meters of the type approved by the

⁶ Editor's Note: Description of Industrial Cost Recovery and ICR Rules and Regulations are on file in the office of the Village Clerk.

administrator for the purpose of determining the proper volume of flow to be used in computing the sewer service charge. Such meters shall be read monthly and tested for accuracy when deemed necessary by the administrator.

- (2) Where it can be shown to the satisfaction of the administrator that a substantial portion of the water as measured by the aforesaid meter or meters does not enter the public sewer system of the Village of Youngstown, the administrator may require or permit the installation of additional meters at the owner's expense in such manner as to measure the quantity of water actually entering the public sewer system from the building or premises of such owner or occupant, and the quantity of water used to determine the sewer service charge and abnormal wastewater surcharge may be the quantity of water actually entering the sewer system as so determined, if the administrator so elects.
- D. The industrial waste discharged or deposited into the public sewers shall be subject to inspection and sampling as often as may be deemed necessary by the administrator. Samples shall be collected in such manner so as to be representative of the character and concentration of the waste under operational conditions. The laboratory methods used in the examination of said waste shall be those set forth in the Standard Methods for Examination of Waste and Wastewater. The determination of the character and concentration of industrial waste shall be made by the administrator at such times and on such schedules as may be established by the administrator. Should an owner or occupant discharging industrial waste into the public sewers desire that a determination of the quality of such industrial waste be made at some time other than that scheduled by the administrator, such special determination may be made by the administrator at the expense of the owner or occupant discharging the waste.
- E. The admission into the public sewers of any waters or wastes of abnormal strength or containing any quantity of substance having the characteristics described in § 183-10, or having an average daily flow greater than 2% of the average daily wastewater flow of the village, shall be subject to review and approval by the village and the administrator.
- (1) Where necessary in the opinion of the village, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the five-day BOD, suspended solids, phosphorous or other objectionable characteristics or constituents to within the maximum limits provided for in § 183-10, or to control the quantities and rates of discharge of such waters or wastes. Plans, specifications and other pertinent information relating to proposed preliminary treatment facilities shall be prepared and submitted by a qualified engineer for the approval of the administrator, and no construction of such facilities shall be commenced until said approval is obtained in writing.
 - (2) The approval of said plans or specifications by the administrator in no event shall relieve such person of the responsibility for modifying the constructed facilities or structures as needed to produce an effluent acceptable to the Administrator under the terms of this chapter.
- F. Where the strength of wastewater from an industrial, commercial or institutional establishment exceeds 300 parts per million of biochemical oxygen demand; or 300 parts per million by weight or suspended solids; or the total phosphorous compounds measured

as P is greater than 10 parts per million by weight, and where such wastes are permitted to be discharged into the sewer system by the village, an added charge, as hereafter determined, will be made against such establishment according to the strength of such wastes.

(1) The strength of such wastes shall be determined by composite samples taken over a sufficient period of time to ensure a representative sample. The cost of sampling and testing shall be borne by the subject establishment. Tests shall be made by an independent laboratory.

(2)⁷ The establishment discharging such waste shall pay a quarterly surcharge to the village in addition to the usual quarterly sewer service charges. Computation of such surcharge shall be based on the following formula:

$$S = V \times 8.34 \times 0.011 (BOD - 300) + .007 (SS - 300)$$

S = surcharge in dollars

V = millions of gallons of water consumed during billing period

8.34 = pounds per gallon of water

0.011 = unit charge per pound for BOD in dollars

BOD = BOD strength

300 = normal BOD strength in parts per million by weight

0.007 = unit charge per pound suspended solids in dollars

SS = suspended solids strength index in parts per million by weight

300 = normal suspended solids strength in parts per million by weight

(There shall be no reduction in surcharge for a discharge with less than 300 BOD or SS)

For phosphorous:

$$S (\text{Additional}) = V \times 8.34 \times 1.5 (P - 10)$$

1.5 = unit charge per pound of P in dollars

P = phosphorous as "P" in parts per million by weight

10 = normal "P" strength in parts per million by weight

G. Industries with two or more discharge points into the same public sewer may be considered to be a single point source and may mathematically composite the waste by volumes and concentration as if there were only one discharge point for the purpose of determining abnormal wastewater discharge and concentrations of obnoxious pollutants, provided that no single discharge point would be injurious to the sewers, pumps or other appurtenances as herein restricted. To qualify under this section, and before mathematical compositing will be allowed, a complete analysis of each waste so composited must be submitted, along with the calculations showing the methods employed and the final computed single analysis to be used under this chapter.

H. The owner of any property served by a building sewer carrying industrial wastes may be required to install a wastewater flow meter and sampling device in a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the

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

wastes. If the administrator finds that it is not practicable to measure the quantity or quality of waste by the meters or monitoring device as herein mentioned, he shall determine the quantity or quality of waste in any manner or method he may find practicable in order to arrive at the percentage of water entering the public sewer system of the village and/or quality of the wastewater to be used to determine the sewer service charge and surcharge.

- I. Where preliminary treatment facilities are provided for any waters and wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- J. No statement contained in this article shall be construed so as to prevent any special agreement or arrangement between the village and any industrial concern whereby industrial waste of unusual strength or character may be accepted by the village, subject to payment therefor by said industrial concern of any abnormal wastewater surcharge.
- K. No statement in this article shall be construed to preclude additional users from seeking and receiving permission to hook into the sewer system. However, the provisions of this chapter shall apply as well as those of any other applicable law, ordinance, rule or regulation as the village may adopt from time to time.
- L. No statement in this article shall be construed to preclude the imposition or prevent the payment of industrial cost recovery payments as may be otherwise provided.

§ 183-14. Sewer rents.

- A. Pursuant to Article 14-F of the General Municipal Law and appropriate sections of the Village Law, the Village of Youngstown hereby provides for the collection of moneys to pay for its share to the sewerage services within the Porter West Sewer Improvement Area.
- B. In addition to such other charges as may be provided by any other resolution, local law or ordinance, every village user of the Porter West Sewer Improvement Area shall be charged sewer rents based upon the amount of such water consumption. The amount of such sewer rents shall be established by local law.⁸
- C. The sewer rents provided for in the subsection above will be determined and shall become due and payable quarterly, just as water rent is now billed.
 - (1) The village shall quarterly cause a statement to be prepared setting forth the amount of the sewer rents for each of the properties subject thereto, which shall be mailed to said person in advance of the aforesaid due dates.⁹
 - (2) Where there are two or more housing units connected to the same building sewer, the sewer charge shall be based on water meter consumption and billed to the owner, tenant or responsible party.¹⁰

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

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

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

- (3) Upon notice from the property owner, bills will be mailed to the tenant of the premises; however, in doing so, no responsibility shall be assumed for the tenant receiving such bill or paying the same.¹¹
 - (4) When it is impossible to obtain a quarterly reading of any water meter for any reason, the water consumption will be estimated based upon the water consumption for the previous quarter. This estimated water consumption may be used for determining sewer rents and will be indicated on the rendition.
 - (5) Such amounts unpaid 30 days after said due date shall incur a penalty charge of 10%.
 - (6) Sewer rents shall constitute a lien upon the real property served by the sewer system as provided by law.
- D. Real estate exemptions. The charges imposed by this section are for the benefit of the users and are not to be construed as ad valorem taxes or special assessment. Thereby, properties to which real estate exemptions apply are subject to charges under this section.
- E. Commencement of rental charges. All properties connected to the Porter West Sewer Improvement Area system will be charged sewer rentals from the date when the system is in operation. All other properties required to be connected to this system will be charged from the date they commence use of an operating system or from the date they are required to be connected, whichever is earlier.
- F. Change of ownership. Persons purchasing property shall make arrangements with the seller of same regarding settlement for the partial payment of sewer rents during any portion of the quarter. They shall be held liable for all unpaid sewer rents as well as for any sewer rents which have accrued at the time he takes possession. The village shall assume no responsibility for the failure of the purchaser to ascertain these facts.
- G. Sewer Fund. Revenue derived from sewer rents, including penalties and interest, shall be credited to a special fund to be known as the "Sewer Fund," and moneys in such fund shall be used as provided by law.
- H. Complaints of overcharge on sewer rents must be made within 30 days of rendition. All bills against which no claim has been made within that period of time shall be considered correct and must be paid at the amount rendered.

ARTICLE IV Enforcement and Reservations

§ 183-15. Protection from damage.

No unauthorized person shall enter into any municipal wastewater facilities, or maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of such municipal wastewater facilities.

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

§ 183-16. Power and authority of inspections.

- A. The administrator and/or other duly authorized employees or agents of the village, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The administrator shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries, beyond that having a direct bearing on the kind and source of discharge into the sewers, waterways or facilities for waste treatment.
- B. While performing the necessary work on private properties referred to in Subsection A above, the administrator and/or duly authorized employees of the village shall observe all safety rules applicable to the premises as established by the company, and the company shall be held harmless for injury or death to the village employees, and the village shall indemnify the company against loss or damage to its property caused by village employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by the negligence or failing of the company to maintain safe conditions as required by this chapter.
- C. The administrator and other duly authorized employees of the village, bearing proper credentials and identification, shall be permitted to enter all private properties through which the village holds a sewer easement, for the purpose of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within same easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with terms of said easement pertaining to the private property involved.

§ 183-17. Penalties for offenses.¹²

- A. Any person violating any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.
- B. Any person violating any of the provisions of this chapter shall become liable to the village for such expense, loss or damage incurred or suffered by the village by reason of such violation.
- C. If a person violating any provision of this chapter should fail to correct said violation within the time period established for such correction, the village shall correct the violation, and the cost thereof shall thereafter become a charge against the subject property.

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

§ 183-18. Appeals.

- A. In the event that an application for a building sewer permit or industrial use permit is denied or, after having been granted, is restricted or rescinded, the administrator shall file in the office of the Village Clerk a copy of this decision which shall include the reasons for refusal, restriction or cancellation. The administrator shall also mail a copy thereof to the applicant or permit holder. The applicant or permit holder shall thereupon have the right to appeal said decision to the Village Board, or such other committee or body as the Village Board may hereafter designate for that purpose, which appeal must be filed within 30 days of the date of filing the decision in the Village Clerk's office.
- B. Any industrial user or user subject to an abnormal pollutant surcharge or abnormal wastewater surcharge shall have the right to appeal to the Village Board, or to such committee or body as the Village Board may hereafter designate for that purpose, concerning the reasonableness of the procedures or charges contained within 30 days of the enactment or amendment of a provision concerning procedures and changes affecting appellant.

§ 183-19. Reservations.

- A. The village hereby reserves the right to reject any application for a permit which does not provide for full compliance with the provisions provided within this chapter. However, in the public interest, the village may, in its discretion, provide temporary service for a period not to exceed 90 days pending correction or proper connection to the available sewer system. In addition to the charge provisions contained within this chapter and any other local law or ordinance, additional charges may be imposed by the village to ensure an equitable system of cost recovery for the treatment of these wastes and for this temporary service.
- B. The village reserves the right to accept and/or reject any and all applications for service of a nature not hereinbefore covered.
- C. The village shall use reasonable care and diligence to provide a constant treatment of wastewater for all users but reserves its right at any time, without notice, to terminate services in its mains or in any service connection for the purpose of making repairs and/or extensions, or for any other lawful purpose, and it shall be expressly agreed that the village and its officers, agents and employees shall not be liable for any deficiency or failure of any kind for any cause whatsoever.
- D. The village hereby reserves the right to determine when and in what manner additions and extensions to the existing system, or the creation of a new system, shall be made and to make such arrangements and agreements as will serve the best interests of the town.
- E. The village hereby reserves the right, in its discretion, to install and maintain any auxiliary recorders, transmitters and/or other equipment which the village shall deem to be in the best interests of the village and the operation of the sewer system.
- F. The village hereby reserves the right to impose further rates, rules or regulations to ensure an equitable system of cost recovery for the treatment of various wastes.

- G. The village hereby reserves the right to enter into contracts with corporations, individuals or other municipalities for wastewater treatment, either into or out of the village, under such terms and conditions as shall properly protect the best interests of the village.

Chapter 188

SOLID WASTE

ARTICLE I **Refuse Collection**

- § 188-1. Collection schedule.
- § 188-2. Time for placement.
- § 188-3. White goods.
- § 188-4. Certificate for white goods.
- § 188-5. Penalties for offenses.

ARTICLE II **Dumping and Storage**

- § 188-6. Legislative intent.
- § 188-7. Definitions.
- § 188-8. Prohibited acts; normal refuse collection.

§ 188-9. Penalties for offenses.

ARTICLE III **Recycling**

- § 188-10. Findings.
- § 188-11. Legislative purpose.
- § 188-12. Definitions.
- § 188-13. Program established.
- § 188-14. Preparation of recyclable material for collection.
- § 188-15. Collection.
- § 188-16. Ownership of recyclables placed for collection.
- § 188-17. Enforcement; penalties for offenses.

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

GENERAL REFERENCES

Junkyards — See Ch. 133.

Abandoned refrigerators — See Ch. 176.

ARTICLE I **Refuse Collection** **[Adopted 7-16-1987 by L.L. No. 1-1987]**

§ 188-1. Collection schedule.

The Village Board shall make provisions for the collection of garbage and refuse, and a regular collection schedule shall be made public.

§ 188-2. Time for placement.

Residents shall put their garbage for collection in suitable disposable bags, cans or containers and shall place the same at the street in front of their premises not earlier than 5:00 p.m. on the day prior to the day scheduled for collection and shall remove the emptied cans and containers

as soon thereafter as the garbage has been collected, but not later than 8:00 p.m. on the day of collection.¹

§ 188-3. White goods. [Added 9-10-1992 by L.L. No. 4-1992]

The village will not accept any "white goods," including but not limited to refrigerators, freezers and air conditioners which contain chlorinated fluorocarbons (CFC's) or hydrochlorinated fluorocarbons (HCFC's), unless a certificate issued by a licensed technician accompanies such device confirming that the CFC's or HCFC's have been removed using the proper equipment and techniques applicable to the device and disposed of in accordance with applicable federal, state and local laws, rules and regulations.

§ 188-4. Certificate for white goods. [Added 9-10-1992 by L.L. No. 4-1992]

Prior to any such white goods being placed for collection, the owner of said device shall provide the Clerk of the village with the original of such above mentioned certificate so that it may properly be removed from his premises.²

§ 188-5. Penalties for offenses.³

Any person violating any of the provisions of this article shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

ARTICLE II
Dumping and Storage
[Adopted 1-11-1990 by L.L. No. 1-1990]

§ 188-6. Legislative intent.

The intent of this article is to regulate, control or prohibit the dumping, storing or placing of certain kinds of solid or liquid waste material originating from inside or outside the boundaries of the Village of Youngstown or creating a dump or dumping ground of such materials within the village.

§ 188-7. Definitions.

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

¹ Editor's Note: Former Section 3, dealing with violations of these provisions, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

² Editor's Note: The unnumbered sentence, dealing with placement of devices without said certificate, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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

DUMP — A place used for the disposal and leaving of solid or liquid waste by the public or by any person.

PERSON — An individual, firm, partnership, corporation, municipality or association of individuals.

SOLID OR LIQUID WASTE — All putrescible and nonputrescible solid wastes, including garbage, human sewage, rubbish, ashes, incinerator residue, street and building demolition and construction debris, metals, abandoned vehicles, offal, commercial and industrial wastes and hazardous and toxic wastes, as defined by the Department of Environmental Conservation (DEC) and the Environmental Protection Agency (EPA).

§ 188-8. Prohibited acts; normal refuse collection.

- A. The dumping, storing or placing of any kind of solid or liquid waste material within the Village of Youngstown which is picked up, brought or transported from inside or outside the Village of Youngstown is hereby prohibited.
- B. The creation and/or operation of sanitary landfills, dumps or dumping grounds within the Village of Youngstown for solid or liquid waste coming from inside or outside the boundaries of the Village of Youngstown is prohibited.
- C. There shall be no prohibition against the normal garbage and refuse collection and disposal currently sanctioned by the village.

§ 188-9. Penalties for offenses.⁴

Any person violating any of the provisions of this article shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine not exceeding \$250 for each offense or by imprisonment for not more than 15 days, or by both such fine and imprisonment. The Village Board shall also have the power to bring civil action to restrain any violation of this article in a court of competent jurisdiction. When a violation of this article is continuous, each 24 hours thereof shall constitute a separate and distinct offense.

ARTICLE III

Recycling

[Adopted 5-14-1992 by L.L. No. 3-1992]

§ 188-10. Findings.

The Youngstown Village Board finds that:

- A. The New York State Solid Waste Management Act of 1988 requires that municipalities adopt a local law or ordinance by September 1, 1992, for separating solid waste into recyclable, reusable or other components for which economic markets for alternate uses exist.

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

- B. Continued use of landfills for solid waste disposal poses a concern to human health and safety through increased risks of groundwater pollution and other environmental, health and safety hazards.
- C. Removal of certain materials from the solid waste stream will decrease the flow of solid waste to landfills, aid in the conservation of valuable resources and reduce the required capacity of existing and proposed resource facilities.
- D. Landfill capacity is not adequate to meet New York State's long-term solid waste disposal needs.
- E. Methods of solid waste management emphasizing source reduction, recovery, conversion and recycling of solid wastes are essential to the long-range preservation of health, safety and well-being of the public, to the economic productivity and environmental quality of the Village of Youngstown and to the conservation of resources.

§ 188-11. Legislative purpose.

In enacting this article, the Village of Youngstown supports the following statutory purposes:

- A. To increase the life expectancy of existing and potential landfill areas and decrease the need for alternative refuse disposal facilities through a comprehensive program of waste stream reduction and recycling.
- B. To identify the methods of collection, reduction and separation which will encourage the more efficient utilization of solid waste disposal facilities and contribute to more effective programs for the reuse of solid wastes.
- C. To conserve energy by using recovered materials in manufacturing.
- D. To set forth a methodology for efficient separating and collecting reusable and recyclable materials from the community's waste stream.
- E. To implement the applicable provisions of the New York State Solid Waste Management Act of 1988.

§ 188-12. Definitions.

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

ADMINISTRATOR — Person or persons designated by the Village Board to monitor and enforce this article.

HAZARDOUS WASTE — Includes but is not limited to the following products and their empty containers: insecticides, herbicides, petroleum products, caustic chemicals, paint, batteries. Hazardous wastes generally display one or more of the qualities of ignitability, corrosivity or toxicity.

NONRECYCLABLES — That portion of the waste stream not included under "recyclables," and not treated separately as: hazardous waste under § 27-0903 of the New York Environmental Conservation Law; source, special nuclear or by-product material as

defined in the United States Atomic Energy Act of 1954; or low-level radioactive waste as defined in § 29-0101 of the New York Environmental Conservation Law. Nonrecyclables include, but are not limited to:

- A. GARBAGE — Putrescible solid waste, including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking or serving of foods. Garbage originates primarily in home kitchens, stores, markets, restaurants and other places where food is stored, prepared or served.
- B. RUBBISH — Rags, sweepings; rubber (excluding tires), leather, excelsior, crockery, shells, clothing, straw, dirt, filth, ashes, wastepaper and similar waste material.
- C. LARGE HOUSEHOLD FURNISHINGS — Large and/or bulky articles actually used in the home and which equip it for living (as chairs, sofas, tables, beds, carpets, etc.).

PERSON — Natural persons, corporations, partnerships, unincorporated associations or any other organization of two or more persons.

RECYCLABLES:

- A. May or may not include, but are not limited to the following:
 - (1) ALUMINUM CANS AND ALUMINUM ITEMS — Containers fabricated primarily of aluminum, commonly used for soda, beer or other beverages and other items made solely from aluminum.
 - (2) METAL CANS — Containers fabricated primarily of metal or tin, but not including aluminum cans.
 - (3) GLASS BOTTLES — Transparent or translucent jars, bottles and containers which are primarily used for packaging and bottling of various matters, but only those glass bottles that are clear (flint) in color.
 - (4) NEWSPRINT — The common, inexpensive machine-finished paper made chiefly from wood pulp used for newspapers. This term excludes magazines and may exclude glossy inserts.
 - (5) PLASTIC CONTAINERS — Containers used primarily for laundry products, dishwashing detergents, milk, water and similar items; most commonly being "PET" (polyethylene terephthalate) and "HDPE" (high-density polyethylene), but may selectively include other common plastic resin types.
 - (6) CARDBOARD — Wood pulp-based material which is usually smooth on both sides with a corrugated center; commonly used for boxes.
 - (7) YARD ORGANICS — Grass clippings, leaves, branches up to four inches in diameter, not exceeding 10 feet in length, and other organic garden materials.⁵
 - (8) LARGE APPLIANCES — Stoves, refrigerators, dishwashers, dryers, washing machines and other large appliances.

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

(9) OTHER RECYCLABLES — May include vehicle tires, auto batteries, waste motor oil and others.

B. The Village Board and/or its administrator will be responsible to determine which materials will be defined as recyclable.

WASTE MATERIAL — Includes all recyclables and nonrecyclables which make up the waste stream eligible for curbside pickup under this article. Waste material does not include material treated separately as: hazardous waste under § 27-0903 of the New York Environmental Conservation Law; source, special nuclear or by-product material as defined in the United States Atomic Energy Act of 1954; or low-level radioactive waste as defined in § 29-0101 of the New York Environmental Conservation Law.

§ 188-13. Program established.

- A. There is hereby established a program for the separation, preparation for collection and collection of waste materials. The program shall be under the supervision of the Village of Youngstown, its administrator and its collection agent.
- B. The Youngstown Village Board and its administrator will determine recyclables and notify village residents by publishing said information in the official newspaper or newspapers at least 30 days before said declaration will be incorporated into the village program.
- C. All waste material shall be separated, prepared for collection and collected in accordance with §§ 188-14 and 188-15 this article.
- D. The Village of Youngstown, its administrator and its collection agent shall have no obligation to pick up and remove any waste material not prepared for collection in accordance with this article.
- E. The Village of Youngstown, its administrator and its collection agent shall have no obligation to pick up and remove any waste material which was not used in the residence or business placing such waste material at the curbside for pickup.

§ 188-14. Preparation of recyclable material for collection.

No person shall dispose of waste material except as follows:

- A. Recyclable material shall be prepared for collection in accordance with Subsection A(1) through (4) of this section:
 - (1) Each person shall provide separate, sealable galvanized iron cans or other suitable sanitary sealable containers or heavy-duty plastic bags for nonrecyclables unless stipulated otherwise in this article. Such cans or containers shall not exceed 32 gallons capacity and when filled shall not exceed 60 pounds in weight. All cans or containers shall be placed at the curb for collection.
 - (2) Recyclable aluminum cans and items, glass bottles and plastic items shall be separated from nonrecyclables and placed in the recyclable collection container.

- (3) Recyclable metal cans, aluminum cans, glass and plastic containers and other items so separated shall be rinsed of contents and placed in the recyclable collection container.
- (4) Newsprint shall be separated from nonrecyclables and properly secured into bundles not to exceed 30 pounds in weight and placed at curbside for collection. Effort is to be made to keep the newsprint clean and dry and contamination-free.
- (5) Other items to be included for recycling are to be prepared as set forth by the authorized collection agent or as determined by the Village Administrator.

§ 188-15. Collection.

Waste materials shall be collected in accordance with this article or consistent with the collection contract.

§ 188-16. Ownership of recyclables placed for collection.

- A. From the time any person places any recyclable materials at or near any curb, sidewalk or street for purposes of collection by the Village of Youngstown, those recyclable materials shall become the property of the Village of Youngstown or its authorized agent. No person who is not acting under authority of the Village of Youngstown or its authorized agent shall collect, pick up, remove, or cause to be collected, picked up or removed, any recyclable materials so placed for collection; each such unauthorized collection, pick up or removal shall constitute a separate violation of this article; provided, however, that where the Village of Youngstown has refused to collect certain recyclables because they have not been placed or treated in accord with the provisions of this article, the person responsible for initially placing those materials for collection may and shall remove those materials from any curb, sidewalk or street side.
- B. Nothing herein shall prevent any person from making arrangements for the private collection of recyclables, provided that recyclables to be privately collected shall not be placed curbside on or immediately preceding the day for municipal collection of such recyclables.

§ 188-17. Enforcement; penalties for offenses.

- A. The Village of Youngstown, its administrator and its authorized agent shall not be required to collect any waste material which has not been separated and secured pursuant to the provisions of this article or the applicable regulations of the Village of Youngstown.
- B. Any person violating any of the provisions of this article shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.⁶

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

Chapter 193

STREETS AND SIDEWALKS

ARTICLE I General Provisions

- § 193-1. Coasting or playing in streets.
- § 193-2. Vehicles on sidewalks.
- § 193-3. Depositing materials on streets.
- § 193-4. Moving buildings or structures.
- § 193-5. Excavations.
- § 193-6. Safety requirements for excavations.
- § 193-7. Driveways over drainage ditches.
- § 193-8. Construction of driveways on public rights-of-way.
- § 193-9. Sidewalks under construction.
- § 193-10. Depositing rubbish or filth.
- § 193-11. Construction and repair of crosswalks, sidewalks, curbs and gutters.
- § 193-12. Grading on sidewalks, curbs or gutters; issuance of bonds.

- § 193-13. Permission to cut curbing.
- § 193-14. Penalties for offenses.

ARTICLE II Poles and Wires

- § 193-15. Placement of poles or wires.
- § 193-16. Minimum height requirement.
- § 193-17. Placement of guy wires or other supports.
- § 193-18. Approved methods, supplies and appliances.
- § 193-19. Penalties for offenses.

ARTICLE III Snow and Ice Removal

- § 193-20. Time for removal.
- § 193-21. Accumulation falling on streets or sidewalks.
- § 193-22. Notification of defects.

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

GENERAL REFERENCES

Building construction — See Ch. 83.
Sewers — See Ch. 183.
Subdivision of land — See Ch. 197.

Trees — See Ch. 214.
Zoning — See Ch. 250.

ARTICLE I General Provisions [Adopted 1-31-1946 as Ch. II of the Ordinances of the Village of Youngstown]

§ 193-1. Coasting or playing in streets.

No person shall engage in coasting or sliding upon any street, sidewalk or crosswalk in the village or play ball in any manner in the streets of the village.

§ 193-2. Vehicles on sidewalks.

No person shall ride a horse or any bicycle, motorcycle or similar vehicle upon any sidewalk in the village.

§ 193-3. Depositing materials on streets.¹

No person shall place or deposit or cause to be placed or deposited any stone, brick, wood, lumber, dirt or any other article or material, except scheduled garbage pickup items, recycling bins or leaves and branches for composting or chipping, in or on any street, sidewalk or public ground in the village without a permit from the Board of Trustees.

§ 193-4. Moving buildings or structures.²

No person or corporation shall move any building or structure of any kind through or over the streets of said village without first having obtained a permit from the Code Enforcement Officer.

§ 193-5. Excavations.³

No person or corporation not lawfully entitled to do so shall make or cause to be made any excavation in any street of the village for any purpose without a permit so to do from the Village of Youngstown. Permits for water and sewer lines shall be issued by the Superintendent of Public Works.

§ 193-6. Safety requirements for excavations.⁴

Any person, firm, association or corporation making or causing to be made an excavation in any street, road, highway or sidewalk in the village shall adequately and safely guard or barricade the same at all times and maintain at all times at night proper and adequate yellow lights at or near the same sufficient to warn persons using such street, road, highway or sidewalk of the existence and location of such excavation and shall promptly complete the use of such excavation and promptly thereafter refill the same and remove all rubbish or waste material about the same so as to allow the orderly flow of traffic. In such refilling, the lower half of the trench shall be filled with tamped earth and the upper half thereof shall be filled with No. 2 stone, and such refilling shall be done in such manner as to promptly restore such street, road, highway or sidewalk to its former height. After the ground has settled, the stone shall be replaced with the same material that was excavated, i.e., blacktop, concrete, etc.

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).

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

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

§ 193-7. Driveways over drainage ditches. [Amended 6-10-1976 by L.L. No. 4-1976]

No driveway used by or intended for the use of vehicular or pedestrian traffic shall be constructed or placed across, through or over any drainage ditch lying on public property, unless such driveway shall be equipped with corrugated drainage pipe, or drainage pipe of an equivalent type, sufficient to allow the uninterrupted flow of water through said ditch, which pipe shall be not less than 12 inches in diameter and shall not be installed until approved for such purpose by the Department of Public Works.

§ 193-8. Construction of driveways on public rights-of-way. [Added 6-10-1976 by L.L. No. 4-1976]**A. Culvert pipe specifications in accordance with Standard A4.⁵**

- (1) All culvert pipe shall be twelve-inch corrugated metal pipe or an alternative equal, as approved by the village.
- (2) The minimum culvert length shall be 20 feet.
- (3) Minimum additions to culvert pipe shall be four feet, and all additions shall be joined by collars made by the pipe manufacturer.
- (4) All pipe shall be approved by the Department of Public Works and/or Code Enforcement Officer.
- (5) A driveway 12 feet in width shall have a minimum culvert length of 20 feet (twelve-foot width driveway, plus four-foot covered, graded and seeded ends).
- (6) Driveway widths over 12 feet shall be constructed with surface of driveway, plus five feet of covered, graded and seeded ends. Additional pipe shall still be installed with minimums of four feet.

B. Culvert pipe installation.

- (1) During construction it is suggested that used pipe be installed. After all heavy equipment has stopped using driveway, a new pipe shall be installed without bends or cuts and having proper collars on all connections. This pipe must be inspected before it is covered.
- (2) All culvert pipe shall be laid on a bed of fine stone, a minimum of four inches in depth, to assure a level bed the full length of culvert pipe.
- (3) The full width of the driveway from property line to pavement shall be excavated to a minimum depth of eight inches. Crushed stone and/or asphalt will then be installed.
- (4) Stone and asphalt will be installed so as to blend into the existing pavement.
- (5) The driveway will be installed to drain away from existing pavement to existing ditches or curbline.

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

- C. Safety precautions. Any person repairing or building a driveway in the village shall properly install and maintain barricades and safety lights at either end thereof, sufficient to warn travelers.
- D. Maintenance responsibility. The property owner will be responsible for maintenance of any driveway constructed on a public right-of-way.
- E. Permits.
 - (1) The property owner will be responsible for obtaining necessary permits for construction and/or repair of driveways on public rights-of-way.
 - (2) Permits and approval will also be necessary from the agencies involved concerning New York State or Niagara County highways.
- F. Inspections. No inspections will be made Saturdays, Sundays or holidays. Inspections will be called for before 3:00 p.m. at least one day in advance and will be made in the presence of the property owner or contractor to expedite any corrections that may be necessary.⁶

§ 193-9. Sidewalks under construction.

Any person repairing or building a sidewalk in the village shall properly barricade, install and maintain red lights at night, at either end thereof, sufficient to warn travelers.

§ 193-10. Depositing rubbish or filth.

No person shall throw or deposit any rubbish or filth in the streets of the village, nor throw or deposit any rubbish or filth upon vacant property in the village.⁷

§ 193-11. Construction and repair of crosswalks, sidewalks, curbs and gutters. [Added 4-20-1967; amended 6-14-1973]

The Board of Trustees may construct and repair crosswalks upon the streets within the village. The construction or repair of sidewalks, curbs and gutters upon any street may be done wholly at the expense of the village, or of the owner or occupants of the adjoining land, or partly at the expense of each, and shall prescribe the manner of doing such work and the kind of materials to be used therein, as hereinafter provided:

- A. Owner obligation.⁸
 - (1) If a sidewalk, curb or gutter is required to be constructed or repaired wholly at the expense of the owner or occupant of the adjoining lands, a notice specifying the place,

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

⁷ Editor's Note: Former Section 9 has been moved to Chapter 112, Firearms. Former Sections 10, 11, 12 and 13, dealing with a village speed limit, parking, the designation of main arterials, and the designation of "slow" intersections, which immediately followed this section, were repealed 7-11-1974 by L.L. No. 1-1974.

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

manner, kind of materials and the time for completion thereof, not less than 10 days from the date thereof, shall be given.

- (2) All building permits issued after the effective date of this article shall have sidewalks constructed, according to village specifications, wholly at the expense of the builder or owner of the adjacent property, and no certificate of occupancy shall be issued until such construction is completed. Any request for variance from this provision must be obtained from the Village Board of Appeals. Any request for temporary relief from this provision must be obtained from the Village Board of Trustees.

B. Village and owner/occupant obligation.

- (1) In developed areas within the village not presently serviced by sidewalks, the Village Board of Trustees may, and shall have the right, in their sole discretion and judgment, to install such sidewalks or upon petition presented by the property owners within the block whose property fronts the area or street in question to the Board of Trustees, such Board upon proper motion, may cause such sidewalks to be installed. In either of the aforementioned two events the village shall construct such sidewalks, and the cost shall be borne equally between all property owners and the village.
- (2) Repair of damaged or faulty sidewalks shall be the homeowner's responsibility even though the present homeowner may not be directly responsible for the condition of the sidewalks adjacent to his property. Upon inspection by the Superintendent of Public Works, the homeowner shall be notified in writing of the faulty condition of the sidewalk and shall be allowed 20 days from receipt of such notice to repair the sidewalk himself under the direction of the Superintendent of Public Works. Upon expiration of the 20 days, or if the homeowner so desires, the village will repair the faulty sidewalk, and the cost of such repair shall be borne by the homeowner. **[Amended 6-23-1977 by L.L. No. 5-1977]**

C. Repairs and construction; village obligation. Damage to sidewalks caused by the village shall be repaired wholly at the expense of the village.⁹

D. Enforcement.

- (1) The Superintendent of Public Works is designated as the officer of the village to investigate and determine the cause for damage or deterioration of all sidewalks in the village. Any owner aggrieved by his determination of the cause of any damage to the sidewalks shall have the right to appear before the Board of Trustees and present his protest at their next regularly scheduled meeting.
- (2) Should any property owner responsible to make any repairs to sidewalks or to construct same, fail or refuse to do so in accordance with the foregoing provisions of this article, the village may cause such repairs or construction to be made and assess the cost thereof against the property of such owners or occupants.

⁹ Editor's Note: Former Subsection 3b, dealing with damage due to natural wear and tear, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 193-12. Grading on sidewalks, curbs or gutters; issuance of bonds. [Added 6-14-1973]

- A. All grading done on sidewalks, curbs or gutters laid or repaired by the owners of adjoining land shall be in accordance with the specifications of the village and approval of the Superintendent of Public Works under the direction and supervision of the Board of Trustees.
- B. The Board of Trustees may issue bonds, in accordance with the law, to defray the expense of any repairs or construction herein.

§ 193-13. Permission to cut curbing. [Added 7-20-1978 by L.L. No. 5-1978]

- A. No person, firm or corporation shall cut the curb or street pavement in the Village of Youngstown unless a permit for the cut has been approved by the Department of Public Works.
- B. Where the Department of Public Works has authorized the installation of an opening in the curb, the cut is to be installed in accordance with the Village of Youngstown standard specifications on file in the Village Clerk's office, or the entire affected sections of curb may be removed and a new curb installed. The newly formed curb at the driveway edge shall be tapered from the top of the driveway apron (1 $\frac{7}{8}$ inches above the pavement at the edge of the curb) to the top of the curb in a distance of two feet. Where drainage is carried along the curb, the driveway apron shall be constructed with a short upgrade to prevent runoff from spilling onto private property. If it has been decided to remove a complete section of curb, the removal will be from an existing joint to a minimum distance of five feet from the next existing joint. If fewer than five feet exist, curb will be removed from joint to joint. When placing curb, the joints will be reestablished.¹⁰
- C. This specification shall apply to curbs which have been dedicated to the village and to curbs which will be dedicated to the village.
- D. If an existing curb cut is to be abandoned, it shall be reconstructed as described previously and shall have the top constructed to meet the top of curb on either end. The driveway material will be removed from the sidewalk to the curb and replaced with fill. Such fill will be compacted and leveled. Topsoil will be installed and graded and seeded.
- E. The permit applicant shall in all cases be responsible for maintaining or replacing all lawns, shrubs, trees, flower beds, etc., in the same condition as they were at the start of the construction.
- F. Protection of trees. No person shall excavate any ditches, tunnels, trenches or lay any drive within a radius of 10 feet from any public tree without first obtaining written permission from the Superintendent of Public Works. If a tree is damaged or has to be removed, the Village Arborists will direct the applicant to replace the tree and also state the varieties and sizes that will be acceptable.¹¹

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

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

§ 193-14. Penalties for offenses.¹²

Any person violating any of the provisions of this article shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

ARTICLE II**Poles and Wires**

**[Adopted 1-31-1946 as Ch. III of the
Ordinances of the Village of Youngstown]**

§ 193-15. Placement of poles or wires.

No telegraph, telephone or electric light pole shall be hereafter placed or erected within any street of the village, except at such place or places and in such manner as may be directed by the Board of Trustees of the village.

§ 193-16. Minimum height requirement.

No telephone, telegraph or electric light wire, either main cable or individual service wire, shall be strung or placed along or across any street of the village which shall be less than 20 feet above the surface of the ground.

§ 193-17. Placement of guy wires or other supports.

No telegraph, telephone or electric light company shall at any time place any guy wire or other support for its poles or service wires or cable at any place or point so as to obstruct the free use of the public streets or sidewalks of the village for travel thereon; nor attach any guy wire or other support to any shade tree in the streets of the village without the consent of the Board of Trustees and the owner of such shade tree.

§ 193-18. Approved methods, supplies and appliances.

Every electric light company transacting business as such within the limits of the village shall at all times use all proper and approved methods, supplies and appliances in order to avoid fires or injuries to persons.

§ 193-19. Penalties for offenses.¹³

Any person violating any of the provisions of this article shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

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

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

ARTICLE III
Snow and Ice Removal
[Adopted 1-31-1946 as Ch. IV of the
Ordinances of the Village of Youngstown]

§ 193-20. Time for removal.

No person shall suffer to remain upon any sidewalk adjoining the premises which he may own or occupy any snow or ice or dirt or other encumbrance longer or later than 11:00 a.m. following the time of such deposit.

§ 193-21. Accumulation falling on streets or sidewalks.

No person who owns or occupies any building or structure adjacent to any street in the village shall allow snow, ice or other material to accumulate on such buildings or structures in such a manner that the same may be liable to fall on any street or sidewalk.

§ 193-22. Notification of defects.¹⁴

No action shall be maintained against the village for damages to persons or property resulting from the existence of snow or ice, or any other defective, unsafe, dangerous or obstructed condition, upon any sidewalk, crosswalk or street unless written notice of the condition relating to the particular place was actually given to the Board of Trustees, and there was a failure or neglect to cause the condition to be remedied within five days after the receipt of such notice.

¹⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 194

SKATEBOARDS, SCOOTERS AND IN-LINE SKATES

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| § 194-1. Intent. | § 194-7. Safety regulations. |
| § 194-2. Definitions. | § 194-8. Responsibility of parent or guardian. |
| § 194-3. Emergence from alleys, driveways and buildings. | § 194-9. Penalties for offenses; impoundment. |
| § 194-4. Standing, storage or parking. | § 194-10. Enforcement. |
| § 194-5. Operation on sidewalks. | § 194-11. Severability. |
| § 194-6. Reflective clothing and other equipment. | § 194-12. When effective. |

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 10-11-2001 by L.L. No. 2-2001. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 193.

Vehicles and traffic — See Ch. 232.

§ 194-1. Intent.

The Board of Trustees hereby finds that it is in the best interests of the public to establish rules for the operation of skateboards, scooters and in-line skates within the Village of Youngstown. The rapid growth of the use of these items has led to a growing concern for the safety of their users as well as that of pedestrians, motorists and the general public. The adoption of these restrictions will also help insure unobstructed access to public sidewalks and streets and to prevent public inconvenience, annoyance and risk.

§ 194-2. Definitions.

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

HELMETS — No person under the age of 14 years shall operate a skateboard, roller skates, in-line skates, foot-powered scooter or goped or ride as a passenger on a foot-powered scooter unless such operator or passenger is wearing a helmet meeting the standards of the American National Standards Institute (ANSI Z 90.4, bicycle helmet standards) or of the Snell Memorial Foundation 1984 Standard for Protective Safety Commission as last revised by said organizations. For the purposes of this chapter, “wearing a helmet” means having a helmet of good fit, fastened securely upon the head with the helmet straps.

REFLECTIVE CLOTHING — Any shirt, vest, jacket or any other readily visible piece of apparel equipped with a reflective surface such as phosphorescent tape or an equivalent reflective surface.

SCOOTER — A vehicle with a long footboard between two small end wheels that is controlled by an upright steering handle attached to the front wheel.

SKATEBOARD — A single platform mounted on wheels having no mechanism with which to steer or control the direction or movement while being operated.

SKATES and IN-LINE SKATES — Boots or shoes with one or more rows of wheels attached to the soles.

USE ON ROADS AND HIGHWAYS — Every person operating a skateboard, skates, in-line skates or scooter upon a highway, road or street dedicated or otherwise shall operate the same in strict observance of all laws applicable to a vehicle and the use thereof and in compliance with all rules of the road applicable to the operation of a vehicle and in compliance with all traffic laws except as to those provisions of law which by their nature can have no application.

§ 194-3. Emergence from alleys, driveways and buildings.

The operator of a skateboard, skates, in-lines skates or scooter emerging from an alley, driveway or building shall, upon approaching a sidewalk, yield the right-of-way to all pedestrians approaching on said sidewalk.

§ 194-4. Standing, storage or parking.

No person shall stand, park or otherwise place in a position of temporary storage a skateboard, scooter or goped upon a highway, street, sidewalk or against any building abutting a sidewalk in such a manner that shall obstruct or render injury to a pedestrian or interfere with vehicular traffic.

§ 194-5. Operation on sidewalks.

- A. No person shall ride a skateboard or use skates, in-line skates, scooters or gopeds upon a sidewalk within the Waterfront Commercial Business District or upon Water Street or any Village Municipal Lot or in Falkner Park or the gazebo area.
- B. Whenever any person shall operate a skateboard or use skates, in-line skates or a scooter upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

§ 194-6. Reflective clothing and other equipment.

No person shall operate a skateboard or use skates or in-line skates or a scooter at night unless he or she is wearing reflective clothing which shall be visible from a distance of not less than 50 feet and a maximum of 300 feet from the front, side and rear of the skateboard, skates, in-

line skates or scooter when directly in front of the lawful beams of a headlight on a motor vehicle.

§ 194-7. Safety regulations.

- A. No operator of any of the above, while operating, shall wear earphones or headgear so as to prevent or obstruct the hearing of external noises.
- B. Operators of skates, in-line skates or scooters shall be subject to traffic safety rules, regulations and laws.

§ 194-8. Responsibility of parent or guardian.

The parent of the minor child or the guardian of any minor child shall not authorize or knowingly permit any such child to violate any of the provisions of this chapter.

§ 194-9. Penalties for offenses; impoundment.

- A. Any person who violates the provisions of this chapter shall pay a civil fine not to exceed \$50. A police officer or other enforcement officer shall only issue a summons for a violation of this chapter by a person less than 16 years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is 18 years of age or more. Such summons shall only be issued to such parent or guardian and shall not be issued to the person less than 16 years of age.
- B. Any skateboard, skates, scooter or goped operated in violation of this chapter may be immediately impounded. The Village shall store such impounded items in a suitable secure location. No impounded item may be released until storage costs and fees have been paid in full. The violator shall be responsible for the payment of such costs and fees. The per-diem storage costs and fees shall be set by resolution of the Board of Trustees. The impound fee shall be set by resolution of the Board of Trustees.
- C. The failure of any person to comply with the provisions of this chapter shall not constitute contributory negligence or assumption of risk and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person nor in any way diminish or reduce the damages recoverable in any such action.

§ 194-10. Enforcement.

Any on-duty police officer working within Niagara County shall have the authority to enforce the provisions of this chapter.

§ 194-11. Severability.

The invalidity of any sentence, part or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

§ 194-12. When effective.

This chapter shall become effective immediately as provided in the Municipal Home Rule Law upon being filed in the office of the Secretary of State.

Chapter 197

SUBDIVISION OF LAND

ARTICLE I General Provisions

- § 197-1. Short title and authority.
- § 197-2. Definitions.
- § 197-3. Application procedures.
- § 197-4. Requirements for preliminary plats.
- § 197-5. Submission of preliminary plats.
- § 197-6. Approval of preliminary plats.
- § 197-7. Final approval of plats.
- § 197-8. Submission of plats for final approval.
- § 197-9. Procedure for final approval of plats.
- § 197-10. Filing of plats and expiration of approvals.
- § 197-11. Modifications and deviations.
- § 197-12. Improvements and maintenance bond.
- § 197-13. Improvements.

ARTICLE II Design Requirements

- § 197-14. General requirements.

- § 197-15. Street design.
- § 197-16. Lot design.
- § 197-17. Storm drainage design.
- § 197-18. Park and recreational sites.
- § 197-19. Monuments, lot corner markers and bench marks.
- § 197-20. Street shade trees.
- § 197-21. Utilities.
- § 197-22. Environmental impact statement.
- § 197-23. Financial plan.
- § 197-24. Marketing study.

ARTICLE III Cluster Housing Regulations

- § 197-25. Applicability.
- § 197-26. Definitions.
- § 197-27. Housing types.
- § 197-28. Phased development.
- § 197-29. General design requirements.
- § 197-30. Open space design.
- § 197-31. Landscape design.
- § 197-32. Roadways.
- § 197-33. Utilities.
- § 197-34. Dwelling unit design.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 10-27-1977 by L.L. No. 8-1977. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 83.
Fire prevention — See Ch. 114.
Flood damage prevention — See Ch. 119.
Historic preservation — See Ch. 128.
Sewers — See Ch. 183.

Streets and sidewalks — See Ch. 193.
Swimming pools — See Ch. 202.
Trees — See Ch. 214.
Water — See Ch. 241.
Zoning — See Ch. 250.

ARTICLE I
General Provisions

§ 197-1. Short title and authority.

- A. This chapter may be cited as "Youngstown Subdivision Regulations."
- B. This chapter is adopted under the authority of Article 7 of the Village Law of the State of New York.
- C. The Village Board of Trustees, by adoption of this chapter, delegates to the Village Planning Board the power to approve subdivision plats as authorized by § 7-728 of the Village Law, subject to action by the Village Board as provided in Subdivisions 6D and 9 of § 7-728.¹

§ 197-2. Definitions.

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

BOARD or PLANNING BOARD — The Village of Youngstown Planning Board.²

MASTER PLAN — A comprehensive plan approved by the Village Board pursuant to Article 7 of the Village Law.

OFFICIAL MAP — The map established by the Village Board pursuant to § 7-724 of the Village Law, showing the streets, highways and parks theretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the Village Board.

PLAT — A final map, drawing or chart showing proposed subdivision which contains all information required by law.

PRELIMINARY PLAT — A preliminary drawing showing the layout and other salient features of a proposed subdivision.

SUBDIVISION — The subdivision of any parcel of land into two or more lots, plots, blocks or sites, with or without streets, and includes a resubdivision of land previously divided or platted into lots, sites or parcels, but excludes a sale or exchange of parcels of land between adjacent property owners which does not create additional lots.

- A. MAJOR SUBDIVISION — A subdivision of five or more lots, a subdivision requiring any new street or extension of municipal facilities, or any other subdivision not classified as a minor subdivision.
- B. MINOR SUBDIVISION — A subdivision containing not more than four lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities, not adversely affecting the development of the remainder of the

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

² Editor's Note: The former definition of "conditional approval," which immediately followed this definition, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

parcel or adjoining property, and not in conflict with any provision or portion of the Master Plan, the Official Map or Chapter 250, Zoning, of the Code of the Village of Youngstown.

VILLAGE — The Village of Youngstown.³

§ 197-3. Application procedures.

A. Requirement for application.

- (1) Plats which have been filed in the office of the Clerk of Niagara County, but which are undeveloped or partially undeveloped, must be resubmitted for final approval in accordance with the requirements of this chapter.
- (2) Whenever a new subdivision is proposed, an application must be submitted to the Planning Board. An application for approval of a major subdivision is made by submitting a preliminary plat at a meeting of the Planning Board with a copy submitted concurrently to the Village Board. Upon approval of that preliminary plat, the plat is submitted for final approval in accordance with these regulations. An application for a minor subdivision is submitted in the form of a survey showing the location and description of the subject property, the name of the owner and the manner in which the property is to be divided.⁴

B. Consideration by Planning Board.

- (1) The Planning Board shall review the survey of a minor subdivision within 30 days of receipt. Upon completion of that review (and payment of the inspection fee), the property may be subdivided, subject to any other applicable laws and regulations. However, the Board may hold a public hearing upon notice and, when it deems it necessary for protection of the public health, safety and welfare, may require that a minor subdivision comply with all or some of the requirements for a major subdivision. Within 10 days of completion of their review, the Board shall advise the applicant in writing of the action taken.
- (2) The Planning Board shall carefully study the practicability of a preliminary plat for a major subdivision, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention will be given to the arrangement, location and width of streets, their relation to the topography of the land, sewage disposal, lot sizes and arrangement, the future development of adjoining land, the requirements of the Master Plan, the Official Map and Chapter 250, Zoning, of the Code of the Village of Youngstown, the environmental impact, the financial feasibility and the need for housing within the village and vicinity.

C. Attendance at meetings. An applicant for approval of a major subdivision should be prepared to attend the next regular meeting of the Planning Board, and any subsequent

³ Editor's Note: The former definition of "zoning ordinance," which immediately followed this definition, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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

meetings deemed necessary by the Chairman of the Planning Board, to discuss the preliminary plat.⁵

- D. Prior consultation. Prior to the filing of an application for approval of a major subdivision, a potential applicant may submit general site information, a location map and a sketch plan with a request for informal consideration and advice. This step does not require formal application, a fee or the filing of a plat. The purpose of this procedure is to afford the subdivider an opportunity to consult early and informally with the Planning Board, Superintendent of Public Works, Village Engineer and Village Attorney before preparation of a proposed preliminary plat in order to save time and money and to make the most of opportunities for desirable development.

§ 197-4. Requirements for preliminary plats.

- A. Each preliminary plat must be prepared and submitted in accordance with § 197-5 of this chapter.
- B. Each preliminary plat must be prepared in accordance with the design standards and other requirements set forth in §§ 197-14 through 197-21 of these subdivision regulations.
- C. Each preliminary plat submitted for approval must be accompanied by:
- (1) A statement of environmental impact which meets the requirements of § 197-22 of these regulations.
 - (2) A financial plan which meets the requirements of § 197-23 of these regulations.
 - (3) A marketing study which meets the requirements of § 197-24 of these regulations.

§ 197-5. Submission of preliminary plats.

- A. Each preliminary plat submitted for approval must be clearly marked "preliminary plat." At least six copies of the preliminary plat must be submitted.
- B. Each preliminary plat submitted for approval must be drawn at a scale of 100 feet to the inch or larger and must set forth at least the following information as proposed for the subdivision:
- (1) Streets: rights-of-way and roadway widths, approximate grades and gradients.
 - (2) Other rights-of-way or easements: location, width and purpose.
 - (3) Location of utilities, if not shown on other exhibits.
 - (4) Sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses.
 - (5) Sites, if any, for multifamily dwellings, shopping centers, churches, industry or other nonpublic uses, exclusive of single-family dwellings.

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

- (6) Subdivision name or title to be eventually recorded; also scale, North point, date and name and address of subdivider and designer.
- C. Each preliminary plat submitted for approval must be accompanied by the following information and material with respect to existing conditions on the tract:
- (1) Key plan showing location and boundaries of tract.
 - (2) Property lines; location, width and purpose of any easements; existing platting, if a resubdividing project.
 - (3) Streets on and adjacent to the tract (including all streets shown on the Official Map): names, right-of-way widths and locations; walks, curbs, gutters, bridges, culverts, etc.
 - (4) All land which the applicant proposes to subdivide and all lands owned by the applicant adjacent to the area proposed for subdivision, together with names and addresses of all abutting property owners.
 - (5) Utilities on and adjacent to the tracts: location of sanitary sewers, storm sewers, culverts, ditches or other facilities for drainage; location of water mains; if water mains and sewers are not on or adjacent to the tract, the direction and approximate distance to the nearest ones; if drainage is to be a natural watercourse or drainage ditch, the elevation of water in such watercourse or ditch at recognized flood stage shall be shown.
 - (6) Ground elevations on the tract, based on a datum plan approved by the Village Engineer; for land that slopes less than 2%, show spot elevations at all breaks in grade, along all drainage channels or swales and at selected points not more than 100 feet apart in all directions; for land that slopes 2% or more, either show contours with an interval of not more than five feet if ground slope is regular and such information is sufficient for planning purposes or show contours with an interval of not more than two feet if land slope is irregular or if more detailed data is necessary for preparing plans and construction drawings.
 - (7) Subsurface conditions on the tract, if required by the Board: location and results of tests made to ascertain subsurface soil, rock and groundwater conditions; depth to groundwater less than five feet below surface.
 - (8) Other conditions on the tract: watercourses, marshes, rock outcrop, wooded areas, isolated preservable trees one foot or more in diameter, houses, other buildings and other significant features.
 - (9) Other conditions on adjacent land: approximate direction and gradient of ground slope, including any embankments or retaining walls; power lines and towers; owners of adjacent unplatted land; subdivision plat name, recording date and number of adjacent platted land.
 - (10) Land title and survey: deed description according to official records; names and addresses of record owners; map of tract boundary (including all pertinent bearings and distances) made and certified by a registered land surveyor, tied into established village reference points and, where possible, related to the state system of plan coordinates established by Chapter 545 of the Laws of 1938; notations stating

acreage, scale, North point, datum, bench marks, as established by the village drainage study.

- D. Each preliminary plat submitted for approval must be accompanied by the following supplementary materials:
- (1) Profiles showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision.
 - (2) Typical cross sections of the proposed grading, roadway and sidewalk.
 - (3) Preliminary designs of any bridges or culverts which may be required.
 - (4) Preliminary plan of proposed water mains to connect with existing public water supply or alternative means of water supply approved by the County Health Department.
 - (5) Preliminary plan of proposed sanitary sewers (with grades and sizes indicated) connecting with existing sanitary sewer systems or alternative means of treatment and disposal approved by the County Health Department.
 - (6) Preliminary plan for collecting and discharging storm drainage. All elevations shall be based on a datum plan established by the Comprehensive Village Drainage Study.
 - (7) A draft of protective covenants to regulate land use in the subdivision and to otherwise protect the proposed development, if the subdivider proposes to record such covenants.

§ 197-6. Approval of preliminary plats.⁶

- A. After submission of a preliminary plat, a public hearing must be held on the preliminary plat within 30 days of submission. The public hearing must be advertised at least once in a newspaper of general circulation in the village at least five days before the hearing, and personal notice must be sent to adjacent land owners who may be affected by the proposed development. The Board may also direct further advertisement to assure full public consideration of the preliminary plat.
- B. Within 62 days after submission, unless this time is extended by mutual consent of the Board and the person submitting the preliminary plat, the Board shall either approve the preliminary plat, with or without modification, or disapprove the preliminary plat.
- C. If the Board approves the preliminary plat with modifications or disapproves the preliminary plat, the grounds for the modifications or disapproval must be stated in the records of the Board and forwarded in writing to the applicant.
- D. Immediately upon approval of a preliminary plat, with or without modification, the approved preliminary plat is forwarded to the Village Board of Trustees for their consideration. The Board of Trustees may accept, with or without further modification, or rescind the approval. If the Board of Trustees takes no action on the preliminary plat, the

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

approval becomes effective 90 days after the initial submission of the proposed preliminary plat to the Planning Board, unless this time is extended by agreement.

- E. If the Planning Board fails to act on a preliminary plat within 62 days after submission or any extended time period, the Village Board of Trustees may act to approve or disapprove the preliminary plat.
- F. If the Planning Board or Village Board of Trustees fail to act on a preliminary plat within 90 days after submission, or within any extended time period agreed upon, the plat is approved. Upon demand of the person submitting the preliminary plat, the Village Clerk shall issue a certificate as to the date of submission and the failure to take action. That certificate is sufficient as evidence of approval.
- G. If an approved preliminary plat is not submitted for final approval within six months of approval, the Board may withdraw approval of the preliminary plat and require its resubmission.

§ 197-7. Final approval of plats.

- A. Each plat submitted for final approval must conform substantially to the preliminary plat as approved, with or without modification.⁷
- B. Each plat submitted for final approval must be prepared in accordance with and must comply with the design standards and other requirements of §§ 197-15 through 197-22 of these subdivision regulations.

§ 197-8. Submission of plats for final approval.

- A. An application for final approval of a plat must be submitted in writing at a meeting of the Board, with six copies of the plat with a copy submitted concurrently to the Village Board of Trustees. The plat must contain evidence of approval by each of the following:
 - (1) The Niagara County Health Department.
 - (2) The Village Engineer.
 - (3) The Superintendent of Public Works.
 - (4) The Village Attorney.
- B. In addition, it must be accompanied by evidence of review by the Niagara County Planning Board.
- C. Each plat must be drawn in ink on linen, drafting film, cloth or other stable, reproducible, approved drafting medium, on sheets 20 inches by 20 inches, suitable for filing with the County Clerk. The scale must be 100 feet to the inch or larger. Where necessary, the plat may be on several sheets accompanied by an index showing the entire subdivision.
- D. Each plat submitted for final approval must show the following:

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

- (1) Primary control points approved by the Village Engineer, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat are referred.
 - (2) Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way and property lines of residential lots and other sites with accurate dimensions, bearings or deflection angles and radii, arcs and central angles of all curves.
 - (3) Name and right-of-way width of each street or other right-of-way.
 - (4) Purposes of any easements or other rights-of-way.
 - (5) Number to identify each lot (Tax Map number preferred).
 - (6) Purpose for which sites, other than residential lots, are dedicated or reserved.
 - (7) Location and description of monuments (shown thus: "X"), lot corner markers (shown thus: "O") and bench markers (shown thus: "BM").
 - (8) Names of record owners of adjoining unplatted land.
 - (9) Reference to recorded subdivision plats of adjoining land by record name, date and number.
 - (10) Certification by registered land surveyor (with name, address, New York license number and seal) certifying to accuracy of survey and plat.
 - (11) Title, scale, North point and date.
 - (12) Cross sections and profiles of streets, drains and sewers showing grades approved by the Village Engineer. The profiles must be drawn to standard scales and elevations and based on a datum plan supplied by the village drainage study.
- E. Each plat submitted for final approval must be accompanied by the following:
- (1) Offers to dedicate streets, rights-of-way and any sites for public use; agreements covering the improvement and maintenance of unceded public spaces, and the conditions and time limits, if any, applying to site reservations; and protective covenants in a form acceptable for recording, if such covenants are to be recorded, including covenants governing the maintenance of unceded public spaces or reservations.
 - (2) A statement by the Village Attorney approving the legal sufficiency of the offers of dedication, covenants governing the maintenance of unceded public space or sewer districts and any bond offered in lieu of the completion of required subdivision improvements.
- F. Other certificates, affidavits, endorsements or other agreements as may be required by the Board in the enforcement of these regulations must also be submitted with the plat. In special cases where there are potential hazards of flooding, or other hazards in the opinion of the Village Engineer, the Board may require the services of an independent engineer or expert to recommend conditions under which the plat may be approved. The expense of such engineer or expert shall be borne by the applicant.

§ 197-9. Procedure for final approval of plats.

- A. After submission of a plat for final approval, the Board must hold a public hearing on the plat within 30 days of the date of submission. The public hearing must be advertised at least once in a newspaper of general circulation in the village at least five days prior to the hearing, and personal notice must be sent to adjacent property owners who may be affected by the proposed development. The Board may also direct further advertisement to assure full public consideration of the plat.⁸
- B. The Board shall act on each plat submitted within 62 days after submission of the plat, unless this time is extended by mutual consent of the applicant and the Board. The Board shall either disapprove the plat, conditionally approve the plat, conditionally approve the plat with modifications, or grant final approval to the plat and authorize the signing of the plat.⁹
- C. If the Board disapproves a plat submitted for final approval, the grounds for disapproval shall be stated upon the records of the Planning Board and forwarded in writing to the applicant.
- D. If the Board conditionally approves a plat, it shall empower a duly authorized officer of the village to give final approval by signing the plat upon completion of any requirements stated in the resolution of conditional approval. Within five days of conditional approval, the Village Clerk shall:
 - (1) Certify the plat as conditionally approved subject to any requirements stated in the resolution of conditional approval.
 - (2) File a copy of the plat in the village office.
 - (3) Mail a certified copy of the plat to the person seeking approval, together with a certified statement of the requirements which must be completed before the plat may be signed as finally approved.
- E. If the Planning Board fails to act on a plat within 90 days after submission for final approval or any extended time period, the Village Board of Trustees may act to approve or disapprove the plat and will authorize a duly authorized village officer to sign the plat if approved.¹⁰
- F. If the Planning Board or Village Board of Trustees fail to act on a plat within 90 days after submission, or within any extended time period agreed upon, the plat is approved. Upon demand of the person submitting the plat, the Village Clerk shall issue a certificate as to the date of submission and the failure to take action, and that certificate is sufficient as evidence of approval.¹¹

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

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

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

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

- G. Immediately upon final approval of a plat, or upon conditional approval of a plat, with or without modification, the plat is forwarded to the Village Board of Trustees for their consideration. The Board of Trustees may accept, with or without further modification, or rescind the approval or conditional approval. If the Board of Trustees takes no action on the plat, the approval or conditional approval becomes effective 90 days after initial submission of the plat to the Planning Board for final approval, unless extended by agreement with the applicant.¹²

§ 197-10. Filing of plats and expiration of approvals.

- A. Before granting conditional or final approval to a plat, the Board may permit the plat to be divided into two or more sections. Each such section must encompass at least 10% of the total number of lots shown on the plat. If a plat has been divided into sections, the Board may, in its resolution of conditional or final approval, require compliance with conditions as are necessary to assure the orderly development of the plat.
- B. Conditional or final approval of a plat, or a certificate of failure to act as provided for in Subsection F of § 197-9 of these regulations, expires 62 days after the approval or issuance of certificate, unless the plat or a section thereof has been filed and recorded in the office of the County Clerk. If only a section of the plat is filed with the County Clerk, the entire approved plat must be filed with the Village Clerk within 30 days of filing of the section with the County Clerk, or the approval or certificate of failure to act expires. The approval or certificate expires for any section not filed with the County Clerk before expiration of the exemption period to which the plat is entitled under § 7-728 of the Village Law of the State of New York.¹³
- C. Conditional approval of a plat expires 180 days after the date of the resolution granting conditional approval, unless the requirements stated in that resolution have been certified as completed. However, if the Board finds an extension is warranted by the circumstances, the time for completion of those requirements may be extended by the Board for not more than two additional periods of 90 days each.

§ 197-11. Modifications and deviations.

- A. No changes, erasures, modifications or revisions shall be made to any plat after final approval has been given by the Board and endorsed on the plat. In the event that a plat, when recorded, contains any such changes, the approval is withdrawn, and the Board will institute proceedings to have the plat stricken from the records of the County Clerk.
- B. When strict adherence to these regulations will cause practical difficulties or unnecessary hardships, the Board may authorize deviations from any requirement of these regulations in order that the spirit of the regulations be observed, the public safety and welfare secured, and substantial justice done. Such deviations must be specifically brought to the attention

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

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

of the Village Board upon submission of the approved plat and brought to the attention of the public at public hearings.

§ 197-12. Improvements and maintenance bond.

- A. The following improvements must be constructed without reimbursement by the village:
- (1) Streets, curbing and streetlighting facilities.
 - (2) Street signs.
 - (3) Street shade trees.
 - (4) Monuments.
 - (5) Stormwater runoff system and surface drainage.
 - (6) Sanitary sewerage collection system.
 - (7) Water supply system.
 - (8) Park and recreation facilities.
 - (9) Underground electrical, telephone, cable television and utility lines.
 - (10) Sidewalks.
- B. Streets, sanitary sewers, water lines and other improvements specified in the action approving said plat must be completely constructed and installed with the approval of the Public Works Department, the Village Engineer and the Board before acceptance of these improvements may be requested from the village.
- C. A maintenance bond in an amount estimated by the Village Engineer and approved by the Board must be filed by the developer with the village. The bond shall be retained for a period of one year after the date of acceptance of the improvements to assure their satisfactory condition and operation.

§ 197-13. Improvements.¹⁴

- A. It shall be unlawful for any person, firm or corporation to construct, within the Village of Youngstown, a road, curb, sanitary sewer, storm sewer, waterline or sidewalk intended for public use, including future public use, unless a permit to do so is first granted by the village after written application upon a form of application and payment of the fees therein provided.¹⁵
- B. Said form of application is on file in the office of the Village Clerk.
- C. The Board may designate or employ an inspector to act as agent for the Department of Public Works and the Board for the purpose of assuring the satisfactory completion of

¹⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

¹⁵ Editor's Note: Said form is on file in the office of the Village Clerk.

improvements in accordance with these regulations. The applicant shall pay the cost of such inspection. If the Board finds upon inspection that any of the required improvements have not been constructed and installed in accordance with plans as approved by the Board, approval of the improvement may be withheld.

- D. The cost of inspection of the subdivision to determine compliance with these regulations and other requirements imposed by the Board is paid in the form of an inspection fee. Before beginning construction of a major subdivision, a deposit, to be applied towards payment of the inspection fee, must be paid to the Village Clerk in accordance with Subsection E of this section. Upon completion of inspection and determination of the actual cost, any excess deposit will be returned, or any excess cost must be paid by the person subdividing the land.
- E. Inspection fees.
- (1) The village shall prepare an estimate of anticipated inspection fees for the project based on the proposed scope of work by the developer. This estimated inspection fee shall be the deposited inspection fee paid to the Village Clerk. Upon completion of the inspection and determination of actual cost, any excess deposit will be returned, or any excess cost must be paid by the person subdividing the land.
 - (2) For a minor subdivision, the fee will be in accordance with the resolution adopted by the Board of Trustees.¹⁶

ARTICLE II Design Requirements

§ 197-14. General requirements.

- A. Block lengths for streets may not exceed 800 feet, nor be less than 300 feet. Intersections with arterial streets should be held to a minimum and spaced at least 1,000 feet apart. Straight runs of paved surface may not exceed 1,000 feet on residential streets.
- B. Pedestrian crosswalks with a right-of-way of not less than 10 feet must be placed where necessary to provide circulation, or for access to schools, playgrounds, shopping centers, transportation and other community facilities.
- C. Easements for utilities shall be provided where necessary and must be at least 20 feet wide.
- D. Land subject to flooding may not be platted for residential occupancy nor for any other use that might aggravate the flood hazard or increase danger to life or property, except as provided in Chapter 119, Flood Damage Prevention.¹⁷

¹⁶ Editor's Note: The current fee resolution is on file in the office of the Village Clerk.

¹⁷ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 197-15. Street design.

- A. The arrangement, character, extent, width, grade and location of each street must conform to the Master Plan and to the Official Map. Each street must be considered in relation to other existing and planned streets, to topographical conditions, to public convenience and safety and in relation to the proposed uses of land to be served or abutted by the street. Streets in a subdivision which are not shown in the Master Plan shall:

- (1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
- (2) Conform to a plan for the neighborhood approved or adopted by the Board to meet a particular situation where topographical or other conditions make continuance of or conformance with existing streets impracticable.

- B. The most recent version of the Youngstown Road Specifications must be followed in detail. In addition, each street must comply with the following design criteria:

- (1) In order to facilitate drainage, no street or ditch grade may be less than 0.4%, except that the Board may approve a grade of not less than 0.3%.
- (2) Street grades may not exceed the following, with due allowance for reasonable vertical curves and with not less than 200 feet between changes of grade.

Street Type	Maximum Grade
Collector	6%
Other	8%

- (3) Curb radii at intersections may not be less than 25 feet.
- (4) The minimum highway right-of-way width is 66 feet.
- (5) Streets must be laid out so as to intersect as nearly as possible at right angles. No street may intersect any other street at less than 75°, except that the Board may waive this requirement if adequate channelizing or divisional islands are provided to ensure traffic safety.
- (6) Street jogs with center line offsets of less than 125 feet must be avoided.
- (7) Reverse curves on arterial and collector streets must have a common tangent with at least 100 feet between points of tangency.
- (8) Streets designed to be dead-end permanently may not be longer than 500 feet, and to the extent practicable must be limited to 400 feet, and at the closed end must have a turnaround with an outside roadway diameter of at least 112 feet and a street property line diameter of at least 132 feet.

- C. Half streets are prohibited unless essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations. If the Board finds it will be practicable to require the dedication of the other half of the street when the adjoining property is subdivided, the other half of the street may be platted when the adjoining property is subdivided.

- D. If a subdivision abuts on or contains an existing or proposed arterial street, the Board may require marginal access streets or reverse frontage with screen planting contained in a nonaccess reservation along the property line.
- E. Streets, other than collector or arterial streets, shall be so laid out that their use by through traffic will be discouraged. Street names must be approved by the Board and may not duplicate or be confused with the names of existing streets.

§ 197-16. Lot design.

- A. Side lot lines must be substantially at right angles or radial to street lines.
- B. Each lot must have satisfactory access to an existing public street by means of a public street. In addition, access to public streets from adjacent land must not be cut off. If any adjacent undeveloped land would be without access to a public street upon completion of the subdivision, a sixty-six-foot street right-of-way must be included in the subdivision to assure access to that undeveloped land.

§ 197-17. Storm drainage design.

- A. Each major subdivision must be related to the drainage pattern affecting the areas involved with proper provision made for adequate storm drainage facilities. Storm drainage plans must reflect potential surface runoff within the drainage area after development and must comply with the requirements of the Village Engineer, the Board and the comprehensive village drainage study.
- B. Grades must be set so as to drain stormwater away from planned improvements on each lot and into swales, ditches, culverts or other drainage facilities that conduct the storm drainage into the underground storm drainage system or into a natural watercourse.
- C. If a major subdivision is traversed by a watercourse, drainageway, channel or stream, a storm sewer easement or drainage right-of-way conforming substantially with the line of such watercourse must be provided. The width of the easement or right-of-way must be approved by the Village Engineer and the Board with due regard to ease of maintenance.
- D. Storm drainage facilities must be of sufficient capacity to handle not only the anticipated discharge from the property being subdivided, but also the anticipated runoff that might occur if property at a higher elevation in the drainage area is developed.

§ 197-18. Park and recreational sites.

- A. The applicant shall offer to dedicate or reserve land suitable to the needs created by such development for park, playground, open space or other recreational purposes. The land must be in locations where the Board finds that such reservations would be appropriate. The area must have suitable topography, appropriate character and adequate road access for recreational purposes. The total amount reserved must be an area equal to 8% of the total land within the major subdivision, and individual parcels must be at least of a reasonable size for use as neighborhood playgrounds or for other recreational uses.

B.¹⁸ In the following situations the Board may permit the applicant to provide a cash equivalent in an amount per lot as set forth from time to time by resolution of the Board of Trustees, deposited with the Village Clerk for the account of the Recreational Development Fund, to be used for acquisition of recreation areas in suitable locations in accordance with future plans or development of existing recreation areas:

- (1) A major subdivision is too small to establish an adequate recreation area.
- (2) The land in a subdivision is unsuitable in character for a recreation area.
- (3) The Master Plan or good planning judgment would not support the location of a recreation area.

C. Any deposit to the recreation development fund in lieu of park land reservations must be made before the plat may be approved.

D. The approval of a plat showing an area for park, playground, recreational purposes or open space does not constitute an acceptance by the village of such an area.

§ 197-19. Monuments, lot corner markers and bench marks.

- A. Monuments must be placed at block corners, angle points and points of curves in streets and at intermediate points as required by the Board or its designated official. The monuments (one inch by 36 inches deep with chisel cut in top) must be set by a licensed land surveyor after the improvements and grading have been completed.
- B. As buildings are completed and surveyed, a copy of the survey, showing location of lot corner markers, must be furnished to the Building Department before a certificate of occupancy is issued.
- C. Permanent bench marks must be established and referenced to the village drainage study and tied to the elevations shown on all plans, subject to approval of the Board or the Village Engineer.

§ 197-20. Street shade trees.

Street shade trees must be planted in accordance with Chapter 214, Trees, of the Code of the Village of Youngstown.

§ 197-21. Utilities.

Electric power lines, telephone lines, cable television lines and other utilities, including service lines to individual buildings, must be installed below ground level.

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

§ 197-22. Environmental impact statement.

- A. An environmental impact statement submitted with a preliminary plat must show anticipated impacts on the following, both in the area of the proposed subdivision and in adjoining areas of the village:
- (1) Air quality.
 - (2) Water quality.
 - (3) Vegetation.
 - (4) Water service.
 - (5) Sanitary sewer service.
 - (6) Storm drainage.
 - (7) Solid waste disposal.
 - (8) Vehicular traffic.
 - (9) Fire and police protection.
 - (10) Recreation needs.
- B. Environmental impact statements shall be prepared in accordance with the provisions of Article 8 of the Environmental Conservation Law, and, in particular, § 8-0109 of that law.¹⁹

§ 197-23. Financial plan.

Each plat submitted for preliminary approval must be accompanied by a financial plan for development of the subdivision which shows adequate financial resources to assure completion of the subdivision. Adequate financial resources may be shown by:

- A. A commitment letter or letter of credit from an established financial institution; or
- B. A performance bond from an acceptable insurance company assuring completion of the public facilities for the proposed development.

§ 197-24. Marketing study.

A marketing study submitted with a preliminary plat must show anticipated housing demand in the village and the Town of Porter which will be met by the residential units of the proposed subdivision.

¹⁹ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE III
Cluster Housing Regulations

§ 197-25. Applicability.

These cluster housing regulations apply to each plat for development of any portion of a cluster housing district and are in addition to other provisions applicable to standard subdivisions. To the extent of any inconsistency, the requirements of this article take precedence.

§ 197-26. Definitions.

As used in these cluster housing regulations, the following terms shall have the meanings indicated:

FRONT YARD — That area between a residential building and the access street.

GARDEN APARTMENTS — Dwelling units which touch each other and may be stacked, resulting in certain dwelling units not having direct access to the ground from within the dwelling unit.

REAR YARD — That area between a residential building and the common open space.

TOWNHOUSES — Dwelling units which touch each other with each having direct access to the ground from within the dwelling unit and no other dwelling unit located below or above the individual townhouse.

§ 197-27. Housing types.

- A. Cluster housing projects may have a variety of housing types in the following maximum percentages of total dwelling units being developed.
- (1) Single-family detached: 100%.
 - (2) Townhouses: 30%.
 - (3) Garden apartments: 10%.
- B. The number of dwelling units permitted for any cluster project is determined by reference to the amount of land before deduction of required open space.

§ 197-28. Phased development.

If approved by the Planning Board, a plat may be divided into phases. However, each phase must comply with the housing type limitations for the overall plat.

§ 197-29. General design requirements.

- A. Each cluster may have a variety of housing types (single-family detached, townhouse, garden apartment) or a single housing type.

- B. No cluster may have more than 30 dwelling units.
- C. No building (group of townhouses or garden apartment building) may have more than eight dwelling units.
- D. Yard requirements.

(1) The following setbacks are required from property lines:

Housing Type	Front Yard (feet)	Rear Yard (feet)
Single-family detached	25	40
Townhouse	25	25
Garden apartment	25	25

(2) Side yard distances between building and lot lines may be reduced to not less than five feet by the Planning Board as a design consideration, depending upon height and size of buildings and interior room layouts. However, in no case may two buildings be closer than 30 feet to each other at the side yard.

- E. Minimum lot size is determined by reference to setback requirements.
- F. Housing clusters must be grouped in such a way as to create a continuous common open space, accessible to all the dwelling units without crossing streets. It should be possible to walk from each rear yard directly into the common open space and, once in the open space, to walk uninterrupted to any recreation facilities placed in the common open space.
- G. Off-street parking must be provided as follows:
 - (1) Single-family: 2.5 spaces per dwelling unit.
 - (2) Townhouse: 2.5 spaces per dwelling unit.
 - (3) Garden apartment: 2.0 spaces per dwelling unit.
 - (4) If a single parking area is provided for a particular cluster, the parking area must be subdivided with landscaping to avoid a large, continuous, paved area which is out of scale with the surrounding housing.
- H. Buffer zones must be provided between improvements in the cluster housing district and adjacent properties which are outside the cluster housing district. Such buffer zones must have at least 80 feet between improvements and the outer boundaries of the cluster housing district and must contain vegetation for screening.

§ 197-30. Open space design.

- A. At least 30% of all land covered by the plat must be designed as the common open space. Street rights-of-way and required front, rear and side yards may not be included as part of the common open space.

- B. The common open space must preserve and enhance existing natural conditions of the site as much as possible. Natural features, such as major stands of trees, streams and natural contours, should be taken into consideration when planning the common open space.
- C. Improved walkways adequate for bicycling must link all areas of the common open space. The walkways must move in a free, natural manner, following natural contours and avoiding the necessity to remove trees and other natural features. Outdoor lighting of the low, walkway type shall be used to facilitate night use of the walkway system.
- D. Preschool play areas must be provided within the common open space no further than 600 feet from any dwelling unit and not in proximity with roadway. The play areas must be designed in such a way as to provide a stimulating environment for the children, beyond just a swing set and sliding board. A shaded seating area for mothers must be provided at each play area.
- E. Each cluster housing plat must have a major open space which is connected to the minor common spaces. This major open space will act as a community focus for the residents within the particular cluster housing district. The activities to be included will depend upon the size of the total plat. The Planning Board will determine if the proposed activities are sufficient to serve the residents of a particular cluster housing area.
- F. Management and maintenance of the common open space can be by: a homeowners' association or special assessment district made up of all land owners whose property touches the common open space; or the developer can dedicate the land to the Village of Youngstown, who will maintain it; or a combination of the homeowners' association and the Village of Youngstown. The actual management responsibility for each project will be determined by mutual agreement between the Village Board of Trustees and the developer with respect to each plat before final approval is granted.
- G. The minimum dimensions of the common open space shall not be less than 40 feet between rear lot lines.
- H. If the Planning Board permits a plat to be divided into phases, each phase must include the same quantity (30%) of land devoted to open space as the overall plat. Similarly, sufficient common open space improvements should be provided to serve the needs of the residents of each phase.

§ 197-31. Landscape design.

- A. Trees planted in proposed public property and the common open space must be planted in accordance with Chapter 214, Trees, of the Code of the Village of Youngstown.
- B. Ground cover in the common open space may consist of the following types in the following maximum percentages:
 - (1) Lawn: 100%.
 - (2) Natural woodland: 100%.
 - (3) Natural field: 20%.
 - (4) Other: 20%.

- C. Site drainage of the common open space must drain water towards the streets or into a carefully developed retention basin so as to avoid temporary ponding of open areas. If this is not possible, an underground storm sewer system must be installed as necessary to drain the common open space.
- D. If a plat is divided into phases, each phase must meet all of the landscape design requirements.

§ 197-32. Roadways.

- A. Each roadway must meet the engineering standards set forth in this chapter, unless specifically provided to the contrary in this article.
- B. Driveways and access drives to parking areas may not feed to main collector or arterial streets. All vehicular access between roadways and private property must be to and from residential streets which serve only one housing cluster.

§ 197-33. Utilities.

- A. Except as otherwise provided in this article, utilities and lighting must be installed in accordance with the engineering standards set forth in this chapter.
- B. All utilities must be installed underground, including telephone, electric and cable television lines.
- C. Low-level streetlighting may be used on residential streets.
- D. Utilities may be installed in easements through the common open space.
- E. Low walkway lighting must be provided along walkways in the common open space.

§ 197-34. Dwelling unit design.

- A. Each dwelling unit must have at least one private outdoor space facing the common open space, which is screened from adjacent dwelling units. This may be a terrace in the case of the single-family houses and townhouses and a terrace or balcony in the case of garden apartments.
- B. Outdoor trash containers and utility equipment, such as gas meters and air-conditioning condensers, must be screened from view and integrated into the overall design. Enclosed storage for outdoor equipment must be provided for each single-family dwelling unit and townhouse.
- C. Enclosed parking for garden apartments and townhouses must be integrated into the structures containing the dwelling units.

Chapter 202

SWIMMING POOLS

§ 202-1. Definitions.

§ 202-2. General requirements.

§ 202-3. Plumbing and electrical.

§ 202-4. Fencing.

§ 202-5. Location.

§ 202-6. Violations and penalties.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 6-17-1971. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 83.

§ 202-1. Definitions.

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

PRIVATE POOL — A pool located on the property of a single-family or a two-family dwelling and for the exclusive use of the occupants thereof and their families and guests.

PUBLIC POOLS — All other pools.

SWIMMING POOL — Any pool having a depth exceeding 18 inches.

WADING POOL — Any pool not having a depth exceeding 18 inches.

§ 202-2. General requirements.

A. All private swimming pools in the Village of Youngstown with a capacity over 300 cubic feet moved, erected, constructed or excavated, either above, below or partly above and below grade level, shall require a building permit.

B.¹ Building permit application shall be made to the Code Enforcement Officer and accompanied by:

(1) Two complete sets of construction plans drawn accurately to scale.

(2) Two complete sets of plot plans showing all lot lines, existing structures and yard measurements, drawn accurately to scale.

(3) All plans for private swimming pools of capacity in excess of 2,000 cubic feet shall be designed by a licensed New York State professional engineer or architect.

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

- C. Each permit shall be accompanied by the required building permit fee.²
- D. A pump house, filter house or structure erected in connection with any such pool shall require a building permit and shall comply with Chapter 83, Building Construction, of the Code of the Village of Youngstown.

§ 202-3. Plumbing and electrical.

- A. All plumbing and drainage connected herewith shall comply with the provisions of the New York State Uniform Fire Prevention and Building Code applicable to plumbing and will be included in the building permit inspection. For purposes of interpretation, the water supply system is part of the main dwelling's water service, and the drainage system of private swimming pools shall be part of the main dwelling's drainage system when available.³
- B. Two complete detailed drawings showing filling or feed system, filtration and or purifying system and drainage system shall be submitted.⁴
- C. All excavated pools with a capacity of 2,000 cubic feet or larger shall have a drain, and each drain shall be covered by a grate four times the area of the drain pipe. The grate shall be removable only by the use of a hand tool.
- D. All inlet feed pipes shall be of the "over rim" fill type and at a minimum height of six inches above the overflow level of water (six-inch minimum air gap).
- E. The construction and installation of electrical wiring for equipment in or adjacent to swimming pools, to metallic appurtenances in or within five feet of the pool, and to the auxiliary equipment, such as pumps, filters and similar equipment, must be in compliance with the National Electrical Code. No electrical appliance or wiring shall be installed in the water or in the enclosing walls of a swimming pool except as in conformity with the applicable provisions of the National Electrical Code.⁵
- F. A final certificate of compliance must be furnished the Code Enforcement Officer, and no pool shall be used until all compliances to local inspections are approved.⁶

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). The current fee resolution is on file in the office of the Village Clerk.

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

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

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

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

§ 202-4. Fencing.

- A.⁷ No swimming pool, as described in § 202-1, any part of which is below grade level, excepting those pools projecting at least four feet above the ground, shall be installed unless they are provided with an enclosure which shall comply with the following:
- (1) Such enclosure shall have a minimum height of four feet and a maximum height of six feet, have a maximum vertical clearance to grade of two inches and be so constructed as to not shut off light or air to any building.
 - (2) Where a picket-type fence is provided, horizontal openings between pickets shall not exceed four inches.
 - (3) Where a chain-link fence is provided, the openings between links shall not exceed 2 $\frac{3}{8}$ inches.
 - (4) Enclosure shall be constructed so as not to provide footholds.
 - (5) Pickets and chain link twists shall extend above the upper horizontal bar.
 - (6) Such enclosure shall completely surround the area of the swimming pool but shall not be less than three feet from any edge of the swimming pool, or may be placed on the lot line, shall have railings and posts which shall be capable of resisting a minimum lateral load of 150 pounds applied midway between posts and at top of posts respectively. Enclosure, fence material or fabric shall be capable of withstanding a concentrated lateral load of 50 pounds applied anywhere between supports on an area 12 inches square, without failure or permanent deformation. Gates provided in the enclosure shall be self-closing and self-latching with the latch handle located within the enclosure and at least 40 inches above grade.
 - (7) A wall of a dwelling is permitted to serve as part of the enclosure under the following conditions:
 - (a) Windows in the wall shall have a latching device at least 40 inches above the floor.
 - (b) A swinging door in the wall shall be self-closing and self-latching.
 - (c) A sliding door in the wall shall have a self-latching device.
 - (8) All openings and doors, etc., shall be kept locked while premises are unsupervised by an adult.
- B. No swimming pool as described in § 202-1, all of which is above grade level, shall be installed or maintained unless either:
- (1) The ladder, stair or other access to the pool is capable of being removed and is removed when the pool is not being supervised by the owner thereof. The word "removed," as used in this subsection, in addition to its usual and customary meaning, shall mean raising and locking the ladder, stair or other access in a position where the bottom thereof is at least as high as the top of the pool.

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

- (2) The ladder, stair or other access is completely enclosed by a fence the minimum height of which shall be equal to the height of the pool, except that in no event shall the fence be higher than six feet. Any gate in the fence shall be self-closing and locked when the pool is not being supervised by the owner thereof.
- C. When an aboveground pool has a deck which abuts or is adjacent to a dwelling, and direct access to the deck is through the exterior wall of the dwelling, such access shall be in accordance with Subsection A(7) of this section.⁸

§ 202-5. Location.

- A. Private 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 their families and guests.
- B. Any swimming pool on any property having more than two 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. No swimming pool shall be erected nearer than three feet from the rear or side property line of the premises or occupy more than 10% of the total area of the premises.
- D. No swimming pool will be permitted in a required front yard or side yard.

§ 202-6. Violations and penalties.⁹

Any person violating any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

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

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

Chapter 209

TAXATION

ARTICLE I Utility Tax

- § 209-1. Tax on the furnishing of utility services.
- § 209-2. Definitions.
- § 209-3. Records.
- § 209-4. Filing returns.
- § 209-5. Payment of tax.
- § 209-6. Insufficient or unsatisfactory returns.
- § 209-7. Notices.
- § 209-8. Failure to file.
- § 209-9. Refunds.
- § 209-10. Tax to be considered operating cost.
- § 209-11. Unpaid tax to be a lien.
- § 209-12. Powers and duties of Treasurer.
- § 209-13. Secrecy.
- § 209-14. Disposition of funds.

ARTICLE II Senior Citizens Exemption

- § 209-15. Exemption granted.
- § 209-16. Denial of exemption.
- § 209-17. Application for exemption.
- § 209-18. Penalties for offenses.

ARTICLE III Veterans Exemption

- § 209-19. Findings.
- § 209-20. Proportional increase in exemption.

ARTICLE IV Collection of Property Taxes

- § 209-21. Continuation of enforcement.
- § 209-22. Filing of article.
- § 209-23. When effective.

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

GENERAL REFERENCES

Assessments — See Ch. 8.

ARTICLE I Utility Tax [Adopted 3-7-1968]

§ 209-1. Tax on the furnishing of utility services.¹

Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, a tax equal to 1% of its gross income from and after the first day of April 1968, is hereby imposed upon every utility doing business in the Village of Youngstown which is subject to the

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

supervision of the State Department of Public Service, which has a gross income for the 12 months ending May 31 in excess of \$500, except motor carriers or brokers subject to such supervision under § 240 et seq. of the Transportation Law, and a tax equal to 1% of its gross operating income from and after the first day of April 1968, is hereby imposed upon every other utility doing business in the Village of Youngstown which as a gross operating income for the 12 months ending May 31 in excess of \$500, which taxes shall have application only within the territorial limits of the Village of Youngstown, 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 Youngstown, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

§ 209-2. Definitions.²

Words and phrases used in this article shall have the meanings ascribed to them in § 186-a of the Tax Law.

§ 209-3. 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 Youngstown may require, and such records shall be preserved for a period of three years, except that the Village Treasurer of the Village of Youngstown may consent to their destruction within that period or may require that they be kept longer.

§ 209-4. Filing returns.

Every utility subject to tax hereunder shall file annually, on or before the 25th day of June, a return for the 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 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 of the Village of Youngstown 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 of the Village of Youngstown, 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 Youngstown 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,

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

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.

§ 209-5. Payment of tax.

At the time of filing a return as required by this article, each utility shall pay to the Village Treasurer of the Village of Youngstown 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.

§ 209-6. Insufficient or unsatisfactory returns.

- A. In case any return filed pursuant to this article shall be insufficient or unsatisfactory to the Village Treasurer of the Village of Youngstown, and if a corrected or sufficient return is not filed within 20 days after the same is required by notice from him, or if no return is made for any period, the Village Treasurer of the Village of Youngstown shall determine the amount of tax due from such information as he is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. He shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the Village Treasurer of the Village of Youngstown for a hearing, or unless the Village Treasurer of the Village of Youngstown of his own motion shall reduce the same. After such hearing, the Village Treasurer of the Village of Youngstown shall give notice of his decision to the person liable for the tax. Such decision may be reviewed by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York if application therefor is made within 90 days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the Village Treasurer of the Village of Youngstown and an undertaking filed with him, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that, if such proceeding be dismissed or the tax confirmed, the applicant will pay all costs and charges which may accrue in the prosecution of such proceeding, or at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, interest, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax, interest and penalties as a condition precedent to the granting of such order.
- B. Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return; provided, however, that where no return has been filed as required by this article the tax may be assessed at any time.

§ 209-7. Notices.

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.

§ 209-8. Failure to file.

Any person failing to file a return or corrected return, or to pay any tax or any portion thereof, within the time required by this article shall be subject to a penalty of 5% of the amount of tax due, plus 1% of such tax for each month of delay or fraction thereof, 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 Youngstown, 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.

§ 209-9. Refunds.

If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the Village Treasurer of the Village of Youngstown or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Village Treasurer of the Village of Youngstown 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 of the Village of Youngstown. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Village Treasurer of the Village of Youngstown as hereinbefore provided, unless the Village Treasurer of the Village of Youngstown, 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 Act 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 of the Village of Youngstown may receive additional evidence with respect thereto. After making his determination, the Village Treasurer of the Village of Youngstown 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.

§ 209-10. Tax to be considered operating cost.

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.

§ 209-11. Unpaid tax to be a lien.

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 of the Village of Youngstown 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 of the Village of Youngstown. 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.

§ 209-12. Powers and duties of Treasurer.

In the administration of this article, the Village Treasurer of the Village of Youngstown 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.

§ 209-13. Secrecy.

- A. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Village Treasurer of the Village of Youngstown, or any agent, clerk or employee of the Village of Youngstown, 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 Youngstown 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 of the Village of Youngstown may assist in the collection of such delinquent taxes; or the inspection by the Village Attorney or other legal representative of the Village of Youngstown 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 \$250 or by imprisonment not exceeding 15 days or both, and if the offender be an officer, agent, clerk or employee of the Village of Youngstown, he shall be dismissed from office and shall be incapable of holding any office or employment in the Village of Youngstown for a period of five years thereafter.
- C. Notwithstanding any provisions of this article the Village Treasurer of the Village of Youngstown 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 Youngstown, and provided that such information is to be used for tax purposes only, and the Village Treasurer of the Village of Youngstown shall, upon request, furnish the State Tax Commission with any information contained in such returns.

§ 209-14. Disposition of funds.³

All taxes and penalties received by the Village Treasurer of the Village of Youngstown under this article shall be paid into the treasury of the village and shall be credited to and deposited in the funds of the village.

ARTICLE II Senior Citizens Exemption [Adopted 10-15-1970]

§ 209-15. Exemption granted. [Amended 1-12-1995⁴]

Real property owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife, one of whom is 65 years of age or over, shall be exempt from taxation by the Village of Youngstown to the extent adopted by resolution of the Board of Trustees.

§ 209-16. Denial of exemption.

No such 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 established by resolution of the Board of Trustees. Income tax year shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, net rental

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

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

income, salary or earnings and net income from self-employment, but shall not include gifts or inheritances. [Amended 3-22-1973⁵]

- B. Unless the title of the property shall have been vested in the owner or all of the owners of the property for at least 60 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 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 purposes of computing such period of 60 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.
- C. Unless the property is used exclusively for residential purposes.
- D. Unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property.

§ 209-17. Application for exemption.

- A. 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 Assessor for the Village of Youngstown 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.
- B. At least 60 days prior to the appropriate taxable status date, the assessing authority shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll on application form and a notice that such application must be filed on or before taxable status date and be approved in order for the exemption to be granted. Failure to mail any such application form and notice 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.

§ 209-18. Penalties for offenses.⁶

Any conviction of having made any willful false statement in the application for such exemption shall be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment, and shall disqualify the applicant or applicants from further exemption for a period of five years.

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

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

ARTICLE III
Veterans Exemption
[Adopted 9-22-1983 by L.L. No. 2-1983]

§ 209-19. Findings.

The Village Board finds that the assessed value of real property in the Village on the 1982 assessment roll increased, due to a change in the manner of assessing, from fractional value assessments on the 1981 assessment roll to full value assessments on the 1982 roll. This increase resulted in reducing the benefit to taxpayers of the exemptions previously granted pursuant to § 458 of the Real Property Tax Law.

§ 209-20. Proportional increase in exemption.

In order to correct this inequity and restore such exemptions to the same relative value as they had on the 1981 assessment roll, the Assessor is hereby authorized and directed to increase the § 458 exemption in the same proportion as the total assessed value bore to the assessed value on the 1981 roll, all as provided in Subdivision 5 of § 458 of the Real Property Tax Law.

ARTICLE IV
Collection of Property Taxes
[Adopted 8-11-1994 by L.L. No. 1-1994]

§ 209-21. Continuation of enforcement.

Pursuant to § 6 of Chapter 602 of the Laws of 1993, as amended by a chapter of the Laws of 1994, as proposed in legislative bill number S. 8560-A, the Village of Youngstown hereby acts by local law, not subject to referendum, to provide that the collection of property taxes shall continue to be enforced pursuant to Title 3 or Article 14 of the Real Property Tax Law, as is in effect on December 31, 1994.

§ 209-22. Filing of article.⁷

Upon adoption, and no later than October 1, 1994, a copy of this article shall be filed with the State Board of Real Property Services.

§ 209-23. When effective.

This article shall take effect on the same day as a chapter of the Laws of 1994 takes effect as proposed in legislative bill number S. 8560-A, except that if S. 8560-A shall become a law prior to adoption of this article, this article shall take effect immediately.

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

Chapter 214

TREES

- | | |
|---|---|
| § 214-1. Short title. | § 214-8. Interference with Village Arborist. |
| § 214-2. Definitions; word usage. | § 214-9. Protection of trees. |
| § 214-3. Duties of Arborist. | § 214-10. Placing materials on public property. |
| § 214-4. Authority of Arborist. | § 214-11. Penalties for offenses. |
| § 214-5. Permits required. | § 214-12. Emergency provisions. |
| § 214-6. Requirement to prune. | |
| § 214-7. Abuse or mutilation of public trees. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 11-29-1973 by L.L. No. 2-1973. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 83.
Property maintenance — See Ch. 162.
Streets and sidewalks — See Ch. 193.

Subdivision of land — See Ch. 197.
Zoning — See Ch. 250.

§ 214-1. Short title.

This chapter shall be known and may be cited as the "Village Tree Local Law of the Village of Youngstown, County of Niagara, State of New York."

§ 214-2. Definitions; word usage.

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

LARGE TREES — Those attaining a height of 45 feet or more.

MEDIUM TREES — Those attaining a height of 30 feet to 45 feet.

PARK — Includes all public parks having individual names.

PARK AND STREET TREES DEPARTMENT — The Department of Parks and Street Trees, the Department of Parks and Forestry, the Department of Forestry, the Department of Street Trees or other designated department of the village under whose jurisdiction park and/or street trees fall.

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

PRINCIPAL THOROUGHFARE — Any street upon which trucks are not prohibited.

PROPERTY LINE — The outer edge of a street or highway.

PROPERTY OWNER — The person owning such property as shown by the County Auditor's Plat of Niagara County, State of New York.

PUBLIC PLACES — Includes all other grounds owned by the Village of Youngstown, County of Niagara, State of New York.

PUBLIC TREES — Includes all shade and ornamental trees now or hereafter growing on any street or any public areas where otherwise indicated.

SMALL TREES — Those attaining a height of 20 feet to 30 feet.

STREET or HIGHWAY — The entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

TREELAWN — That part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

VILLAGE — The Village of Youngstown, County of Niagara, State of New York.

VILLAGE ARBORIST — The Village Arborist, or other qualified designated official of the Village of Youngstown, County of Niagara, State of New York, assigned to carry out the enforcement of this chapter.

- B. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is mandatory and not merely directory.¹

§ 214-3. Duties of Arborist.²

The Village Arborist shall be appointed by the Board of Trustees and shall have the authority to promulgate the rules and regulations of the arboricultural specifications and standards of practice governing the planting, maintenance, removal, fertilization, pruning and bracing of trees on the streets or other public sites in the village and shall direct, regulate and control the planting, maintenance and removal of all trees growing now or hereafter in any public area of the Village of Youngstown, County of Niagara, State of New York. He shall cause the provisions of this chapter to be enforced. In his absence, these duties shall be the responsibility of a qualified alternate designated by the municipality.

¹ Editor's Note: Former Section 3, as amended, dealing with the Shade Tree Commission, was deleted 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).

§ 214-4. Authority of Arborist.

- A. The Village Arborist shall have the authority and jurisdiction of regulating the planting, maintenance and removal of trees on the streets and other publicly owned property to ensure safety or preserve the aesthetics of such public sites.
- B. Supervision. The Village Arborist shall have the authority, and it shall be his duty to supervise or inspect all work done under a permit issued in accordance with the terms of this chapter.
- C. Condition of permit. The Village Arborist shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this chapter.
- D. Master street tree plan.
 - (1) The Village Arborist shall have the authority to formulate a master street tree plan. The master street tree plan shall specify the species of tree to be planted on each of the streets or other public sites of the village. From and after the effective date of the master street tree plan, or any amendment thereof, all planting shall conform thereto.³
 - (2) The Village Arborist shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the village.
 - (3) Amendments. The Village Arborist shall have the authority to amend or add to the master street tree plan at any time that circumstances make it advisable.⁴

§ 214-5. Permits required.

- A. Planting, maintenance or removal.
 - (1) No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground or otherwise disturb any tree on any street or municipally owned property without first filing an application and procuring a permit from the Village Arborist or otherwise specified village authority. The person receiving the permit shall abide by the arboricultural specifications and standards of practice adopted by the Village Arborist.
 - (2) Application for permits must be made at the office of the Village Arborist not less than 48 hours in advance of the time the work is to be done.
 - (3) Standards of issuance. The Village Arborist shall issue the permit provided for herein if, in his judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration, and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

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

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

- (4) Notice of completion shall be given within five days to the Village Arborist for his inspection.

B. Planting.

- (1) Application date. The application required herein shall state the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting; and such other information as the Village Arborist shall find reasonably necessary to a fair determination of whether a permit shall be issued.
- (2) Improper planting. Whenever any tree shall be planted or set out in conflict with the provisions of this section, it shall be lawful for the Village Arborist to remove or cause removal of the same, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

C. Maintenance. The application required herein shall state the number and kinds of trees to be sprayed, fertilized, pruned or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the Village Arborist shall find reasonably necessary to a fair determination of whether a permit shall be issued.

D. Removal, replanting and replacement.

- (1) Wherever it is necessary to remove a tree or trees from a treelawn in connection with the paving of a sidewalk, or the paving or widening of the portion of a street or highway used for vehicular traffic, the village shall replant such trees or replace them. Provided that conditions prevent planting on treelawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the arboricultural specifications are planted in an attractive manner on the adjoining property.
- (2) No person or property owner shall remove a tree from the treelawn for the purpose of construction, or for any other reason, without first filing an application and procuring a permit from the Village Arborist, and without replacing the removed tree or trees in accordance with the adopted arboricultural specifications. Such replacement shall meet the standards of size, species and placement as provided for in a permit issued by the Village Arborist. The person or property owner shall bear the cost of removal and replacement of all trees removed.

§ 214-6. Requirement to prune.

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees to prune such trees in such manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be 10 feet over sidewalks and 12 feet over all streets, except truck thoroughfares which shall have a clearance of 16 feet.

- A. Notice to prune. Should any person or persons owning real property bordering on any street fail to prune trees as hereinabove provided, the Village Arborist shall order such person or persons, with three days after receipt of written notice, to so prune such trees.
- B. Order required. The order required herein shall be served by mailing a copy of the order to the last known address of the property owner by certified mail.
- C. Failure to comply. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the village to prune such trees, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

§ 214-7. Abuse or mutilation of public trees.

Unless specifically authorized by the Village Arborist, no person shall intentionally damage, cut, carve, transplant or remove any tree; attach any rope, wire, nails, advertising posters or other contrivance to any tree; allow any gaseous, liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

§ 214-8. Interference with Village Arborist.

No person shall hinder, prevent, delay or interfere with the Village Arborist or any of his assistants while engaged in carrying out the execution or enforcement of this chapter; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable in any court of any property within the village.

§ 214-9. Protection of trees.

- A. All trees on any street or other publicly owned property near any excavation or construction of any building, structure or street work shall be guarded with a good substantial fence, frame or box not less than four feet high and eight feet square, or at a distance in feet from the tree equal to the diameter of the trunk in inches diameter at breast height (dbh), whichever is greater, and all building material, dirt or other debris shall be kept outside the barrier.
- B. No person shall excavate any ditches, tunnels, trenches or lay any drive within a radius of 10 feet from any public tree without first obtaining a written permission from the Superintendent of Public Works.⁵

§ 214-10. Placing materials on public property.

No person shall deposit, place, store or maintain upon any public place of the village any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and

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

fertilizer to the roots of any tree growing therein, except by written permit of the Village Arborist.

§ 214-11. Penalties for offenses.⁶

Any person violating any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

§ 214-12. Emergency provisions.⁷

In the event of a major disaster due to fire, pestilence, etc., the Village Arborist may make recommendations to the Village Board for remedial action in order to preserve an equitable balance of trees in the village.

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).

Chapter 219

TRESPASSING

§ 219-1. Trespassing on village-owned property.

§ 219-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 11-2-1955. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation areas — See Ch. 148.

§ 219-1. Trespassing on village-owned property.

No person shall trespass upon any premises or structure owned by the Village of Youngstown, nor shall any person, without permission from the Board of Trustees or its duly authorized representative, go upon any water tower or other structure in any public park within said village.

§ 219-2. Penalties for offenses.¹

Any person violating any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by a term of imprisonment of not more than 15 days, or both.

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

Chapter 226

VEHICLES, ABANDONED

§ 226-1. Purpose.

§ 226-3. Notice.

§ 226-2. Outside storage on private lands.

§ 226-4. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 2-14-1965. Amendments noted where applicable.]

GENERAL REFERENCES

Junkyards — See Ch. 133.

Property maintenance — See Ch. 162.

§ 226-1. Purpose. [Amended 9-10-1998 by L.L. No. 2-1998]

The seriousness of the matter of the outdoor storage or placement of abandoned, wrecked, junked, discarded, inoperative, dismantled, partially dismantled 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 is attractive and dangerous to children and a peril to their safety. Whenever gas fumes and oils are present around such vehicles or gasoline is left in the fuel tanks of such vehicles, there is a danger of fire and explosion; children may become locked inside, suffocation is possible, and other undesirable acts are encouraged by the availability of such vehicles. The glass in such vehicles becomes broken and is strewn about, and jagged glass remains in the vehicles. Theft of parts of such vehicles is encouraged. Such vehicles afford a nesting place for rodents and depreciate 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 Youngstown 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.

§ 226-2. Outside storage on private lands. [Amended 9-10-2009 by L.L. No. 1-2009]

It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise, to store, park, place or deposit, or cause or permit to be stored, parked, placed or deposited, an abandoned, wrecked, junked, discarded, inoperative, dismantled, partially dismantled, or unlicensed motor vehicle or motor vehicles in the open within the corporate limits of the Village of Youngstown, unless it is necessary for the operation of a business enterprise lawfully situated on private land but not to exceed three vehicles at any one time. Any such vehicle shall be relocated to a completely enclosed location or otherwise removed from the property.

§ 226-3. Notice.

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 the land upon which the violation is present 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 as _____.

"Notice is hereby given that an abandoned, wrecked, junked, discarded, inoperative, dismantled, partially dismantled or unlicensed motor vehicle has been found stored, parked, placed or deposited upon the above described property in the Village of Youngstown. This automobile must be removed within seven days from the date of this notice.

"In case you fail or refuse to comply with this notice on or before the expiration of said seven days from the date of this notice, the Village of Youngstown, acting through its duly authorized agents, servants, officers and employees, will enter upon your land and remove and cause the same to be destroyed. The expense incurred by the village will be assessed against the above described land and shall constitute a lien thereon and be collected as provided by law."

§ 226-4. Penalties for offenses. [Amended 9-10-1998 by L.L. No. 2-1998]

Any owner, occupant, lessee, agent or tenant who shall neglect and refuse to remove said abandoned, wrecked, junked, discarded, inoperative, dismantled, partially dismantled or 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 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 be, upon conviction thereof, guilty of a violation, punishable by a fine not to exceed \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment, for each violation thereof. In addition as stated in the aforesaid notice upon failure or refusal to comply with said notice, the costs incurred by the village in removing such vehicle or vehicles from private lands and their destruction will be assessed against the land on which the vehicle or vehicles are located and shall constitute a lien thereon and be collected as provided by law.

Chapter 232

VEHICLES AND TRAFFIC

ARTICLE I **General Provisions**

- § 232-1. Definitions.**
- § 232-2. Street renaming.**

ARTICLE II **Traffic Control Devices**

- § 232-3. Authority to install.**

ARTICLE III **One-Way Roadways**

- § 232-4. Designation.**

ARTICLE IV **Stop and Yield Intersections**

- § 232-5. Through highways.**
- § 232-6. Stop intersections.**

ARTICLE V **Speed Regulations**

- § 232-7. Maximum speed limits.**

ARTICLE VI **Parking, Standing and Stopping**

- § 232-8. Application of article.**
- § 232-9. All-night parking.**
- § 232-10. Parking prohibited in designated locations.**
- § 232-11. Angle and parallel parking in designated locations.**
- § 232-12. Parking time limited in designated locations.**

- § 232-13. Parking lots owned, leased and/or operated by the Village.**

ARTICLE VII **Removal and Storage of Vehicles**

- § 232-14. Authority to impound vehicles.**
- § 232-15. Storage and charges.**
- § 232-16. Notice of removal.**

ARTICLE VIII **Truck Exclusions**

- § 232-17. Weight limit established.**
- § 232-18. Local delivery exception.**

ARTICLE IX **Pavement Markings**

- § 232-19. Application of pavement markings.**

ARTICLE X **Penalties**

- § 232-20. Penalties for offenses.**
- § 232-21. Fines for illegal parking.**

ARTICLE XI **Repeal of Prior Ordinances**

- § 232-22. Repealer; continuing provisions.**

ARTICLE XII **Effect of Local Law**

- § 232-23. When effective.**

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 7-11-1974 by L.L. No. 1-1974. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles in parks — See Ch. 148.

Abandoned vehicles — See Ch. 226.

ARTICLE I General Provisions

§ 232-1. Definitions.

- A. The words and phrases used in this chapter shall for the purpose of this chapter have the meanings respectively ascribed to them by Article 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 purposes of the traffic ordinances of this Village.

CURBLINE — The prolongation of the lateral line of a curb or, in the absence of a curb, the lateral boundary line of the roadway.

HIGHWAY — The entire Village right-of-way from lot line to lot line and not just the improved portion thereof. **[Added 8-11-1977 by L.L. No. 6-1977]**

HOLIDAYS — Includes all New York State holidays. **[Amended 9-10-1998 by L.L. No. 2-1998]**

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.

PARKING METER ZONE — A designated location upon or within which the parking of vehicles is regulated by parking meters.

PUBLIC PARKING LOT — A plot or parcel of land or building owned and/or leased by this Village, not including highways, upon or within which the parking of vehicles is regulated by signs and/or parking meters.

§ 232-2. Street renaming. **[Added 9-10-1998 by L.L. No. 2-1998]**

The portion of Third Street lying south of its intersection with the south line of Church Street, together with any future extension thereof, to the south line of the Village of Youngstown be hereinafter designated as "Nancy Price Drive."

ARTICLE II
Traffic Control Devices

§ 232-3. Authority to install.

The Village Board of Trustees shall install and maintain traffic control devices when and as required under the provisions of this chapter to make effective the provisions of said chapter and may install and maintain such additional traffic control devices as it may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provisions of §§ 1682 and 1684 of that law.

ARTICLE III
One-Way Roadways

§ 232-4. Designation.

Water Street is hereby designated for one-way traffic in a southerly direction.

ARTICLE IV
Stop and Yield Intersections

§ 232-5. Through highways.

- A. Lockport Street is hereby designated as a through highway, and stop signs shall be erected on the following entrances thereto:
- (1) Elm Street from the south.
 - (2) Glenvale Street from the north.
 - (3) Cherry Street from the south.
 - (4) Third Street from the north and south.
 - (5) Second Street from the north and south.
- B. Church Street is hereby designated as a through highway, and stop signs shall be erected on the following entrances thereto:
- (1) Third Street from the north. [Amended 9-10-1998 by L.L. No. 2-1998]
 - (2) Nancy Price Drive from the south. [Added 9-10-1998 by L.L. No. 2-1998]
 - (3) Second Street from the north and south.
- C. Main Street is hereby designated a through highway, and stop signs shall be erected on the following entrances thereto:
- (1) Jackson Street from the east.
 - (2) Chestnut Street from the east.

- (3) William Street from the east.
- (4) Hinman Street from the east.
- (5) Water Street from the west.
- (6) Church Street from the east.
- (7) Elliott Street from the east.
- (8) Campbell Street from the east.
- (9) Swain Road from the east.

§ 232-6. Stop intersections.

The following named intersections are hereby designated as stop intersections, and stop signs shall be erected as follows:

- A. Glenvale Road with Brookshire Road: on all four corners of this intersection, thereby creating a four-way stop. [Amended 9-24-1992 by L.L. No. 7-1992; 7-15-1993 by L.L. No. 3-1993]
- B. Wingate Road with Brookshire Road: on Wingate Road at its entrance to said intersection from the north.
- C. Carrollwood Drive with South Lake Street: on Carrollwood Drive at its entrance to said intersection from the east.
- D. Chestnut Street with South Lake Street: on Chestnut Street at its entrance to said intersection from the west.
- E. Elm Street with Northfield Drive: on Northfield Drive at its entrance to said intersection from the west.
- F. Elm Street with Applewood Drive: on Applewood Drive at its entrance to said intersection from the west.
- G. Brampton Road with Northfield Drive: on Brampton Road at its entrance to said intersection from the south.
- H. Brampton Road with Parkside Place: on Parkside Place at its entrance to said intersection from the west.
- I. Northfield Drive with Cherry Street: on Cherry Street at its entrance to said intersection from the north.
- J. East Oak Terrace with Oak Street: on East Oak Terrace at its entrance to said intersection from the south.
- K. Third Street with Oak Street: on Oak Street at its entrance to said intersection from the east.

- L. Brookshire Road with South Lake Street: on Brookshire Road at its entrance to said intersection from the east.
- M. William Street with South Lake Street: on William Street at its entrance to said intersection from the west.
- N. William Street with Second Street: on Second Street at its entrance to said intersection from the south.
- O. Hinman Street with Third Street: on Hinman Street at its entrance to said intersection from the west.
- P. Hinman Street with Second Street: on all four corners of this intersection, thereby creating a four-way stop. [Amended 4-11-1996 by L.L. No. 1-1996]
- Q. Elliott Street with Third Street/Nancy Price Drive: on all four corners of the intersection, thereby creating a four-way stop. [Amended 9-24-1992 by L.L. No. 7-1992; 9-10-1998 by L.L. No. 2-1998]
- R. Elliott Street with Second Street: on all four corners of this intersection, thereby creating a four-way stop. [Amended 10-22-2009 by L.L. No. 3-2009]
- S. Wingate Place with Carrollwood Drive: on all three corners of this intersection, thereby creating a three-way stop. [Amended 7-15-1993 by L.L. No. 3-1993]
- T. Jackson Street with South Laké Street: on South Lake Street at its entrance to said intersection from the south. [Amended 9-10-1998 by L.L. No. 2-1998]
- U. Westwood Avenue with Northfield Drive: on Westwood Avenue at its entrance to said intersection from the east. [Added 9-10-1998 by L.L. No. 2-1998]
- V. Parkside Place with Westwood Avenue: on Parkside Place at its entrance to said intersection from the east. [Added 9-10-1998 by L.L. No. 2-1998]
- W. Applewood Drive with Westwood Avenue: on Applewood Drive at its entrance to said intersection from the east. [Added 9-10-1998 by L.L. No. 2-1998]
- X. Westwood Avenue with Oak Street on all three corners of this intersection, thereby creating a three-way stop. [Added 9-10-1998 by L.L. No. 2-1998; amended 5-22-2003 by L.L. No. 1-2003]
- Y. Applewood Drive with Brampton Road: on Applewood Drive at its entrance to said intersection from the west. [Added 9-10-1998 by L.L. No. 2-1998]

ARTICLE V Speed Regulations

§ 232-7. Maximum speed limits.

- A. Thirty miles per hour is hereby established as the maximum speed limit at which vehicles may proceed on or along highways within this Village, except on highways as follows:

- (1) Lockport Street from east Village line to intersection of Main Street (Rt. 18F).
 - (2) Access ramps to Robert Moses Parkway within the Village.
- B. Thirty-five miles per hour is hereby established as the maximum speed limit at which vehicles may proceed on or along highways within this Village as follows:
- (1) Lockport Street from the east Village line to its intersection with Main Street (Rt. 18F). [Amended 9-10-1998 by L.L. No. 2-1998]

ARTICLE VI

Parking, Standing and Stopping

§ 232-8. Application of article.

The provisions of this article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

§ 232-9. All-night parking. [Amended 8-11-1997 by L.L. No. 6-1997; 10-9-1986 by L.L. No. 2-1986; 12-8-1994 by L.L. No. 3-1994; 10-9-1997 by L.L. No. 2-1997; 3-11-1999 by L.L. No. 1-1999; 1-10-2002 by L.L. No. 1-2002]

- A. Parking of motor vehicles is hereby prohibited on all Village highways between the hours of 3:00 a.m. to 6:00 a.m. from December 1 through April 1 of each year and to include that parking on Main Street from Hinman Street to the south line of Falkner Park, which shall also be prohibited from 3:00 a.m. to 6:00 a.m. during said period.
- (1) Between the aforementioned dates parking on Lockport Street between Main and Second Streets shall be restricted to the north side of the street on even days of the week and on the south side on odd days of the week.
 - (2) Notwithstanding any other provisions of this chapter, between the aforementioned dates parking on Hinman Street between Main Street and Second Street shall be restricted to the north side of the street on even days of the week and on the south side on odd days of the week.
- B. The parking of vehicles is hereby prohibited on the following highways in this Village between the hours of 3:00 a.m. and 6:00 a.m.: Water Street for its entire length.
- C. The parking of motor vehicles on east and west sides of Main Street between the north line of Hinman Street extended and the south line of Lockport Street extended is hereby prohibited at all times between the hours of 3:00 a.m. and 6:00 a.m.

§ 232-10. Parking prohibited in designated locations.

- A. The parking of vehicles is hereby prohibited in any of the following locations:

- (1) Both sides of Main Street from the south curbline of Jackson Street extended to the entrance of Fort Niagara State Park.
 - (2) The west side of Main Street from the north curbline of William Street extended to the north curbline of the northerly arm of Water Street.
 - (3) The west side of Main Street starting at a point 81 feet north from the north curbline of Hinman Street extended to the south curbline of Church Street extended.¹
 - (4) The west side of Water Street between its north and south intersection with Main Street.
 - (5) The east side of Water Street from its south intersection with Main Street for a distance of 503 feet northward. [Amended 9-10-1998 by L.L. No. 2-1998]
 - (6) The east side of Water Street adjacent to the dry water hydrant where posted. [Added 8-14-1975 by L.L. No. 2-1975]
 - (7) The north side of Lockport Street, beginning 184 feet east of the center line of Second Street. [Added 4-8-1999 by L.L. No. 4-1999]
- B. Trailer parking is prohibited where signed.
- C. Parking of unattended trailers is prohibited on all Village streets, except the north side of Hinman Street between Main Street and Second Street. [Added 8-14-1975 by L.L. No. 2-1975; amended 11-12-2009 by L.L. No. 4-2009]
- D. Parking at any time on the west side of Main Street southerly from the intersection of the south curbline of Jackson Street extended to the north curb of the northerly arm of Water Street. [Added 9-11-1997 by L.L. No. 1-1997]
- E. Parking on the south side of Lockport Street for a distance of 90 feet easterly from the east curbline of Main Street between the hours of 10:00 a.m. to 2:00 p.m., during which time it shall be designated exclusively as a commercial loading zone. [Added 3-11-1997 by L.L. No. 3-1997]

§ 232-11. Angle and parallel parking in designated locations.

- A. Angle parking will be permitted on the east side of Water Street starting at a point 385 feet from its north intersection with Main Street and continuing south for 367 feet.
- B. Any and all other prohibited parking areas on Water Street constitute a tow-away zone, and such vehicles shall be removed in accordance with Article VII, § 232-14, of this chapter. [Added 8-14-1975 by L.L. No. 2-1975]

1. Editor's Note: Former Subsection 4, regarding Second Street, which immediately followed this subsection, was deleted 9-10-1998 by L.L. No. 2-1998.

- C. Angle parking of trailers shall be permitted adjacent to the north side of Hinman Street between Main Street and Second Street. **[Added 8-14-1975 by L.L. No. 2-1975; amended 9-10-1998 by L.L. No. 2-1998]**
- D. Angle parking will be permitted on the north and south sides of Hinman Street in the block between Main and Second Streets, in such spaces as may from time to time be designated by the Board of Trustees by resolution. **[Added 5-25-1978 by L.L. No. 3-1978]**
- E. Parallel parking on the east side of Water Street shall be permitted for a distance of 75 feet north of the permitted angle parking. **[Added 8-11-1988 by L.L. No. 1-1988]**

§ 232-12. Parking time limited in designated locations.

- A. The parking of vehicles is hereby prohibited in any of the following locations between 8:00 a.m. and 8:00 p.m., except on Sundays and holidays, for a period of longer than two hours:
 - (1) East side of Main Street from the south curbline of Lockport Street to the north curbline of Hinman Street.
 - (2) West side of Main Street from the south curbline of the northerly arm of Water Street to a point 81 feet north of the north curbline of Hinman Street extended.
 - (3) On both sides of Lockport Street from the west curbline of Third Street to its intersection with Main Street, except for a signed sixty-foot area in front of the United States Post Office which shall be fifteen-minute maximum parking.
- B. The parking of vehicles is hereby prohibited in any of the following locations between the hours of 8:00 a.m. to 6:00 p.m., except Sundays and holidays, for a period of longer than one hour: east side of Main Street from the intersection of Lockport Street to the intersection of William Street.
- C. Two angle parking spaces immediately south and one angle parking space north of the dry hydrant on the east side of Water Street are hereby designated for handicap parking by permit only. **[Added 8-14-1975 by L.L. No. 2-1975; amended 8-11-1988 by L.L. No. 1-1988; 9-10-1998 by L.L. No. 2-1998]**
- D. Parallel parking on the east side of Water Street, as provided by § 232-11E herein, shall be limited to a period of two hours. **[Added 8-11-1988 by L.L. No. 1-1988]**
- E. On the south side of Lockport Street, commencing 90 feet easterly from the east curbline of Main Street and then extending for a distance of 50 feet, parking shall be limited to 15 minutes during the hours of 10:00 a.m. to 9:00 p.m. **[Added 9-25-2003 by L.L. No. 3-2003]**

§ 232-13. Parking lots owned, leased and/or operated by the Village. [Amended 8-14-1975 by L.L. No. 2-1975]

A. Village parking lot adjacent to Village Center. [Amended 9-10-1998 by L.L. No. 2-1998]

- (1) Parking shall be prohibited between the hours of 12:00 midnight and 7:00 a.m.
- (2) Parking shall be limited to vehicles of persons who are using the facilities of the Village Center only, except as follows: Parking of trailers, disconnected from the towing vehicle, shall be permitted on Saturday and Sunday between the hours of 7:00 a.m. to 12:00 midnight from May 15 to October 15 of each year.

B. Village parking lot on west side of Water Street.

- (1) No trailer parking is permitted.
- (2) Automobile parking on a north-south axis at anytime during the period commencing May 15 and ending October 15 of each year is permitted. **[Amended 9-10-1998 by L.L. No. 2-1998]**

ARTICLE VII

Removal and Storage of Vehicles

§ 232-14. Authority to impound vehicles.

- A. When any vehicle is parked or abandoned on any highway within this Village during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway upon which said vehicle is parked or abandoned, said vehicle may be removed by Village of Youngstown or its agents or employees.
- B. When any vehicle is found unattended on any highway within this Village where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by Village of Youngstown, its agents or employees.
- C. When any vehicle is parked or abandoned on any highway within this Village where stopping, standing or parking is prohibited, said vehicle may be removed by Village of Youngstown, its agents or employees.

§ 232-15. Storage and charges. [Amended 7-8-1976 by L.L. No. 6-1976]

After removal of any vehicle as provided in this chapter, the Village of Youngstown may store such vehicle in a suitable place at the expense of the owner. Such owner, or person in charge of the vehicle, may redeem the same upon payment to the towing agency of the amount of all expenses actually and necessarily incurred in effecting such removal together with storage charges, if any.²

2. Editor's Note: The two paragraphs which immediately followed this section, as added 1-24-1980 by L.L. No. 1-1980, regarding time and place for payment of charges and the requirement to furnish evidence of ownership before reclaiming impounded vehicles, were deleted 9-10-1998 by L.L. No. 2-1998.

§ 232-16. Notice of removal. [Amended 9-10-1998 by L.L. No. 2-1998]

The Village of Youngstown shall without delay report the removal and the disposition of any vehicle removed as provided in this article to the proper law enforcement agencies, and it shall be the duty of such Village of Youngstown to ascertain to the extent possible the owner of the vehicle or person having same in charge and to notify him of the removal and disposition of such vehicle.

**ARTICLE VIII
Truck Exclusions****§ 232-17. Weight limit established. [Amended 3-9-1989 by L.L. No. 1-1989]³**

Trucks, commercial vehicles, tractors and tractor-trailer combinations over five tons are hereby excluded from all Village streets, and the parking of said vehicles on any of said streets is prohibited.

§ 232-18. Local delivery exception.

The regulations established in this article shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded.

**ARTICLE IX
Pavement Markings****§ 232-19. Application of pavement markings.**

Pavement markings, in accordance with the standards and specifications established by the Department of Transportation, shall be applied on the following highways or portions of highways:

- A. Main Street.
- B. Lockport Street.
- C. Jackson Street.
- D. South Lake Street.
- E. Church Street.
- F. River Road.
- G. Water Street.
- H. Hinman Street.

3. Editor's Note: Former Section 130, regarding the exclusion of tractors and tractor-trailers from all Village streets, which immediately preceded this section, was repealed 3-9-1989 by L.L. No. 1-1989.

ARTICLE X

Penalties**§ 232-20. Penalties for offenses. [Amended 9-10-1998 by L.L. No. 2-1998]**

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 \$250 or by imprisonment for not more than 15 days, or by both such fine and imprisonment.

§ 232-21. Fines for illegal parking. [Added 5-26-1977 by L.L. No. 4-1977; amended 8-11-1988 by L.L. No. 1-1988; 9-10-1998 by L.L. No. 2-1998; 10-13-2011 by L.L. No. 3-2011]

Penalties for the illegal parking of motor vehicles within the Village as set forth in this chapter shall be of a fine of not more than \$250.

ARTICLE XI

Repeal of Prior Ordinances**§ 232-22. Repealer; continuing provisions.**

All prior ordinances or parts of ordinances of this Village regulating traffic 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 hereby repealed prior to the taking effect of this chapter.

ARTICLE XII

Effect of Local Law**§ 232-23. When effective.**

- A. This chapter shall take effect upon filing with the Secretary of State, except those parts, if any, which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York.
- B. Any part or parts of this chapter which are subject to approval under § 1684 of the Vehicle and Traffic Law and § 46 of the Highway 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.



Chapter 241

WATER

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| § 241-1. Water Fund account. | § 241-17. Notice to repair; work done by village; galvanized lines. |
| § 241-2. Water sold by volume. | § 241-18. Connection to hydrants; other water supply. |
| § 241-3. Water bills. | § 241-19. Tapping water mains. |
| § 241-4. Nonpayment of bills. | § 241-20. Stop valve and dual check valve required. |
| § 241-5. Installation of meters. | § 241-21. Installation of valves. |
| § 241-6. Purchase of water meters. | § 241-22. Accessibility of water meter. |
| § 241-7. Larger meters; meters to be village property. | § 241-23. Meters to be installed with outside register. |
| § 241-8. Cost of repairing damaged meters. | § 241-24. Single-family residences. |
| § 241-9. Repairs due to ordinary wear. | § 241-25. Duplex or multiple apartments. |
| § 241-10. Meter testing. | § 241-26. Disconnection of waterlines. |
| § 241-11. Meters to be accessible; billing if meter inaccessible. | § 241-27. Applications for connection. |
| § 241-12. Duties of meter reader. | § 241-28. Inspection and approval of new installations. |
| § 241-13. Seasonal users. | § 241-29. Excavations. |
| § 241-14. Apartments served from one service. | § 241-30. Safety requirements for excavations. |
| § 241-15. Tampering with or damaging meters. | § 241-31. Control of equipment on private property; right of entry. |
| § 241-16. Responsibility of property owner. | § 241-32. Backflow prevention devices. |

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 8-12-1976 by L.L. No. 7-1976. Amendments noted where applicable.]

GENERAL REFERENCES

Sewers — See Ch. 183.

§ 241-1. Water Fund account.

All water accounts will be handled through a Village Water Fund account.

§ 241-2. Water sold by volume.

All water sold to consumers through the village water system will be sold by measured volume at the prevailing village water rate. This includes water for all purposes.

§ 241-3. Water bills.

All water bills shall be an assessment directly against the property owner and shall be due and payable to the Village Treasurer by the property owner whose property is being served and are payable as stated on the quarterly water bills.

§ 241-4. Nonpayment of bills. [Amended 9-10-1998 by L.L. No. 2-1998; 6-13-2002]

Nonpayment of water bills within 30 days from due date shall be subject to a late charge of 10% of the amount due and shall also be cause for the water to be shut off. The consumer shall pay such late charge in addition to a charge of \$25 for turning on the water after it has been turned off due to nonpayment of water bill. In the event that a consumer requests that water service be restored during non-working hours, said consumer shall be charged an additional fee of \$50, payable prior to restoration of service. Fees may be changed from time to time by resolution of the Board of Trustees.

§ 241-5. Installation of meters. [Amended 9-10-1998 by L.L. No. 2-1998]

Water meters will be installed so as to be accessible for maintenance by a duly designated party at the expense of the owner of the property, except as hereinafter provided.

§ 241-6. Purchase of water meters.

Every property owner or consumer of water shall purchase his own water meter (size $\frac{5}{8}$ inch by $\frac{3}{4}$ inch) from the Village Water Department at the price established by the Board of Trustees. Water meters will be paid for with application for water service.

§ 241-7. Larger meters; meters to be village property.

Meters up to and including the size of $\frac{5}{8}$ inch by $\frac{3}{4}$ inch will be supplied at the expense of the property owner or water consumer. Larger meters will be installed at current prices upon the customer's written request and payment with application for water service. Meters remain the property of the village.

§ 241-8. Cost of repairing damaged meters.

The cost of repairing any meter damaged other than by the fault of a village employee will be borne by the owner of the property served thereby.

§ 241-9. Repairs due to ordinary wear.

The village will repair meters needing attention due to ordinary wear at no expense to the property owner serviced.

(Cont'd on page 24103)

§ 241-10. Meter testing.³

When meter accuracy is questioned, a test may be requested by writing the Village Clerk. The village shall test the meter, and if found to be correct within 1% fast, at normal tested rate of flow, the consumer shall pay \$25 for each test. Fees may be changed from time to time by resolution of the Board of Trustees. In no case will an adjustment in water bills beyond one reading period be made.

§ 241-11. Meters to be accessible; billing if meter inaccessible.

- A. All meters are to be accessible to the meter reader at any reasonable time. Meter installer and readers will produce necessary identifying credentials upon request. Should the meter not be accessible for reading during the current meter-reading period, the billing rendered shall be:
- (1) The minimum charge;
 - (2) From readings of comparable quarters; or
 - (3) From previous quarter's reading, as dictated by the billing clerk's judgment.
- B. Any adjustment will be made on the future billing after the next regular meter reading can be made. The provisions of this section also apply when readings may be in error as in §§ 241-8, 241-10 and 241-18.

§ 241-12. Duties of meter reader.

Among the duties of the meter reader are reading of the meter, adjustment, removal, replacement or repairs to the same.

§ 241-13. Seasonal users.⁴

Consumers who have no need for water during the winter months shall notify the Village Clerk to that effect in advance so that the service line may be shut off. Minimum quarterly rates shall apply whether or not water is taken for the entire year. A consumer shall pay a charge of \$25 for turning on the water after it has been turned off. Fees may be changed from time to time by resolution of the Board of Trustees.

§ 241-14. Apartments served from one service.⁵

When existing apartments are served from one service, they may be metered with one meter and billed to the owner or responsible party.

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

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

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

§ 241-15. Tampering with or damaging meters.

Any individual tampering with and/or willfully damaging a water meter installed as provided for in this chapter shall have committed a violation of this chapter.

§ 241-16. Responsibility of property owner.

The property owner is responsible for the installation and maintenance of the line serving his property from the curb stop to the point of use.

§ 241-17. Notice to repair; work done by village; galvanized lines.

- A. Should this service line need repair, the property owner is to make repairs promptly upon written notice by the village, and if repairs are not made in five days, repairs shall be made by the village and billed and payable with water bills as in payment of bills noted above. When inspection reveals that an immediate repair is needed, and the five-day waiting period cannot be adhered to, the owner or consumer will be notified immediately, and the repairs shall be made by the village and billed to the property owner. The work shall be done by a bonded contractor.
- B. When galvanized waterlines are uncovered and in need of repair to the pipe itself, the line will be replaced with Type K copper.

§ 241-18. Connection to hydrants; other water supply.

No connection shall be made to a hydrant by the consumer for other than immediate fire protection, nor shall any consumer receive water supply other than that served by the village, at any time nor perform any other acts in connection with water in violation of the laws of the State of New York.

§ 241-19. Tapping water mains.

Water mains shall be tapped only by or under the direction of the Department of Public Works. Tap charges as established by the Board of Trustees shall be paid for with application for water service.

- A. Materials for three-fourths-inch and one-inch size shall be furnished by the village. This will consist of one corporation stop with quarter bend, one curb stop and one Buffalo-type water box (telescopic) with rod. Material for larger sizes shall be furnished at the owner's/contractor's expense.⁶
- B. Waterline material will consist of Type K copper, minimum size ¾ inch, with flared or compression fittings where buried underground. All pipe material shall be supplied by the owner/contractor.⁷

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).

- C. The waterline from village water main to property line shall be one-piece with no fittings in between. A curb shut-off valve and box shall be installed at the property line no more than four feet in on private property.
- D. The waterline from curb shut-off valve to inside building shut-off valve will have no fittings in between.
- E. Waterlines measuring more than 100 feet from curb valve to inside building shut-off valve will have a water meter pit installed on the property line at the street right-of-way. Materials and size of meter pits shall be approved by the Department of Public Works.
- F. Curb/water shut-off box will be a telescopic type with operating rod fastened to curb stop. The water box will be of iron material.
- G. Curb/water shut-off box will be kept at or above grade and protected from damage. Repairs to water boxes will be made by the Department of Public Works as needed or requested, and the repairs will be billed to the owner. If the village determines that damage was caused by a village employee or village equipment, the village will bear cost of repairs.
- H. A curb or water shut-off box will not be installed in or near a sidewalk or driveway. It will be kept at a distance of two feet or more away from either. It will be installed on the private property side of the street right-of-way. (New York State Uniform Fire Prevention and Building Code 902.7b.)⁸

§ 241-20. Stop valve and dual check valve required.⁹

All service lines are to have a stop valve ahead of the meter and a dual check valve beyond the meter installed at the customer's expense, and the same shall be maintained in operating condition at all times.

§ 241-21. Installation of valves.¹⁰

The service stop valve, meter and dual check valve will be installed no more than four feet from an outside wall where the water service enters the building.

§ 241-22. Accessibility of water meter.

A water meter will not be covered or hidden by walls, cupboards or any other type of concealment. It shall be left open in a manner so as not to hinder repairs or removal of meter as needed.

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

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

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

§ 241-23. Meters to be installed with outside register.

All meters will be installed with an outside register. Meter reader/repairman would enter residence only to repair/remove water meter. The wiring and installation of outside register will be done by the Department of Public Works. Where wire will run through a wall or permanently closed portion of the building, conduit of a proper size and material will be installed at the consumer's expense and under direction of a representative of the Department of Public Works.

§ 241-24. Single-family residences.¹¹

A single-family residence shall have its own waterline, dual shutoff valve and meter.

§ 241-25. Duplex or multiple apartments.¹²

Duplex or multiple apartments may have one waterline and shutoff with each unit having its own individual shutoff and meter and check valve. This would permit individual billing at the prevailing water rate.

§ 241-26. Disconnection of waterlines.¹³

When there is no further use for a water tap or waterline, the waterline will be disconnected from the tap at the curb box. This will be done at the owner's expense.

§ 241-27. Applications for connection.

All applications for connecting to the village water mains will be approved by the Superintendent of Public Works and may be revoked at any time. Applications will be made at least 48 hours before work commences.

§ 241-28. Inspection and approval of new installations.

Each new installation must be inspected and approved by the Superintendent of Public Works. Inspection of work done under a water permit must be requested no later than 3:00 p.m. on regular business days.

§ 241-29. Excavations.

Wherever it is necessary to enter upon or excavate any highway or cut any pavement, curbing or sidewalk, permission must be obtained from the authorities maintaining the highway. Proper

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

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

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

bonds and insurance from these authorities must be on file with the Superintendent of Public Works before a village permit is issued. A street-opening bond to the Village of Youngstown for the prevailing amount required must be on file with the Superintendent of Public Works before a permit is issued.

§ 241-30. Safety requirements for excavations.

The owner/contractor shall erect substantial bridgework to accommodate traffic across any and all open road or sidewalk excavations. The owner/contractor shall erect and maintain such barricades, red lights and other safeguards to effectively prevent injuries to persons.

§ 241-31. Control of equipment on private property; right of entry.

The property owner hereby grants the Village of Youngstown such control over the service pipe, connections and meter on his premises as may be required to carry out the rules and regulations of said village and agrees that the employees of said village may enter upon said premises at all reasonable times for the purpose of inspecting said water pipes, meter and appurtenances thereto, or to discontinue and shut off the supply of water to said premises in case the property owner should fail to comply with the rules and regulations of said village.

§ 241-32. Backflow prevention devices. [Added 10-25-2001 by L.L. No. 3-2001]

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

AIR-GAP SEPARATION — A physical break between a supply pipe and a receiving vessel. Said air gap shall be at least double the diameter of the supply pipe, as measured vertically above the top rim of the vessel, and in no case be less than one inch.

APPROVED CHECK VALVE — A check valve that seats readily and completely, carefully machined to have free-moving parts and assured watertightness. The face of the closure element and valve seat shall be bronze, composition, or another noncorrodible material which will seat tightly under all prevalent conditions of field use. Pins and bushings shall be made of bronze or another noncorrodible, nonsticking material machined for easy, dependable operation. The closure element, e.g., the clapper, shall be internally weighted or otherwise internally equipped to promote rapid and positive closure in all sizes where this feature is possible; must be approved by New York State Department of Health.

APPROVED DOUBLE CHECK-VALVE ASSEMBLY — An assembly of at least two independently acting check valves, including tightly closing shutoff valves on each side of the check valve assembly, suitable leak-detector drains, and connections for testing the watertightness of each check valve. This device must be approved as a complete assembly; must be approved by New York State Department of Health.

APPROVED REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION DEVICE — A device incorporating two or more check valves and an automatically operating differential relief valve located between the two check valves, two shutoff valves, and those appurtenances necessary for testing. The device shall operate to maintain the pressure in the zone between the two check valves at less than the pressure on the

public water supply side of the device. At cessation of normal flow, the pressure between the check valves shall be less than the supply pressure. In the event of leakage of either check valve, the differential relief valve shall operate to maintain this reduced pressure by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve shall open to the atmosphere thereby providing an air gap in the device. In order to be approved, these devices must be readily accessible for maintenance and testing, and installed in a location where no part of the valve will be submerged. The enclosure must be self-draining, so that the large amount of water which the relief valve may vent will be disposed of reliably without submergence of the relief valve. This device must be approved by the New York State Department of Health.

APPROVED WATER SUPPLY — Any water supply approved by the New York State Department of Health.

AUXILIARY SUPPLY — Any water supply on or available to the premises, other than the approved water supply.

BAROMETRIC LOOP — A loop of pipe which at its topmost point rises approximately 35 feet above the highest fixture it supplies.

CERTIFIED BACKFLOW PREVENTION DEVICE TESTER — A person who is employed by the Water Department and is certified by it to be competent in the testing of backflow prevention devices. Said person shall be provided with an appropriate identification card, which must be renewed annually. Said person will hereafter be referred to as "certified Inspector."

CROSS CONNECTION — Any unprotected connection between a water system used or intended to be used to supply water for drinking purposes, and any source or system containing water or a substance which is not or cannot be approved as equally safe, wholesome and potable for human consumption.

LOCAL HEALTH DEPARTMENT — The Niagara County Health Department.

VACUUM BREAKER NON-PRESSURE-TYPE — A vacuum breaker which is designed not to be reactive to static line pressure.

VACUUM BREAKER, PRESSURE-TYPE — A vacuum breaker designed to operate under conditions of static line pressure.

WATER DEPARTMENT — The Village of Youngstown Water Department.

WATER USER — The consumer, or the person on the premises charged with the responsibility of complete knowledge and understanding of the water supply piping within the premises and for maintaining the consumer's water system free from cross-connections and other sanitary defects pursuant to regulations and laws.

B. Protection of public water system at service connection.

(1) Where protection is required.

- (a)** Each service connection between a public water system and premises which have an auxiliary water supply shall be protected against backflow of water from said auxiliary water supply into the public water system, unless said water supply is

approved as an additional source by the Water Department, and is satisfactory to the public health agency having jurisdiction with regard to quality and safety.

- (b) Each service connection between a public water system and premises where a substance is handled under pressure in such a manner as to permit entry into the premises' water system shall be protected against the backflow of such premises' water system into the public system. This includes the handling of process waters, and those waters originally provided by the public water system which may have deteriorated in sanitary or chemical quality.
 - (c) Each service connection between a public water system and premises where a substance of unusually toxic concentration or danger to health is handled in liquid form, even when not under pressure, shall be protected against the backflow of the water from the premises into the public water system. Examples are plating factories, premises using cyanide, and hospitals. This is not intended to apply to normal household installations.
 - (d) Backflow prevention devices shall be installed on the service connection to any premises that have internal cross-connections, unless such cross-connections are abated to the satisfaction of the Water Department. It shall be the responsibility of the water users to provide and maintain these protective devices, and each one must be of a type acceptable to the New York State Department of Health.
 - (e) Backflow prevention devices shall be installed on all trucks or other equipment used for the purpose of spraying fertilizers, insecticides, pesticides, or fungicides. Said devices shall prevent the introduction of such chemicals into the public water system when said equipment is being filled with water at fire hydrants or other service connections of the public water system.
- (2) Type of protection.
- (a) At the service connection to any premises on which there is an auxiliary water supply handled in a separate piping system with no known cross-connection, the public water supply shall be protected by an approved double check-valve assembly.
 - (b) At the service connection to any premises on which there is an auxiliary water supply where cross-connections are known to exist which cannot be presently eliminated, the public water supply system shall be protected by an air-gap separation or an approved reduced pressure principle backflow prevention device.
 - (c) At the service connection to any premises on which a substance that would be objectionable (but not necessarily hazardous to health if introduced into the public water supply) is handled so as to constitute a cross-connection, the public water supply shall be protected by an approved double check-valve assembly.
 - (d) At the service connection to any premises on which a substance of unusual toxic concentration or danger to health is or may be handled, but not under pressure, the public water supply shall be protected by an air-gap separation or an approved reduced pressure principle backflow prevention device. This device

shall be located as close as practicable to the water meter and all piping between the water meter and receiving tanks shall be entirely visible.

- (e) At the service connection to any premises on which any material dangerous to health, or any toxic substance in toxic concentration, is or may be handled under pressure, the public water supply shall be protected by an air-gap separation. The air gap shall be located as close as practicable to the water meter, and all piping between the water meter and receiving tanks shall be entirely visible. If these conditions cannot reasonably be met, the public water supply shall be protected with an approved reduced pressure principal backflow device which is acceptable to the Water Department.
 - (f) At the service connection at any sewage treatment plant or sewage pumping station; the public water supply shall be protected by an air-gap separation. The air gap shall be located as close as practicable to the water meter, and all piping between the water meter and receiving tanks shall be entirely visible. If these conditions cannot be reasonably met, the public water supply shall be protected with an approved reduced pressure principle back flow prevention device.
 - (g) Trucks or equipment used for the purpose of spraying fertilizers, insecticides, pesticides and fungicides shall be equipped with a backflow prevention device which is determined to be reasonable and acceptable to the Water Department.
- (3) Frequency of inspection of protective devices. It shall be the duty of the water user on any premises where backflow prevention devices are installed to have inspections made at least once a year, or more often in those instances where successive inspections indicated repeated failure. Said devices shall be repaired, overhauled or replaced at the expense of the water user whenever they are found to be defective. Tests shall be performed by a certified inspector at the user's expense, and all test results will be delivered to the Water Department within 72 hours after the test is made. Records of such tests, repairs and overhauls shall be kept and made available to the Water Department and the Local Health Department upon request.

C. Protection of potable water systems within premises.

- (1) Separate drinking water systems. If the Water Department determines that it is not practicable to protect drinking water systems on premises against entry of water from a source or piping system or equipment that cannot be approved as safe or potable for human use, an entirely separate drinking water system shall be installed to supply water at points convenient for consumers.
- (2) Fire systems. Water systems for fire-fighting, derived from a supply that cannot be approved as safe or potable for human use, shall, wherever practicable, be kept wholly separate from drinking water pipelines and equipment. In situations where the domestic water system is used for both drinking and fire-fighting purposes, approved backflow prevention devices shall be installed to protect those individual drinking water lines not used for fire-fighting purposes. Any auxiliary fire-fighting water supply which is not approved for potable purposes, but which is so connected that it may be introduced into potable water piping during an emergency, shall be equipped with an approved chlorination machine. It is hereby declared to be the responsibility

of the person or persons causing the introduction of said unapproved or unsafe water into the pipelines to develop a procedure and utilize such to notify and protect users of this potable water piping system during the emergency, and to effectuate measures to disinfect thoroughly and flush out all pipelines which may become contaminated, prior to the resumption of their use to provide drinking water. If the means used to protect water consumers is disinfection of the auxiliary fire-fighting supply, said installation and its use shall be thoroughly reliable. The public water supply must be protected against backflow from such dual domestic fire systems [see Subsection C(2) above).

- (3) Process waters. Potable water pipelines connected to equipment for industrial processes or operations shall be protected by a suitable backflow prevention device located beyond the last point from which drinking water may be taken, which said device shall be installed on the feed line to process piping or equipment. In the event the particular process liquid is particularly corrosive, or apt to prevent reliable action of the backflow prevention device, air-gap separation shall be provided. All devices shall be tested by the water user at least once a year, or more often in those instances where successive inspections indicate repeated failure. The devices shall be repaired, overhauled or replaced whenever they are found to be defective. Tests must be performed by a certified inspector at the user's expense, and records of tests, repairs, and replacements shall be kept and made available to the Water Department and the Health Department upon request.
- (4) Sewage treatment plants and pumping stations. Sewage pumps shall not have priming connections which are directly connected to any drinking water systems. No connections shall exist between the drinking water system and any other piping, equipment or tank in any sewage treatment plant or sewage pumping station.
- (5) Plumbing connections.
 - (a) Where circumstances are such that there exists a special danger to health from the backflow of sewage into a drinking water system from sewers, toilets, hospital bedpans and the like, a dependable device or devices shall be installed to prevent such a backflow.
 - (b) These regulations do not transcend local plumbing regulations, but only are directed at those extraordinary situations where sewage may be forced into, or drawn into, potable drinking water piping. These same regulations do not attempt to eliminate at the present time the hazards of back-siphonage through flushometer valves on all toilets but only are directed at those situations where the likelihood of vacuum conditions in a drinking system is definite and thus there is a special danger to health.
 - (c) Devices which avoid back-siphonage from plumbing fixtures are roof tanks, barometric loops or separate pressure systems separately piped to supply such fixtures, recognized approved vacuum or siphon breaker, and other backflow prevention devices which have been proven by appropriate tests to be dependable in the destruction of a vacuum.

- (d) Inasmuch as many serious hazards of this kind are caused by water supply piping which is too small, thereby causing vacuum conditions when various fixtures are flushed or water is drawn from the system in other ways, it is recommended that water supply piping which is determined to be too small be enlarged whenever possible.
- (6) Marking safe and unsafe water lines.
 - (a) Where premises contain dual or multiple water systems and piping, the exposed portions of pipelines shall be painted, banded or marked at sufficient intervals to distinguish clearly which water is safe and which is not safe. All outlets from secondary or other potentially contaminated systems shall be posted as being contaminated and unsafe for drinking purposes. All outlets intended for drinking purposes shall be plainly marked to indicate such.
 - (b) The local Health Department and the Water Department shall be kept informed of the identity of all persons responsible for the water piping on all premises concerned with these regulations. At each premises where it is necessary in the opinion of the Water Department, a water supervisor shall be designated. The water user shall be responsible for the installation and use of pipelines and equipment and for the avoidance of cross-connections.
 - (c) In the event of contamination or pollution of the drinking water system due to a cross-connection of the premises, the local Health Department and Water Department shall be promptly advised by the person responsible for the water system so that appropriate measures may be taken to eliminate the contamination.
- D. Recourse for noncompliance.
 - (1) No water service connection to any premises shall be installed or maintained by the Water Department until the water supply is protected pursuant to state regulations and this section.
 - (2) The providing of water to any premises may be discontinued at the discretion of the Water Department if a backflow prevention device required by this rule and regulation is not installed, tested, and maintained. If any defect is found in an installed backflow prevention device, or if it is found that a backflow prevention device has been removed or bypassed, or if unprotected cross-connections exist on the premises, service will be terminated and not be restored until such conditions or defects are corrected.
- E. Certified inspector's fees. The Town Board shall by resolution from time to time set the fees for inspections by certified inspectors. All such fees will be billed by and be paid to the Water Department on the next quarterly or the final water bill, as the case may be.
- F. Penalties for offenses.
 - (1) Any person found violating any provision of this section shall be served with a written notice, stating the nature of the violation and providing a specified time within which the violation shall cease and satisfactory corrective action shall be taken by the violator.

- (2) In the event that such violation is not terminated within the time specified within said notice, the violator shall be liable to the people of the Village of Youngstown for a penalty of not more than \$1,000.
 - (3) Every week that a violation is allowed to continue beyond the time specified in said notice shall constitute a separate violation.
 - (4) Nothing contained herein shall prevent the Village of Youngstown from exercising such other and additional remedies as are available to it under other local law, or state or federal law.
- G. Reasonable interpretation required. These regulations are to be reasonably interpreted; it is their intent to recognize that there are varying degrees of hazard and to apply the principle that the degree of protection should be commensurate with the degree of hazard.
- H. Shut-off of service; service charges.
- (1) In case of a violation of this section, the Water Department may shut off the service until the violation is removed and all charges paid, including a charge for turning off or turning on the service.
 - (2) Service charges for turning off or turning on the service shall be set by the Village Board by resolution.
 - (3) Service charges will be added to the quarterly statement or the final billing as the case may be.

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Chapter 245

WATERFRONT

ARTICLE I General Provisions

§ 245-1. New land for permanent use.

ARTICLE II Local Waterfront Revitalization Program

§ 245-2. Swimming.

§ 245-3. Water vessels at village dock.

§ 245-4. Enforcement.

ARTICLE III Local Waterfront Revitalization Program Consistency

§ 245-5. Type 1 and unlisted actions to be reviewed.

§ 245-6. Title.

§ 245-7. Purpose.

§ 245-8. Authority.

§ 245-9. Applicability.

§ 245-10. Definitions.

§ 245-11. Initial consistency review.

§ 245-12. Consistency determination.

§ 245-13. Effective date.

Waterfront Assessment Form

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

GENERAL REFERENCES

Building construction — See Ch. 83.
Historic preservation — See Ch. 128.

Parks and recreation areas — See Ch. 148.
Zoning — See Ch. 250.

ARTICLE I General Provisions [Adopted 12-4-1957]

§ 245-1. New land for permanent use.

Any filled place upon the bed of the Niagara River, adjacent to, or abutting in any way, the present shoreline of the village, which thereby extends the shoreline beyond the present limits of low water and creates new land for permanent use shall thereupon become taxable property of the Village of Youngstown, subject to all orders, rules, regulations, laws and ordinances of the village, and any construction on or abutting such filled land thus created must conform to the requirements thereof and a building permit therefor must be obtained.

ARTICLE II
Local Waterfront Revitalization Program
[Adopted 5-8-1975 by L.L. No. 1-1975]

§ 245-2. Swimming.¹

Swimming in the Niagara River from the village dock and park area located east of the Niagara River is hereby prohibited at all times.

§ 245-3. Water vessels at village dock.

- A. The parking or docking of water vessels at the village dock shall be restricted to a period of ½ hour, as the Village Board may from time to time by resolution provide; provided, however, that parking or docking vessels in any event shall always be restricted to a maximum of ½ hour on the twenty-five-foot length of dock space adjacent and immediately north of the small boat launch ramp.
- B. The regulations adopted by the Village Board of Trustees as provided in Subsection A above shall be conspicuously posted at the dock and park area west of Water Street.²

§ 245-4. Enforcement.

The provisions of this article may be enforced by such law enforcement agencies or designated village employees as the Village Board of Trustees may from time to time designate.

ARTICLE III
Local Waterfront Revitalization Program Consistency
[Adopted 10-19-1989 by L.L. No. 2-1989]

§ 245-5. Type 1 and unlisted actions to be reviewed.

This Local Waterfront Revitalization Program (LWRP) Consistency Law for the Village of Youngstown, New York requires all Type 1 and unlisted actions [as defined by the State Environmental Quality Review Act (SEQRA) implementing regulations] that would be directly undertaken, approved or funded by the village to be reviewed by the Board of Trustees for consistency with the Village of Youngstown LWRP.

§ 245-6. Title.

This article shall be known and may be cited as the "Village of Youngstown LWRP Consistency Law."

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

² Editor's Note: Former Section 4, dealing with the small boat ramp, as amended 5-20-1976 by L.L. No. 3-1976, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 245-7. Purpose.

The purpose of this article is to provide for the protection and beneficial use of the natural and man-made resources within the Village of Youngstown waterfront area by ensuring that certain actions to be undertaken, approved or funded by the village will be undertaken in a manner consistent with the policies and purposes of the Village of Youngstown Local Waterfront Revitalization Program. The consistency review, while triggered by SEQRA, is a freestanding review conducted by the Board of Trustees.

§ 245-8. Authority.

This article is adopted under § 10 of the Municipal Home Rule Law and Article 42 of the Executive Law.

§ 245-9. Applicability.

All agencies of the Village of Youngstown shall comply with this article, prior to directly undertaking, approving or funding any action within the waterfront area when such action is classified as Type I or unlisted under Part 617 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

§ 245-10. Definitions.

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

ACTION — Either a Type I or unlisted action, as defined in SEQRA regulations at NYCRR 617.2.

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

CAF — Coastal Assessment Form as adopted by the village.

CONSISTENT — The action will be fully in compliance with and will not hinder any of the Village of Youngstown LWRP policy standards and conditions.

EAF — Environmental Assessment Form, as defined at 6 NYCRR 617.2(l).

EIS — Environmental impact statement, as defined at 6 NYCRR 617.2(m).

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) — The local program to implement the New York State Coastal Management Program within the Village of Youngstown approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981 (Article 42 of the Executive Law of New York State), a copy of which is on file in the office of the Clerk of the Village of Youngstown.

PART 617 — The State Environmental Quality Review Regulations (Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York).

PLANNING BOARD — The Village of Youngstown Planning Board.

SEQRA — The State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law, which is Chapter 43-b of the Consolidated Laws of the State of New York).

VILLAGE — The Village of Youngstown.

VILLAGE AGENCY — Any board, department, office, other bodies or officers of the Village of Youngstown.

WATERFRONT AREA — That portion of the New York State Coastal Area within the Village of Youngstown as delineated in the Village of Youngstown Local Waterfront Revitalization Program.

- B. All other terms for which definitions are given in SEQRA and/or Part 617 shall have the same meanings in this article.

§ 245-11. Initial consistency review.

- A. As early as possible in the formulation of Type I or an unlisted action, the agency shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review; however, when an applicant submits an application to a village agency for an approval of an action, the applicant shall prepare a CAF.
- B. The Board of Trustees or a village agency when proposing to undertake, approve or fund a Type I or unlisted action in the waterfront area shall prepare or cause to be prepared a Waterfront Assessment Form (WAF) for the proposed action. Following the preparation of an environmental impact statement or the issuance of a negative declaration pursuant to SEQRA, a village agency shall refer the WAF, any environmental impact statement (EIS) or other pertinent information for that action to the Board of Trustees for review and determination regarding the action's consistency with the policies and purposes of the LWRP.

§ 245-12. Consistency determination.

- A. Prior to its undertaking, approving or funding of a proposed Type I or unlisted action in the waterfront area, and for each action referred by a village agency pursuant to § 245-11, the Board of Trustees shall either:
- (1) Determine that the action will not substantially hinder achieving the LWRP policy standards and conditions; or
 - (2) Determine that the action will substantially hinder achieving the LWRP standards and conditions.
- B. Determination that action will cause substantial hindrance.
- (1) If the Board of Trustees determines that the action will cause a substantial hindrance to the achievement of the LWRP policy standards and conditions, such action will not be undertaken, unless the Village Board determines with respect to the proposed project that:

- (a) No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;
 - (b) The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions to the maximum extent practicable; and
 - (c) The action will result in an overriding village, regional or statewide public benefit.
- (2) Such a finding shall constitute a determination that the action is consistent.
- C. The Board of Trustees shall complete its review of the proposed action's consistency and prepare a written finding to the referring village agency within 30 days of the referral date. The Board of Trustees may refer such actions for review to any municipal agency. Such agencies include, but are not limited to the Village Attorney, Department of Public Works and Planning Board.
- D. The written findings of the Board of Trustees shall be filed with the Village Clerk before the action is undertaken, approved or funded.
- E. No action shall be undertaken, approved or funded unless the Board of Trustees determines its consistency with the general intent of the LWRP by a finding pursuant to either Subsection A(1) or (2) above.

§ 245-13. Effective date.

This article shall take effect immediately after the following have both occurred:

- A. Approval of the Village of Youngstown Local Waterfront Revitalization Program by the Secretary of State in accordance with Article 42 of the Executive Law of New York State; and
- B. Filing of the chapter in the office of the Secretary in accordance with § 27 of the Municipal Home Rule law.

WATERFRONT

VILLAGE OF YOUNGSTOWN

WATERFRONT ASSESSMENT FORM

- (a) Applicants shall complete this assessment form for actions which are subject to the Village of Youngstown Local Consistency Law. This assessment is intended to supplement other information used by the Village of Youngstown in making determinations of significance pursuant to the New York State Environmental Quality Review Law. If it is determined that an action will not have a significant effect on the environment, this assessment is intended to assist the village in arriving at their decision as to consistency as required by § 245-12 of Article III of Chapter 245 of the Code of the Village of Youngstown (Local Consistency Law).
- (b) If any question in Subsection (e) on this form is answered "yes," then the proposed action may affect the achievement of the coastal policies contained in the Village of Youngstown Local Waterfront Revitalization Program. Thus, the action should be analyzed in more detail and, if necessary, modified prior to either (1) making a determination of consistency pursuant to § 245-12 of Article III of Chapter 245 of the Code of the Village of Youngstown or (2) if the action is one for which an environmental impact statement is being prepared, making the findings required thereunder. If an action cannot be determined as consistent with the general intent of the LWRP, it shall not be undertaken.
- (c) Before answering the questions in Subsection (e), the preparer shall review the coastal policies as explained in the Village of Youngstown Local Waterfront Revitalization Program. Actions should be evaluated as to their beneficial and adverse effects upon the coastal area.
- (d) Description of action.
1. Type of action:
____ (a) Directly undertaken, pursuant to: _____
____ (b) Funding pursuant to: _____
____ (c) Permit(s), pursuant to: _____
____ (d) Planning activity(ies) pursuant to _____
____ (e) Rule, regulation, procedure, policymaking, pursuant to: _____
____ (f) Construction, alteration of structure(s) _____
 2. Location of action; fill in blank(s) as applicable

Applicant
 3. Anticipated start date of action _____
month/day/year

YOUNGSTOWN CODE

4. Will the action require funding and/or approval by a federal agency(ies)? If yes, which federal agency(ies)? _____

(e)	Coastal Assessment	YES	NO
1.	Will the action result in a large physical change to a site or physically alter more than 20,000 square feet of land, if said land is located west of Main Street, or five acres if elsewhere within the village?	_____	_____
2.	Will the action have any significant visual effect upon the bluff or Youngstown Harbor as viewed from Constitution Park or Waterfront Park?	_____	_____
3.	Will the action significantly affect existing uses or the development of future water-dependent uses?	_____	_____
4.	Will the action require new or expanded public services or infrastructure into undeveloped or low-density areas of the village?	_____	_____
5.	Does the action involve an energy facility not subject to Article VII or VIII of the New York State Public Service Law?	_____	_____
6.	Will the action be located in or significantly affect development on the bluff west of Main Street that functions as a natural protection feature against erosion?	_____	_____
7.	Does the action involve mining, excavation or dredging within the Niagara River?	_____	_____
8.	Will the action result in a reduction of existing or potential public access to or along the shore?	_____	_____

WATERFRONT

- | | YES | NO |
|--|-------|-------|
| 9. Does the action involve the sale or change in use of publicly owned lands adjacent to the coastline? | _____ | _____ |
| 10. Will the action affect existing or potential recreation opportunities? | _____ | _____ |
| 11. For any activities within the Waterfront District, Waterfront Commercial-1 or Waterfront Commercial-2 Districts as defined and located within Chapter 250, Zoning, of the Code of the Village of Youngstown and Zoning Map, respectively, the following questions shall be answered. [Added 1-24-1991 by L.L. No. 2-1991] | | |
| a. Does the height of any proposed building or addition to an existing building exceed three stories? | _____ | _____ |
| b. Is off-street parking provided? | _____ | _____ |
| c. Will there be any new signs constructed as part of the proposed action? | _____ | _____ |
| d. Is landscaping proposed as part of the proposed action? | _____ | _____ |
| e. Will the proposed action introduce color schemes different from those generally in use within the Waterfront District? | _____ | _____ |
| f. Will there be new lighting introduced to the area as part of the proposed action? | _____ | _____ |

YOUNGSTOWN CODE

- | | YES | NO |
|--|-------|-------|
| g. Will there be new or alterations to existing utilities required due to the proposed action? | _____ | _____ |
| h. Will there be new erosion protection structures installed or extensive repairs to existing erosion protection structures as part of the proposed action? | _____ | _____ |
| 12. For any activities within the Waterfront District, Waterfront Commercial-1 or Waterfront Commercial-2 Districts as located and defined within the Village Zoning Map and Chapter 250, Zoning, of the Code of the Village of Youngstown, respectively, the following questions shall be answered. | | |
| a. Will there be any facade improvements to any building as part of the proposed action? | _____ | _____ |
| b. Will the gross floor area for any proposed restaurant, bait and tackle shop, drug store, convenient food store, boutique, antique shop and professional craft studio exceed 4,000 square feet? | _____ | _____ |
| c. Is the size and shape of new buildings or additions to existing buildings or additions to nearby structures harmonious with nearby structures? | _____ | _____ |
| 13. Does the action affect any significant cultural resources located within the Village of Youngstown? | _____ | _____ |

WATERFRONT

Contact should be made with
the New York State Department
of Environmental Conservation
and/or the New York State Office
of Parks, Recreation and Historic
Preservation to determine a
project's potential impact.

YES

NO

If you answered yes to one or more questions in Subsection (e) on this form, briefly and precisely describe the nature and extent of the proposed action in the space below, and submit a copy to:

Office of the Mayor
Youngstown Village Hall
P.O. Box 168
240 Lockport St.
Youngstown, New York 14174

Preparer's Name: _____ Telephone No. _____

Organization: _____ Date: _____

Address: _____

Chapter 250

ZONING

ARTICLE I General Provisions

- § 250-1. Enactment and authorization.**
- § 250-2. Title.**
- § 250-3. Purpose.**
- § 250-4. Establishment of zoning districts.**
- § 250-5. Incorporation of Zoning District Map.**
- § 250-6. Interpretation of district boundaries.**
- § 250-7. Application of regulations.**
- § 250-8. Previously approved permits and variances.**
- § 250-9. Conflict with other regulations.**

ARTICLE II Definitions

- § 250-10. Rules of construction.**
- § 250-11. Definitions.**

ARTICLE III Zoning District Regulations

- § 250-12. Permitted uses in all districts.**
- § 250-13. Permitted uses in the R-11, R-15, R-20 and R-40 Districts.**
- § 250-14. Permitted uses in RCL-3 Districts.**
- § 250-15. Permitted uses in R-8 Districts.**
- § 250-16. Permitted uses in R-8A Districts.**

- § 250-17. Permitted uses in R-8A Districts adjacent and contiguous to C Districts.**
- § 250-18. Permitted uses in the C District.**
- § 250-19. Permitted uses in A Districts.**
- § 250-20. Permitted uses in the PF District.**
- § 250-20.1. Senior Citizens Housing District.**
- § 250-21. Waterfront District.**
- § 250-22. Waterfront Commercial 1 District.**
- § 250-23. Waterfront Commercial 2 District.**
- § 250-24. Waterfront Bluff Overlay District.**
- § 250-25. Interpretation of permitted uses.**
- § 250-26. Use modifications.**
- § 250-27. Schedule of regulations.**
- § 250-28. Lot size and open space modifications.**
- § 250-29. Height modifications.**
- § 250-30. Miscellaneous open space regulations.**

ARTICLE IV Off-Street Parking

- § 250-31. Required off-street parking spaces.**
- § 250-32. Units of measurement.**
- § 250-33. Modification of required parking.**
- § 250-34. Site requirements.**

ARTICLE V
Nonconforming Use Regulations

- § 250-35. Nonconforming uses.
§ 250-36. Nonconforming structures.

ARTICLE VI
Administration, Enforcement and
Violations

- § 250-37. Administration and
enforcement.
§ 250-38. Site plan review.
§ 250-39. Penalties for offenses.

ARTICLE VII
Board of Appeals

- § 250-40. Creation and organization.
§ 250-41. Powers and duties.
§ 250-42. Procedure.

ARTICLE VIII
Amendments

- § 250-43. Authorization.
§ 250-44. Provisional amendments.
§ 250-45. Procedure.

Schedule of Regulations

Table of Zoning Map
Amendments

[HISTORY: Adopted by the Board of Trustees of the Village of Youngstown 8-20-1962. Amendments noted where applicable.]

ARTICLE I
General Provisions

§ 250-1. Enactment and authorization.

- A. Enactment ordaining clause. Pursuant to the authority conferred by Article 7, Building Zones, of the Village Law of the State of New York, and for each and every purpose specified therein, the Village Board of the Village of Youngstown, County of Niagara, and State of New York, has ordained and does hereby enact the following chapter, regulating and restricting by districts the height of buildings and other structures, the portion of lots that may be occupied, the size of yards and other open spaces, the density of population and location and use of buildings, structures and land for trade, industry, residence or other purposes. **[Amended 9-10-1998 by L.L. No. 2-1998]**
- B. Repeal. The Zoning Ordinance of the Village of Youngstown, New York which is embodied in Chapter VI of the Ordinances of the Village of Youngstown, New York is hereby repealed as of the effective date hereof. Such repeal shall not affect or impair any act done, offense committed or vested right accrued or acquired or liability, penalty or forfeiture or punishment incurred prior to the time such repeal takes effect.

§ 250-2. Title.

This chapter shall be known and may be cited as "Zoning Ordinance of the Village of Youngstown, New York," and the same shall constitute Chapter 250 of the Code of the Village of Youngstown, New York.

§ 250-3. Purpose. [Amended 3-11-1976 by L.L. No. 1-1976]

The comprehensive zoning plan set forth in the text and maps which constitute this chapter are adopted in order to promote and protect public health, safety, comfort, convenience, prosperity and other aspects of the general welfare. These general goals include, among others, the following specific purposes: to provide adequate light, air and convenience of access; to prevent undue concentration of population and overcrowding of land; to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements and to assure preservation, utilization and maintenance of open space and to further assure environmental protection.

§ 250-4. Establishment of zoning districts. [Amended 5-26-1969; 3-11-1976 by L.L. No. 1-1976; 10-19-1989 by L.L. No. 3-1989; 9-10-1998 by L.L. No. 2-1998]

The Village of Youngstown is hereby divided into the following zoning districts:

A	Agricultural District
R-40	Single-Family Residence District
R-20	Single-Family Residence District
R-15	Single-Family Residence District
RCL-3	Cluster Residence District
R-11	Single-Family Residence District
R-8	Two-Family Residence District
R-8A	General Residence District
C	General Commercial District
PF	Public Facilities District
W	Waterfront District
WC-1	Waterfront Commercial 1 District [Amended 1-24-1991 by L.L. No. 1-1991]
WC-2	Waterfront Commercial 2 District [Amended 1-24-1991 by L.L. No. 1-1991]
B	Bluff Overlay District
SCH	Senior Citizens Housing District [Added 2-10-2000 by L.L. No. 1-2000]

§ 250-5. Incorporation of Zoning District Map.

The location and boundaries of the aforesaid zoning districts are shown on a map entitled "Zoning District Map of the Village of Youngstown, New York" which, with all explanatory matter thereon, is hereby incorporated into this chapter and shall be as much a part of this

chapter as if fully set forth and described herein. Said map shall be certified by the Village Clerk and shall be posted and filed according to law.¹

§ 250-6. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of the aforesaid districts, as shown on said map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, or are indicated as approximately parallel thereto, such center lines, street lines or highway right-of-way lines or lines parallel thereto shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where no distances are indicated, dimensions shall be determined by the use of the scale shown on said Zoning Map.

§ 250-7. Application of regulations.

- A. General application. Except as hereafter provided:

- (1) No building, other structure or land shall hereafter be used or occupied, and no building or other structure or parts thereof shall be erected, relocated, altered, extended or enlarged, unless in conformity with the use, height and area regulations specified herein for the district in which such building, other structure or land is located and in conformity with all other regulations of this chapter.
- (2) No lot area shall be reduced or diminished so that the yards or other open spaces thereon shall be less than prescribed by this chapter, nor shall the density of population be increased in any manner except in conformity with area requirements herein established. If, at the time of adoption of this chapter or of any subsequent amendments increasing the area or open space requirements, the lot area or required open spaces are less than the minimum required by this chapter, such area or open space shall not be further reduced.
- (3) No yard or open space provided on one lot for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space required on any other lot.
- (4) Environmental protection. [Added 4-24-1986 by L.L. No. 1-1986]
 - (a) No building or structure shall be erected, relocated, altered, extended or enlarged; or land used or occupied; or accessory uses permitted without

1. Editor's Note: The current Zoning Map is on file in the Village Clerk's office. In addition, a table of Zoning Map amendments is included at the end of this chapter.

conformance with and adherence to the environmental protection areas wherever they exist in the Village of Youngstown hereafter identified as:

- [1] Flood-prone areas as delineated on the adopted Flood Insurance Rate Maps.
- [2] Wetlands and wetlands boundaries as governed by the New York State Department of Environmental Conservation.²
- [3] Any other areas as identified and in accordance with the State Environmental Quality Review Act (6 NYCRR Part 617).

(b) Prior to the approval of any action or issuance of building permit for uses or structures in the above areas, an environmental assessment of impacts and any mitigations required shall be prepared in accordance with the State Environmental Quality Review Act (6 NYCRR Part 617). The Village Board of Trustees shall render a written determination and finding of all such actions requiring environmental assessment pursuant to State Environmental Law (Article 8 of the New York Environmental Conservation Law).

B. Certain public uses excluded. The regulations of this chapter shall not be so construed as to limit or interfere with the use of land or buildings for public schools or for governmental purposes of the United States Government, the State of New York, the County of Niagara or the Village of Youngstown or with the construction, installation, operation and maintenance for public utility purposes of water or gas pipes, electric or communication lines, sewers or with highways. These exceptions shall not be interpreted to permit yards, garages or other buildings for service or storage by said public utilities unless specifically allowed in an appropriate district.

§ 250-8. Previously approved permits and variances.

- A. Building permits. Nothing contained in this chapter shall prevent the construction of a building or other structure for which a building permit has been lawfully issued and which is made nonconforming by this chapter or subsequent amendments hereto, provided that either:
- (1) Construction of the foundation shall have commenced prior to the nonconforming date and construction thereafter is diligently prosecuted; or
 - (2) The Board of Appeals makes a finding that substantial financial obligations have been incurred prior to such nonconforming date.
- B. Special permits and variances. Special permits or variances granted prior to the effective date hereof and which are not permitted herein as of right in the district affected shall be subject to all the conditions and limitations placed thereon when granted and to the nonconforming use regulations herein.

2. Editor's Note: Former Subsection D3, dealing with the Environmental Protection Zone, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 250-9. Conflict with other regulations.

In their interpretation and application the provisions of this chapter shall be considered to be minimum requirements to promote and protect public health, safety, comfort, convenience, prosperity and other aspects of the general welfare. Whenever any provision of this chapter is at variance or conflict with any other provision of this chapter or any other statute, local ordinance or regulation covering any of the same subject matter, the most restrictive provision, or the one imposing the highest standard, shall govern.

**ARTICLE II
Definitions****§ 250-10. Rules of construction.**

The following rules of construction of language shall apply to the text of this chapter:

- A. Words used in the present tense include the future tense.
- B. Words used in the singular include the plural, and words used in the plural include the singular.
- C. The word "lot" includes the word "plot" or "parcel."
- D. The word "person" includes an individual, firm or corporation.
- E. The word "shall" is always mandatory.
- F. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- G. Any reference to an "R District" shall be interpreted to mean "R-8, R-8A, R-11, R-15, R-20, R-40 or RCL-3 Districts."³
- H. A "building" or "structure" includes any part thereof.
- I. "And" indicates that all connected items, conditions, provisions or events shall apply.
- J. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- K. "Either . . . or" indicates that the connected items, conditions, provisions or events may apply singly, but not in any combination.

§ 250-11. Definitions.

For the purpose of this chapter, certain terms or words used herein shall be interpreted or defined as follows:

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

ACCESSORY USE OR BUILDING — A use or building customarily incidental and subordinate to the principal use or building and (except as otherwise provided) located on the same lot with such principal use or building.

ALTERATION — Any change, rearrangement or addition to, or any relocation of, a building or structure; any modification in construction or equipment.

BLUFF — See Article III, § 250-24B. [Added 10-19-1989 by L.L. No. 3-1989]

BOATHOUSE — A structure built partly over water for the housing or storing of a maximum of two recreational boats, with accommodations for gear or general storage. [Added 10-19-1989 by L.L. No. 3-1989]

BOUTIQUES — A small retail establishment specializing in fashionable clothing and accessories or gifts. [Added 10-19-1989 by L.L. No. 3-1989]

BUILDING — A combination of any materials, whether portable or fixed, having a roof, to form a structure affording shelter for persons, animals or property, but not a trailer.

BUILDING, COMPLETELY ENCLOSED — A building separated on all sides from the adjacent open area, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows or normal entrances or exit doors.

BUILDING HEIGHT — The vertical distance measured from the average elevation of the proposed finished grade of the building to the highest point of the roof for flat roofs, to the deck line of mansard (a roof with a double pitch on all sides) roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs. For the purpose of determining maximum permitted height, for principal buildings, such measurement shall be made from the average finished grade at the front setback. For the purpose of side yard or rear yard determination, such measurement shall be made from the average finished grade of the wall extending along such side yard or rear yard.

CONVENIENT FOOD STORES — A small retail establishment which sells a limited supply of food and drink items, contains a maximum of two checkout areas and does not provide grocery carts for customer use. [Added 10-19-1989 by L.L. No. 3-1989]

DEVELOPED LAND AREA — Land which is occupied by either structures, parking lots, outdoor storage areas, landscaped improvements, recreation areas or any combination thereof. [Added 10-19-1989 by L.L. No. 3-1989]

DWELLING — A building, but not a building of mixed occupancy, used as the living quarters for one or more families.

- A. **SINGLE-FAMILY DWELLING** — A building containing one dwelling unit and designed or used exclusively for occupancy by one family.
- B. **TWO-FAMILY DWELLING** — A building containing two dwelling units and designed or used exclusively for occupancy by two families living independently of each other; or two one-family dwellings having a party wall in common.

- C. MULTIFAMILY DWELLING — A building or portion thereof containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other.
- D. DWELLING GROUP — A group of two or more dwellings located on the same lot and having any yard or open space in common.

DWELLING UNIT — One or more rooms designed for occupancy by one family for cooking, living and sleeping purposes.

ENLARGEMENT — An increase in floor area of an existing building or an increase in size of an existing structure or an increase in the area of land used for an existing open use.

EXTENSION — An increase in the amount of existing floor area used, for an existing use in an existing building.

FAMILY — One or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers or lodgers not in excess of the number allowed by this chapter as an accessory use.

GARAGE, PRIVATE — An accessory building or portion of a main building used for the storage of self-propelled vehicles, including commercial vehicles having a rated capacity of not more than 3/4 ton, used by the occupants of the premises and which may include space for not more than one passenger vehicle used by others.

- A. ATTACHED GARAGE — A garage which is structurally attached to a principal building and which may have livable floor area adjoining not more than one wall of such garage.
- B. INTEGRAL GARAGE — A garage which is structurally attached to a principal building and which has livable floor area above or adjoining one or more walls of such garage.

GASOLINE SERVICE STATION — Any area of land, including structures thereon, that is used primarily for the sale of gasoline or other motor vehicle fuel; accessory uses may include the sale of oil, other lubricating substances or motor vehicle accessories, or facilities for lubricating, washing or for the incidental replacement of parts, or motor service to passenger automobiles or trucks not exceeding 11/2 tons' rated capacity but shall not include general repair, rebuilding or reconditioning of engines, motor vehicles or trailers, or collision service, body repair, frame straightening, painting, undercoating, vehicle steam-cleaning or upholstering.

HOME OCCUPATION — Any use customarily conducted entirely within a dwelling and carried on only by the residents thereof and which is clearly incidental and secondary to the use of the dwelling for living purposes and does not change the character thereof, provided that:

- A. Only customary home appliances are used.
- B. There is no exterior evidence of such home occupation other than permitted identification sign.

- C. No article is sold or offered for sale except such as may be produced by members of the family residing on the premises.
- D. Any use first permitted in the R-8A or C Districts shall not be interpreted as being a home occupation.

HOTEL — A building containing sleeping rooms in which lodging is provided primarily for transient guests for compensation and which may include public dining facilities.

JUNK BUSINESS — The maintenance of a place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, sorted, stored, baled, packed, disassembled, handled or abandoned; but not including pawnshops, antique shops, establishments for the sale, purchase or storage of used furniture, household equipment, clothing, used motor vehicles capable of being registered, or machinery to be reused for the purpose for which originally manufactured.

KENNEL — The keeping of more than two dogs that are more than six months old.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) — The local program to implement the New York State Coastal Management Program within the village as approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981. **[Added 10-19-1989 by L.L. No. 3-1989]**

LOT — A parcel of land occupied or capable of being occupied by a principal building or use, or a group of principal buildings or uses that are united by a common interest or customary accessory buildings or uses, and including such open spaces to be used in connection with such buildings or uses. A lot may or may not be a lot of record.

LOT, CORNER — A lot at the junction of and fronting on two or more intersecting streets.

LOT DEPTH — The mean horizontal distance between the front and rear lot lines.

LOT, INTERIOR — A lot other than a corner lot.

LOT LINE, FRONT — Where a lot abuts upon only one street, the lot line along such street shall be the front lot line. Where a lot abuts upon more than one street, the assessment roll of the Village of Youngstown shall determine the front lot line.

LOT LINE, REAR — Any lot line which is opposite and more or less parallel with the front lot line. In the case of a lot which comes to a point at the rear, the rear lot line shall be an imaginary line, 10 feet in length, entirely within the lot, parallel to and most distance from the front lot line.

LOT LINE, SIDE — Any lot line which is not a front lot line or a rear lot line.

LOT LINES — The property lines bounding the lot. Where any property line parallels a street and is not coincident with the street line, the street line shall be construed as the property line for the purpose of complying with the area and setback regulations of this chapter.

LOT, THROUGH — A lot in which the front lot line and rear lot line abut a street.

LOT WIDTH — The least horizontal distance across the lot between side lot lines, measured at the front setback of a main building erected or to be erected on such lot or at a distance from the front lot line equal to the required depth of the front yard.

MOTEL — A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing accessory off-street parking facilities. The term "motel" includes buildings designated as motor lodges, auto courts and similar appellations.

NONCONFORMING USE — Any lawful building or structure or any lawful use of land, premises, building or structure which does not conform to the regulations of this chapter for the district in which such building, structure or use is located, either at the effective date of this chapter or as a result of subsequent amendments thereto.

NURSING OR CONVALESCENT HOME — Any building where persons are housed or lodged and furnished with meals and nursing care for hire.

MINOR STRUCTURE — Small structures, usually accessory to a principal use, which either have no foundations or are supported by posts. Said posts shall not exceed a fourteen-inch circumference, and the distance between the lowest ground elevation and supporting structure shall not exceed three feet. Examples of minor structures include decks, cabanas and patios.
[Added 10-19-1989 by L.L. No. 3-1989]

MIXED OCCUPANCY — Occupancy of a building in part as a dwelling and in part for some other use not accessory thereto.

PUBLIC GARAGE OR REPAIR GARAGE — Any garage other than a private garage or gasoline service station, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

REPAIR — Replacement or renewal, excluding additions, of any part of a building, structure, device or equipment, with like or similar materials or parts, for the purpose of maintenance of such building, structure, device or equipment.

RESERVOIR SPACE — A temporary storage space for a vehicle waiting for service or admission.

RESTAURANT — An establishment where food and beverages are prepared, served and intended to be consumed within the principal building or outside patio and where such food and beverages are not primarily packaged for removal by the customer. [Added 10-19-1989 by L.L. No. 3-1989]

RESTAURANT, FAST-FOOD — An establishment where food and/or beverages are sold in a form ready for consumption and where, by design or packaging techniques, all or a significant portion of the consumption can or does take place outside the confines of the building, often in a motor vehicle on the site. [Added 10-19-1989 by L.L. No. 3-1989]

SENIOR CITIZEN HOUSING — A building or premises used as a multiple residence designed primarily to provide living and dining accommodations for persons over the age of 55. At least one occupant of each dwelling unit must meet this minimum age requirement, and no occupants may be less than 19 years of age. [Added 2-10-2000 by L.L. No. 1-2000]

SETBACK — The least horizontal distance from any existing or proposed building or structure to the nearest point in an indicated lot line or street line.

SHIPS SUPPLY — A small retail store specializing in accessory items for use on recreational watercraft. Such items might include life preservers, compasses, maps and similar materials. Replacement equipment for engine parts and the body of the watercraft are not sold in these establishments. **[Added 10-19-1989 by L.L. No. 3-1989]**

SIGN — Any structure or part thereof, or any device attached to, painted on, or represented on a building or other structure, upon which is displayed or included any letter, work, model, banner, flag, pennant, insignia, decoration, device or representation used as, or which is in the nature of, an announcement, direction, advertisement or other attention-directing device. A sign shall not include a similar structure or device located within a building, except for illuminated signs within show windows. A sign includes any billboard, but does not include the flag, pennant or insignia of any nation or association of nations, or of any state, city or other political unit or of any political, charitable, educational, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

SIGN, ADVERTISING OR BILLBOARD — An advertising sign or billboard is a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same zoning lot.

SIGN, FLASHING — A flashing sign is a moving or animated sign or any illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity or color at all times when in use. Any revolving illuminated sign shall be considered a flashing sign.

SIGN, GROUND — Those signs which are affixed to the ground and not attached to a building. **[Added 10-19-1989 by L.L. No. 3-1989]**

SIGN, ILLUMINATED — Any sign designed to give forth any artificial light or designed to reflect light from one or more sources, natural or artificial.

SIGN, PROJECTING — Sign which is affixed to an exterior wall of the structure extending in a perpendicular direction. **[Added 10-19-1989 by L.L. No. 3-1989]**

SIGN, ROOF — A sign which is erected, constructed or maintained on, partly above or as part of the roof of any building. **[Added 10-19-1989 by L.L. No. 3-1989]**

SIGN, WALL — A sign which is affixed to an exterior wall of a structure. **[Added 10-19-1989 by L.L. No. 3-1989]**

STORY — That portion of a building between the surface of any finished floor and the surface of the finished floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it. The following shall not be deemed a story: **[Amended 10-19-1989 by L.L. No. 3-1989]**

- A. A basement or cellar if the finished floor level directly above is not more than six feet above the average adjoining elevation of finished grade.

- B. Any attic or similar space under a gable or roof in which the exterior roofline is not more than four feet above the floor of such space.

STREET — Any road, avenue, lane, alley or other way which is an existing public way, or which is shown on an approved plot, or any private right-of-way or easement approved by the Village Board.

STREET LINE — A line separating a lot from a street. In any case where a future street line has been established or approved by the Village Board, such future street line shall be considered as a street line for the purposes of determining lot area and setback requirements.

STRUCTURAL ALTERATIONS — Any change in the supporting members of a building or other structure, such as bearing walls, columns, beams or girders.

STRUCTURE — Anything constructed or erected, which requires permanent location on the ground or attachment to something having such location, but not including a trailer.

TRAILER OR MOBILE HOME — A vehicle used for living or sleeping purposes and standing on wheels or on rigid supports.

USE — The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

VILLAGE BOARD — The Board of Trustees of the Village of Youngstown.

VILLAGE INN — A building which retains the scale and character of existing commercial structures along Main Street and which has sleeping rooms offered for overnight guests for compensation. Other rooms typically found in residential homes, such as living rooms and kitchens, are often included within the inn for shared use by inn guests. Restaurant facilities may or may not be incorporated into the building. A village inn is not to be construed as a motel. The latter is described elsewhere in this chapter. [Added 10-19-1989 by L.L. No. 3-1989]

YARD — That portion of a lot extending open and unobstructed from the ground upward along a lot line.

YARD, FRONT — A yard extending the full length of the front lot line between the side lot lines. The front yard depth of a lot located on a curve shall be measured from the chord connecting the arc of the front lot line or from the tangent of said arc, whichever measurement results in the lesser depth.

YARD, FRONT EQUIVALENT — That portion of a rear yard of a through lot extending along a street line and from the street line for a depth equal to a required front yard. Any front yard equivalent shall be subject to the regulations of this chapter which apply to front yards.

YARD, REAR — On an interior lot, a yard extending for the full length of the rear lot line between the side lot lines. On a corner lot, a yard extending along a rear lot line between an interior side lot line and an exterior side yard.

YARD, REQUIRED — A yard having a depth or width set forth in the applicable district regulations. Such width or depth shall be measured perpendicular to lot lines.

YARD, SIDE — A yard extending along a side lot line from the required front yard to the required rear yard, except that, on a corner lot where the side lot line abuts a street, the side yard shall extend from the required front yard to the rear lot line.

- A. **EXTERIOR SIDE YARD** — A side yard extending along a street line.
- B. **INTERIOR SIDE YARD** — A side yard extending along a lot line of an adjoining lot.

ARTICLE III Zoning District Regulations

§ 250-12. Permitted uses in all districts.

The following uses shall be permitted in all districts:

- A. The renting of rooms for lodging and serving of breakfast to casual and transient roomers shall be permitted in all zoning districts of the village, provided that the renting of these rooms is clearly incidental and secondary to the principal use of the dwelling and that the: [Amended 4-28-1983 by L.L. No. 1-1983]
 - (1) Dwelling shall be owner/agent occupied.
 - (2) Dwelling may display a uniform sign not exceeding a size of two feet by two feet and limited to an inscription of "bed-and-breakfast" only.

§ 250-13. Permitted uses in the R-11, R-15, R-20 and R-40 Districts. [Amended 3-11-1976 by L.L. No. 1-1976]

Permitted uses in the R-11, R-15, R-20 and R-40 Districts shall be as follows:

- A. Principal uses.
 - (1) Single-family dwelling.
 - (2) Church or similar place of worship, parish house, convent, rectory or parsonage.
 - (3) Private, nonprofit, elementary or secondary school accredited by the New York State Department of Education.
 - (4) Fire station, without club facilities.
 - (5) Cemeteries by special permit authorized by the Village Board.
 - (6) All principal uses permitted as provided in agricultural districts, with the exception of farming, but subject to the schedule of regulations as set forth in § 250-27 of this chapter, as amended.
- B. Accessory uses.

- (1) Quarters for servants employed upon the premises.
- (2) An office or studio of a resident: medical or osteopathic physician, dentist, physiotherapist, chiropodist, podiatrist, chiropractor, lawyer, engineer, architect, accountant, insurance agent, real estate agent, artist, musician, teacher, optometrist or ophthalmologist, financial planner/financial analyst, provided that:
 - (a) Such use shall be located within a dwelling and shall be clearly incidental to the primary residential use.
 - (b) Not more than four additional persons shall be employed on said premises as assistants to the person conducting such accessory use. **[Amended 4-22-1993 by L.L. No. 2-1993; 7-15-1993 by L.L. No. 4-1993]**
 - (c) Such use shall not include the confinement of any person under care or treatment.
 - (d) Anything in this chapter to the contrary notwithstanding, if approved by the Board of Trustees as a special exemption after a public hearing as prescribed by law, the premises may be used by any professional described in Subsection B(2) above for the conduct of his or her practice irrespective of whether said professional resides or has resided in said premises. Such special exemption shall be granted only to individual practitioners and shall specify that only one practitioner at a time shall utilize the premises, otherwise the special exemption shall become null and void. **[Amended 4-22-1993 by L.L. No. 2-1993; 7-15-1993 by L.L. No. 4-1993; 1-24-2002 by L.L. No. 2-2002]**
- (3) Building for private horticultural purposes, provided that no solid fuel is used and that such building shall be located at least 20 feet from any lot line and shall not exceed 15 feet in height.
- (4) Off-street parking, including the parking of not more than one commercial vehicle, provided that the vehicle is used by the occupant of the premises and does not exceed a two-ton rated capacity.
- (5) Signs shall be permitted as follows:
 - (a) Identification sign. One nonilluminated sign not exceeding two square feet in area and indicating only the name and address of the occupant or a permitted occupation. Such sign may be attached to a building or may be on a separate support not more than four feet in height and shall be at least five feet from any property line or street line.
 - (b) Real estate signs.
 - [1] One nonilluminated sign not exceeding six square feet in area and advertising only the prospective sale or rental of the premises on which such sign is located. Such sign shall not be placed within 10 feet of any property line.

- [2] One nonilluminated sign not exceeding 50 square feet in area in connection with the development or subdivision of real property. Such sign shall be permitted for a period of not to exceed one year and shall not be placed within 25 feet of any lot line or street line.
- (c) Institutional signs. One nonilluminated bulletin board or identification sign not exceeding 16 square feet in area. Such sign shall not be placed within 10 feet of any property line or street line.
- (d) Public signs. Any signs placed by any governmental agency for a public purpose.
- (6) Private family swimming pool subject to the issuance of a building permit, provided that it meets the fencing and location requirements of Chapter 202, Swimming Pools, of the Code of the Village of Youngstown. [Amended 11-18-1963; 9-10-1998 by L.L. No. 2-1998]
- (7) Home occupations as defined in Article II.
- (8) Storage of utility trailers or boats owned by the occupant of the premises for his or her personal use.
- (9) Other customary accessory uses, but not including any use conducted for gain or an access drive or walk to a business premises.
- (10) Private docks in the R-15 and R-40 Districts pursuant to a special permit issued by the Board of Appeals in accordance with the provision of Article VII, § 250-41B(2) of this chapter. [Added 4-24-1986 by L.L. No. 1-1986]

§ 250-14. Permitted uses in RCL-3 Districts. [Added 3-11-1976 by L.L. No. 1-1976]

Permitted uses in the RCL-3 Districts shall be as follows:

A. Principal uses.

- (1) Cluster housing projects consisting of single-family detached, townhouses and garden apartments, as follows: maximum of three units per gross acre in the RCL-3 District.
- (2) All principal uses permitted in and as regulated in the R-40, R-20, R-15 and R-11 Districts, with the exception of single-family dwellings.

B. Accessory uses: all accessory uses permitted and as regulated in the R-40, R-20, R-15 and R-11 Districts.

§ 250-15. Permitted uses in R-8 Districts.

Permitted uses in the R-8 Districts shall be as follows:

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

A. Principal uses.

- (1) Two-family dwellings.
- (2) All principal uses permitted and as regulated in the R-20 Districts.

B. Accessory uses.

- (1) All accessory uses permitted and as regulated in the R-20 Districts.
- (2) Customary accessory uses, but not including any use conducted for gain or an access drive or walk to a business premises.

§ 250-16. Permitted uses in R-8A Districts. [Amended 5-26-1969]

Permitted uses in the R-8A Districts shall be as follows:

A. Principal uses.

- (1) Multifamily dwellings.
- (2) All principal uses permitted and as regulated in the R-8 Districts.

B. Accessory uses: all accessory uses permitted and as regulated in the R-8 Districts.⁵**§ 250-17. Permitted uses in R-8A Districts adjacent and contiguous to C Districts. [Added 8-3-1972]**

Permitted uses in the R-8A Districts which are adjacent and contiguous to C Districts shall be as follows:

A. Principal uses.

- (1) Multifamily dwellings.
- (2) All principal uses as permitted and as regulated in R-8 and R-8A Districts.⁶
- (3) Office or studio of a medical or osteopathic physician, dentist, physiotherapist, chiropodist, podiatrist, chiropractor, lawyer, engineer, architect, accountant, insurance agent, real estate agent, artist, musician, teacher, optometrist or ophthalmologist; provided, however, that such uses shall only be permitted in existing dwellings in such district, and said dwellings shall not be materially altered or changed in appearance, and in addition no such use shall include the confinement of any person under care or treatment.

B. Accessory uses: all accessory uses permitted and as regulated in R-8 and R-8A Districts not adjacent or contiguous to C Districts.

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

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

§ 250-18. Permitted uses in the C District.

Permitted uses in the C District shall be as follows:

A. Principal uses. [Amended 5-26-1969; 5-31-1979 by L.L. No. 1-1979; 4-24-1986 by L.L. No. 1-1986]

- (1) Business establishments which are clearly of a community service character, such as but not limited to the following:
 - (a) Stores selling groceries, meats, baked goods and other such food items.
 - (b) Drugstores.
 - (c) Stationery, tobacco and newspaper stores, luncheonettes and confectionery stores.
 - (d) Hardware, radio and television stores.
 - (e) Clothing, accessory and jewelry stores.
- (2) Personal service establishments which are clearly of a community character, such as but not limited to the following:
 - (a) Barber and beauty shops.
 - (b) Professional and craft studios.
 - (c) Tailor shops.
 - (d) Business, administrative and professional offices, banks, insurance, real estate and financial institutions.
 - (e) Establishments servicing goods, such as those permitted in this district.
 - (f) Public utility offices, telephone exchange.
- (3) Shops for custom work or making articles or products to be sold at retail on the premises (maximum 20% of gross floor area).
- (4) Boat or marine sales, service or storage.
- (5) Electrical transformer stations.
- (6) When conducted in an entirely enclosed building, the following:
 - (a) Amusement enterprises.
 - (b) Laundromat or dry-cleaning pickup station.
 - (c) Eating or drinking establishments, provided that no sale of alcoholic beverages for consumption on the premises shall be permitted on any lot where a side lot line abuts a lot in an R District.

- (7) Drive-in banks, provided that at least five reservoir spaces are provided on the lot for each teller's window. Such spaces shall be exclusive of required parking spaces.
 - (8) Gasoline service stations, provided that:
 - (a) All servicing or repairing of vehicles shall be conducted within a completely enclosed building, except fueling, adding motor lubricants, water or antifreeze or making minor emergency repairs.
 - (b) There shall be no outdoor display of merchandise, except for a supply of motor lubricants at the pumps. All storage of merchandise and equipment, except gas pumps or air lines, shall be in the principal building.
 - (c) No outside storage of disabled vehicles shall be permitted for more than 36 hours.
 - (9) Drive-in eating or drinking establishments, but not on a lot where a side lot line abuts a lot in an R District.
 - (10) Tourist home.
 - (11) Art, dance, music or photographic studio.
 - (12) Optician or optometrist.
 - (13) Fire station with club facilities.
 - (14) Private club or lodge.
 - (15) The following uses, provided that they are not used primarily for mental patients, drug or alcohol addicts or for penal or correction purposes:
 - (a) Medical building consisting of offices or clinics for medical doctors, dentists, chiropractors, chiropodists or podiatrists.
 - (b) Nonprofit institutions for charitable, religious, cultural or community social purposes.
 - (16) Fast-food restaurant, but not on a lot where a side lot abuts a lot in a R District.
[Added 10-19-1989 by L.L. No. 3-1989]
- B. Limitations on gasoline service stations and public garages. The following regulations shall apply to gasoline service stations and public garages:
- (1) No part of any building so used and no filling pump, lift or other service appliance shall be erected within 25 feet of a lot in an R District.
 - (2) No gasoline or oil pump, no oiling or greasing mechanism or service appliance shall be installed within 20 feet of any street line.

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

- (3) Two reservoir spaces for each gasoline pump shall be provided on the lot for waiting vehicles. Such reservoir space shall not include space at the pump or required parking space.
- (4) Storage of gasoline shall be in underground tanks approved by the National Board of Fire Underwriters.
- (5) There shall be no use of the lot except for landscaping or screening within 20 feet of a lot in an R District.

C. Accessory uses.

- (1) Off-street parking; off-street loading or unloading.⁸
- (2) Nonflashing signs, which direct attention to a profession, business, service, entertainment or commodity conducted, offered, sold or manufactured upon the same lot, including real estate signs, subject to the following restrictions:

(a) Location.

- [1] Illuminated signs, except for gasoline brand name signs, shall be attached to the building. Illuminated gasoline brand name signs shall not be located in the corner visibility area defined in § 250-30A.
- [2] No sign shall project across a street line.
- [3] No sign shall be located in a required interior side yard or within 10 feet of a lot in an R District.
- [4] Signs attached to a building shall be attached to a wall.

(b) Size.

- [1] No illuminated sign attached to a wall facing an interior side yard or rear yard along a lot in an R District shall have a surface area in square feet larger than its distance in linear feet from such lot.
- [2] No sign within 100 feet of an R District boundary shall have a surface area in square feet larger than its distance in linear feet from such boundary, unless such sign is perpendicular to such boundary or is attached to a wall pierced by a primary business entrance of the use to which such sign is accessory.

(c) Height.

- [1] Any sign attached to a building wall shall not extend above such wall.
- [2] Any sign not attached to a building shall not extend more than 25 feet above the adjoining ground level.

8. Editor's Note: Former Subsection A, regarding used motor vehicle sales, which immediately preceded this subsection, was deleted 4-24-1986 by L.L. No. 1-1986.

- (d) One nonflashing sign which identifies a group of stores as a shopping center or plaza shall be permitted when the location, size, height and type of illumination, if any, of such sign is approved by the Village Board.
- (3) Residential use if in conjunction with and incidental to any of the permitted principal uses. [Added 4-24-1986 by L.L. No. 1-1986]
- (4) Shops for the manufacture or processing of articles incidental to the conduct of a retail business lawfully conducted on the premises, provided that:
 - (a) All such articles manufactured or processed are sold at retail on the premises.
 - (b) Not more than four persons are engaged in such manufacturing or processing at any one time and in any one establishment.
 - (c) Such activity shall not produce offensive odors, noise, vibrations, heat, glare or dust.
- (5) All accessory uses permitted and as regulated in the R-8A Districts which are not otherwise enumerated in this Subsection C.⁹
- (6) Club swimming pool subject to regulations for private swimming pools. [See § 250-13B(6).] [Added 5-26-1969]

§ 250-19. Permitted uses in A Districts. [Added 3-11-1976 by L.L. No. 1-1976]

Permitted uses in A (Agricultural) Districts shall be as follows:

A. Principal uses.

- (1) Single-family dwellings.
- (2) Churches and other similar places of worship, parish houses, convents and other such facilities of recognized religious groups.
- (3) Farms and related farm activities, provided that no storage of manure or odor- or dust-producing substance shall be permitted within 100 feet of an adjoining lot line.
- (4) Greenhouses and landscape nurseries for the growing and sale of stock grown on the premises.

B. Accessory uses.

- (1) Professional offices and home occupation uses, provided that they are carried on in conjunction with a residential use on the property.
- (2) Private garages.
- (3) Customary residential storage structures, toolhouses, playhouses and greenhouses.

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

- (4) Animal shelters for domestic pets of the household.
- (5) Other customary residential structures, such as private swimming pools, fireplaces, trellises, lampposts and the like.
- (6) Customary farm buildings for the storage of products, animals and/or equipment located on the same parcel as the principal use.
- (7) Enclosed stands and temporary unenclosed stands to be used exclusively for the sale or disposal of agricultural or garden products produced in or upon the property.

C. Uses with special use permit.

- (1) Public utility use.
- (2) Hospital, colleges and institutions.
- (3) Private clubs and lodges.
- (4) Boat livery.
- (5) Garden centers, accessory to lands in nurseries and greenhouses.¹⁰

§ 250-20. Permitted uses in the PF District. [Added 3-11-1976 by L.L. No. 1-1976]

Permitted uses in the PF District shall be as follows:

A. Principal uses.

- (1) Parks and other facilities municipally owned or operated by the village.

§ 250-20.1. Senior Citizens Housing District. [Added 2-10-2000 by L.L. No. 1-2000]

- A. Purpose. The purpose of a senior citizens zoning district is to provide specialized living quarters for elderly and retired citizens who wish to live independently, but who prefer the advantages to be found in living in apartments designed specifically for community living of elderly citizens who do not require specialized continuing medical care.
- B. Senior Citizens Housing (SCH) Districts. SCH Districts are zoning districts created for use by senior citizen housing units. These are unmapped districts which are created by the Village of Youngstown Board of Trustees. Each planned district is created in an area which has preexisting zoning. The newly created Senior Citizen Housing District is drawn on the Official Zoning Map only after it has been created by the Village Board.

- (1) Permitted uses. For land which is zoned SCH, the following uses are permitted by right:

10. Editor's Note: Former Subsection 2-04C, as added 3-11-1976 by L.L. No. 1-1976 and subsequently amended, which immediately followed this subsection, dealing with the CR District, was deleted 10-19-1989 by L.L. No. 3-1989.

- (a) Senior citizens dwelling apartments for the express habitation by elderly persons.
 - (b) Essential services. These are services necessary for the preservation of the public health, safety and convenience, including the erection, construction, alteration or maintenance of public utility systems. This provision excludes buildings, substations, pole yards and other open areas used for the storage of utility facilities, except that fire, ambulance and police stations are included.
 - (c) Customary accessory uses. Accessory uses or structures which are clearly subordinate to the principal use of a building located on the same lot and which serve a purpose customarily incidental to the use of the principal building shall be permitted in each district. Such uses include swimming pools, common dining areas, storage facilities, home gardening, service quarters to be occupied only by service employees on the premises, home occupations, off-street parking and loading areas, temporary tract offices and other uses customarily appurtenant to a permitted use.
- (2) Notwithstanding any other provision in this Code for land which is zoned SCH, no other uses are permitted.
- (3) The process necessary to create a Senior Citizens Housing District shall be as follows:
- (a) Rezoning is required. Before any land may be used for the permitted uses in this district, it first must be rezoned to Senior Citizens Housing District (SCH).
 - (b) The following information is required:
 - [1] Proof of ownership of the land proposed for rezoning.
 - [2] A description of the property, including a metes and bounds description of the parcel and a map to scale showing topographical features prepared by a licensed engineer or surveyor in accordance with the design and construction standards of the Village of Youngstown.
 - [3] A letter of intent which states the land's present use and its proposed use as a Senior Citizens Housing District.
 - [4] A map sketch which shows the existing and eventual plans for the property.
 - [5] A completed long form of the environmental assessment form (EAF).
 - [6] Two copies of a petition to rezone the land. The original petition is to be submitted to the Village Clerk and a copy given to the Village Mayor.
 - (c) The procedure for rezoning to be used shall be that set forth in Article 7, § 7-706, of the New York State Village Law.

(4) Requirements for a Senior Citizens Housing District shall be as follows:

(a) Lot area. In said district, no building shall be erected or altered on a lot or contiguous lots having an area of less than one acre.

(b) Public services.

[1] The following public services are required:

[a] Public sewer.

[b] Public water supply for consumption and fire protection.

[c] Stormwater drainage facilities approved by the Engineer for the village.

[d] A fire alarm system in each unit with an alarm interconnection to the entire structure and an appropriate county public safety answering point, such as the Niagara County Sheriff's Department.

[e] Cable television service.

[f] Telephone service.

[2] All utilities must be placed underground.

(c) Design standards. Design standards shall be as follows:

[1] Density. There shall be no more than 50 dwelling units per acre. The minimum open space required is 40% of the total land area.

[2] Height restrictions. No building shall be greater than 2 1/2 stories high and in no event greater than 35 feet in height.

[3] Exterior design and architectural design shall provide that no exterior building wall shall be more than 125 feet long without a minimum six-foot offset.

[4] A minimum of 20 square feet of public assembly area is required per apartment.

[5] Apartment sizes and amenities. These matters shall conform to all applicable federal or New York State standards for housing for the well-elderly as may be established from time to time.

[6] The Planning Board may modify or waive the design standards for state- or federally funded projects.

[7] All exterior and architectural design plans must be approved by the Planning Board.

(d) Landscaping. Landscaping shall be approved by the Planning Board. Lot areas which are not required for buildings, structures or parking shall be

landscaped with grass, decorative trees or shrubs. A plan which shows the location and species of plant material shall be provided.

- (e) Access drives and parking space. Setback areas may be used for access drives and parking areas except for the following conditions:
 - [1] Parking or garage facilities adequate to accommodate one automobile for each apartment shall be provided on the premises; in addition, at least 10% of said parking shall be designated as guest parking.
 - [2] All parking facilities provided pursuant to the requirements of this article shall be paved or surfaced in accordance with sound engineering and construction practices, and each parking space shall be not less than nine feet in width by 20 feet in depth and shall be individually identified by pavement markings.
 - [3] No access drive or parking space shall be closer than 10 feet from any lot line. This ten-foot strip shall contain decorative fencing or trees and shrubbery adequate to visually screen parking from adjacent properties.
- (f) Outdoor storage. Any outdoor storage of garbage and rubbish shall be in containers which are enclosed in such a way to be concealed from public view and inaccessible to children, dogs and vermin. Said appropriate enclosures shall include screens, fences, stockade fences, walls, etc.
- (g) Buffers.
 - [1] A ten-foot-wide landscaped area shall be provided along all property lines, excluding points of ingress and egress and property lines adjacent to existing commercial uses. This landscaped area shall be densely planted with a mixture of shrubs and trees. All of these shall be no less than six feet high, to create an opaque screen.
 - [2] All landscaped areas along property lines which are crossed by access drives may be planted with low shrubs no greater than three feet high and with a branching habit no less than eight feet wide; further, no planting shall cause a hazardous condition by interfering with the normal line of sight (350 feet in either direction) needed for safe entering and exiting maneuvers by motor vehicles.
 - [3] Landscaped areas shall be designed to be easily maintained and protected by at least six-inch nonmountable concrete or granite curbing.
- (h) Site plan review. Once land is rezoned, the site plan must be approved by the Planning Board and Village Board pursuant to this chapter. In addition, the Village Board shall have the right to waive or modify the above requirement for any unique site.

C. Miscellaneous regulations.

- (1) In any project whereby offering plans for senior citizen multiple residence housing are required to be filed with the New York State Attorney General, the same must be filed with the Village Clerk not less than 96 hours prior to the time when such offering plan shall be filed with the New York State Attorney General.
- (2) Lighting. For all projects within this district, all parking areas, entries, corridors, passages, utility areas and front landscaping must be provided with adequate lighting for safety purposes. Lights shall be adjusted so as not to shine onto adjacent properties. Lights must be controlled by a time clock or positive photo cell switching so as to ensure adequate lighting during all dark hours.
- (3) Continued compliance. For all projects within this district, any owner of a building or premises used or erected as a Senior Citizens Housing District designated primarily to provide living and dining accommodations for persons over the age of 55 shall file with the Village Court a signed, sworn affidavit, on or before the 1st of January of every year, stating that all senior citizen multiple resident housing age requirements mandated by law or by regulations of the village, county, state or federal government, or any agencies thereof, are being and will continue to be complied with.
- (4) Laundry facilities. In any project within this district, a designated utility area shall be provided for laundry purposes. At least one washer and one dryer for every 10 units must be provided.
- (5) Indoor storage. In a project within this district, the developer shall endeavor to provide appropriate indoor storage space for each unit.

§ 250-21. Waterfront District. [Added 10-19-1989 by L.L. No. 3-1989; amended 1-24-1991 by L.L. No. 1-1991]

- A. Purpose. The Niagara River shoreline has always played an important role in shaping the image of the village and its economic as well as recreational base. This is especially true in the Water Street area where boating activities and water-based recreation uses are concentrated. Due to the limited land area available for uses which are dependent on a waterfront location, it is important to designate the Waterfront District for such uses. In addition, site plan review procedures have been designed to ensure that the specific details of waterfront development are thoroughly considered; that the environmental quality of the area is preserved; and that development is consistent with the village's Local Waterfront Revitalization Program (LWRP).
- B. Permitted uses in the W District.
 - (1) Boat launches, lifts and bulkheads.
 - (2) Flood and erosion protection structures.
 - (3) Public recreation.
 - (4) Fishing docks.

- (5) Marine service, repair and rental facilities.
 - (6) Private boathouses.
 - (7) Yacht clubs.
 - (8) Marinas.
 - (9) Boat storage buildings.
 - (10) Accessory facilities to permitted uses, including but not limited to restaurants, parking areas for five or fewer cars, outdoor rest rooms, pools and snack bars.
- C. Site plan. An approved site plan as described in § 250-38 of this chapter shall be required for any new use, addition or exterior alteration to those uses listed in Subsection B of this section which meet or exceed one or more of the following thresholds:
- (1) The activity requires at least five parking spaces or loading docks or any combination thereof which totals five spaces or docks.
 - (2) The activity increases the gross floor area, developed land areas or any combination thereof by 25% or more.
 - (3) The activity has a monetary value that is 10% more than the full value assessment of the property being improved.
- D. Uses existing within the Waterfront District on the date of establishment of said district.
- (1) Uses which fall within the use categories listed in Subsection B of this section and which existed on the date of establishment of the Waterfront District do not require an approved site plan to continue.
 - (2) Uses existing on the date of establishment of the Waterfront District which do not fall within the use categories listed in Subsection B of this section shall be nonconforming and subject to provisions of Article V of this chapter.
- E. Design standards for Waterfront Districts.
- (1) The height of buildings shall not exceed three stories.
 - (2) Off-street parking shall be provided as required in Article IV of this chapter and as regulated in Subsection B of this section.
 - (3) Billboards, ground signs, roof signs and projecting signs are prohibited.
 - (4) All signs shall be integrated with the structure and its style, design and architectural elements.
 - (5) Neon signs and any other signs displaying flashing or visible moving elements are prohibited.
 - (6) One wall sign shall be permitted on each wall for each nonresidential use in a structure.

- (7) Wall signs shall not project more than twelve inches from the wall to which they are affixed.
- (8) Wall signs shall not extend above or beyond the wall in any direction and shall not extend above the bottom of the sill of second-story windows or 15 feet above grade level.
- (9) Allowable total square footage of all sign areas per structure shall not exceed 50% of the street frontage of the particular use to which said sign is affixed.
- (10) While recognizing the small nature of the lots in the Waterfront District, new development, additions or exterior alterations to existing development shall make efforts to incorporate landscaping into any improvements. This shall include buffering, parking areas, outdoor storage sites and loading/unloading areas from public view.
- (11) New development shall be consistent with the maritime theme of the area, recognize the vehicle/parking limitations of the district by not overburdening Water Street with new traffic and/or creating excessive parking areas and shall respect the scenic nature of the district by not blocking views seen from the Constitution Park bluff and Waterfront Park or introducing distractive building elements, such as garish signs or use of color schemes that are clearly out of character with the area.
- (12) Lighting shall be restrained in design and excessive brightness avoided.
- (13) Newly installed utility services and service revisions necessitated by exterior alterations or additions shall be underground.
- (14) Construction of erosion protection structures shall incorporate the following standards:
 - (a) All erosion protection structures shall be designed and constructed according to generally accepted engineering principles, which have demonstrated success or a likelihood of success in controlling long-term erosion. The protective measure must have a reasonable probability of controlling erosion on the immediate site for at least 30 years. Nonstructural methods of erosion control shall, however, be given primary consideration.
 - (b) All material used in such structures shall be durable and capable of withstanding inundation, wave impacts, weathering and other effects of storm conditions.
 - (c) The construction, modification or restoration of erosion protection structures shall not be likely to cause any measurable increase in erosion at the development site or other locations and prevent adverse effects to natural protective features and existing erosion protection structures.
- (15) All other design requirements shall be determined during the site plan review process.

§ 250-22. Waterfront Commercial 1 District. [Added 10-19-1989 by L.L. No. 3-1989; amended 1-24-1991 by L.L. No. 1-1991]

- A. Purpose. The existence of a significant natural feature, such as the bluff along the Niagara River, provides tremendous opportunities for public enjoyment of the harbor vista. The economic well-being of the commercial corridor along Main Street is also linked to the protection of the vistas and bluff area. Those commercial uses which can maximize their location on the bluff by creating scenic vistas as part of the site design will increase retail activity along Main Street. This will have a spillover economic impact onto the establishments on the east side of the street as well. Due to the proximity of the Main Street corridor to the boating activity at the river and adjacent state parks, it is a natural draw for tourists, boaters, fishermen and other recreational enthusiasts. It is important that good site planning occur on Main Street to create an attractive shopping environment. This is given further importance due to the many older structures present along Main Street which lend a historic flavor to the area. Main Street also serves as a gateway to Fort Niagara State Park and therefore requires sensitive treatment to ensure that a welcome environment is conveyed to park visitors wishing to stop in the village to eat or shop. It is also important to give priority to commercial uses which can utilize a bluff location to increase sales and pedestrian traffic along Main Street.
- B. Permitted uses in the WC-1 District.
- (1) Restaurants.
 - (2) Ship supply.
 - (3) Boutiques.
 - (4) Craft studios.
 - (5) Professional offices; provided, however, that any professional office located on the first floor of any structure in the district must also comply with the additional requirements of Subsection G of this section. [Amended 9-27-2001 by Ord. No. 1-2001]
 - (6) Residential use, except on the first floor of the building.
 - (7) Village inns.
 - (8) Parking as may be required under this chapter or any other village ordinance or local law.
 - (9) Park land.
 - (10) Antique shops.
 - (11) Accessory uses which are incidental to the above uses.
- C. Site plan review. An approved site plan, as described in § 250-38 of this chapter, shall be required for any new development, additions or exterior alterations to those uses listed in Subsection B which exceed one or more of the thresholds listed in § 250-21C.

D. Uses existing within the Waterfront Commercial 1 District on the date of the local law establishing said district:"

- (1) Uses which fall within the use categories listed in Subsection B do not require an approved site plan to continue.
- (2) Uses existing on the date of the local law establishing the Waterfront Commercial District which do not fall within the categories listed in Subsection B shall be nonconforming and subject to provisions of Article V of this chapter.

E. Design standards for Waterfront Commercial 1 District.

- (1) See design standards for Waterfront District, § 250-21E.
- (2) Facade improvements shall be consistent with the generally brick, wood frame, stonework and clapboard siding features characteristic of the area.
- (3) The gross floor area for restaurants, convenient food stores, boutiques, antique shops and professional and craft studios shall not exceed 4,000 square feet. **[Amended 1-24-1991 by L.L. No. 1-1991]**
- (4) The massing and bulk of any new construction should be in harmony with adjacent buildings. The relationship of width to height of new structures shall be consistent with the ratio of the adjacent structures.
- (5) Color choice of new construction should be influenced by the surrounding development. The color of the new structure should not make it stand out.
- (6) Where building sites limit planting, the placement of trees in parking lots or other paved areas is encouraged.

F. Harborfront vista incentives.

- (1) The Waterfront Commercial 1 District is on the west side of Main Street, and on the west side of Main Street, the Board of Trustees may permit an additional story to the permitted building height, or the maximum gross floor area for commercial uses may be increased up to a maximum of 5,000 square feet if the site plan or existing use currently includes one or more of the following:
 - (a) Construction of an outdoor eating area overlooking the harbor which is open to the general public and provides a minimum eating capacity for 15 individuals.
 - (b) Interior floor plan for commercial uses or restaurants designed in a manner which maximizes the harbor vista through large, picture windows that cover a minimum of 60% of the building wall facing the harbor.
 - (c) Construction of an outdoor retail area overlooking the harbor.

11. Editor's Note: Local Law No. 3-1989, adopted 10-19-1989, established the Waterfront Commercial 1 District.

- (d) Construction of a small public viewing area on the lot which provides good vistas of the harbor and which is open to the general public. Such area must be a minimum of 200 square feet.
- G. Anything in this chapter to the contrary notwithstanding in the WC-1 and WC-2 Districts, upon formal submission of specific floor plans approved by the Board of Trustees after a public hearing as prescribed by law may be granted a special exemption by the Board of Trustees for use of a portion of the first floor of the premises for professional services, provided that: **[Added 9-27-2001 by L.L. No. 1-2001]**
 - (1) The professional service is incidental to the primary use of the above-referenced districts; and
 - (2) The activity does not preclude the use of the Main Street side of buildings between Hinman and Lockport Streets for commercial purposes; and
 - (3) Said special exemption shall be granted to an individual practitioner only and shall specify that only one practitioner shall use the premises and shall not have more than four persons employed by him or her, otherwise the same shall become null and void.

§ 250-23. Waterfront Commercial 2 District. [Added 1-24-1991 by L.L. No. 1-1991]

- A. Purpose. The economic well-being of the commercial corridor along Main Street is linked to the protection of the vistas and bluff area along the Niagara River. Those commercial uses which can maximize their locations on the bluff by creating scenic vistas as part of the site design will increase retail activity along Main Street. This will have a spillover economic impact onto the establishments on the east side of the street as well. Due to the proximity of the Main Street corridor to the boating activity at the river and adjacent state parks, it is a natural draw for tourists, boaters, fishermen and other recreational enthusiasts. It is important that good site planning occur on Main Street to create an attractive shopping environment. This is given further importance due to the many older structures present along Main Street which lend a historic flavor to the area. Main Street also serves as a gateway to Fort Niagara State Park and therefore requires sensitive treatment to ensure that a welcome environment is conveyed to park visitors wishing to stop in the village to eat or shop.
- B. Permitted uses in the WC-2 District.
 - (1) Drugstores.
 - (2) Convenient food stores.
 - (3) All uses listed in the Waterfront Commercial 1 District.
 - (4) Accessory uses to drugstores and convenient food stores.
 - (5) Bait/tackle shops.

- C. Site plan review. An approved site plan as described in § 250-38 of this chapter shall be required for any new development, additions or exterior alterations to those uses listed in Subsection B of this section.
- D. Uses existing within the Waterfront Commercial 2 District on the date of the local law establishing said district:¹²
 - (1) Uses which fall within the use categories listed in Subsection B of this section do not require an approved site plan to continue.
 - (2) Uses existing on the date of the local law establishing the Waterfront Commercial 2 District which do not fall within the categories listed in Subsection B of this section shall be nonconforming and subject to the provisions of Article V of this chapter.
- E. Design standards for Waterfront Commercial 2 District.
 - (1) See design standards for Waterfront District, § 250-21E.
 - (2) Facade improvements shall be consistent with the generally brick, wood frame, stonework and clapboard siding features characteristic of the area.
 - (3) The gross floor area for restaurants, bait and tackle shops, drugstores, convenient food stores, boutiques, antique shops and professional and craft studios shall not exceed 4,000 square feet.
 - (4) The massing and bulk of any new construction should be in harmony with adjacent buildings. The relationship of width to height of new structures shall be consistent with the ratio of the adjacent structures.
 - (5) Color choice of new construction should be influenced by the surrounding development. The color of the new structure should not make it stand out.
 - (6) Where building sites limit planting, the placement of trees in parking lots or other paved areas is encouraged.

§ 250-24. Waterfront Bluff Overlay District. [Added 10-19-1989 by L.L. No. 3-1989; amended 1-24-1991 by L.L. No. 1-1991]

- A. Purpose. The most prominent natural feature within the village is the steep bluff along the Niagara River shoreline. It provides numerous scenic vistas overlooking the harbor as well as Ontario, Canada and thus has significant value to village residents residing, doing business or recreating along the bluff area. The steep slope also provides erosion protection for property located atop the bluff. Such areas are prone to erosion which can be caused by the action of currents running along the shore, waves and wind-driven water and ice, as well as runoff of rainwater, groundwater seepage and construction activities. The bluff protects shoreland and waterfront development by absorbing the often destructive energy of open water. Preservation of the bluff is also important to

12. Editor's Note: Local Law No. 3-1989, adopted 10-19-1989, established the Waterfront Commercial 2 District.

protect the public safety and property interests along the west side of Main Street and Water Street. Construction on the bluff can cause soil slippage, thereby endangering existing structures and the health and welfare of pedestrians along the bluff's base.

- B. Map. The location and boundaries of the Waterfront Bluff Overlay District shall be delineated on an official Zoning Map on file in the Village Clerk's office. The bluff extends west of Main Street beginning at the south corporate limit with the Town of Porter and extends north to the north boundary of the R-15 Zoning District west of Main Street. This is just south of the village apartments. The waterward limit of a bluff is its intersection with a land area having a slope of 6% or less. Where no such land area exists, the waterward limit is mean high water. The landward limit of the bluff is 10 feet east of the bluff's receding edge with the exception of the portion of the bluff between the north and south intersection of Water Street and Main Street. In said district, the landward limit shall be the bluff's receding edge. Where the Waterfront Bluff Overlay District overlays any primary zoning district delineated on the Official Zoning Map of the Village of Youngstown, the requirements of the overlay district shall be met in addition to any requirements specified for development in the respective primary zoning district.
- C. Allowed activities. Allowed activities in the Waterfront Bluff Overlay District are those listed within the primary zoning district which the B District overlays.
- D. Design standards for activities within the Waterfront Bluff Overlay District.
- (1) Activities shall retain natural vegetation and trees to the maximum extent practicable in order to create the least erosion potential and handle adequately the volume and rate of velocity of surface runoff and to screen the bluff face and provide a natural appearance to the village's shoreline.
 - (2) Disturbed soils shall be stabilized and revegetated or seeded as soon as practicable following construction.
 - (3) In no case shall stormwater be diverted to another property either during site preparation or after development.
 - (4) Trails and walking paths shall be sited and constructed so they are not a source of sediment.
 - (5) Erosion protection structures shall be constructed to minimize downstream impacts and shall not increase off-site flooding or erosion.
 - (6) Activities shall be sited in such a manner so as not to unreasonably block existing views off Main Street and, where possible, increase viewing opportunities for pedestrians on nearby public spaces.
 - (7) Activities shall be designed and sited in a manner which promotes attractive views of the natural and built environment as seen from the slope base and Niagara River.

- (8) Activities shall be sited in an unobtrusive manner in terms of scale, height, colors and location so as to blend in with the natural landscape and maintain the existing views of the bluff as seen from the Niagara River.
- (9) Erosion control structures are defined in § 250-21E(14).
- (10) Construction shall only occur on soils which contain adequate load-bearing capacities as determined by the Village Engineer and generally accepted engineering standards.
- (11) With the exception of stairways, erosion protection structures and minor structures, construction shall not be permitted on land having an average slope of 40% or greater. The average shall be determined by using slope calculations taken at ten-foot intervals within the proposed developed land area.

§ 250-25. Interpretation of permitted uses.

- A. When a use is specifically listed in a district, such use shall be interpreted as being excluded from the listing in any other district. If any such use could be construed to be incorporated within a more inclusive listing, the more specific listing shall control.
- B. No use shall be permitted in any zoning district unless specifically stated by reference as a permitted use in said zoning district.
- C. In the case of a use not listed separately or in an inclusive use listing as a permitted use in any zoning district, no building permit or certificate of zoning compliance shall be issued for such use unless and until this chapter has been amended, including such use as a permitted use in an appropriate district.

§ 250-26. Use modifications.

- A. Temporary structures or uses. The following temporary structures shall be deemed to be permitted uses in all zoning districts:
 - (1) Temporary structures or uses incidental to construction work, including a nonilluminated sign not exceeding 12 square feet in area of any contractor, engineer or architect, shall be permitted for a period of time not to exceed one year, provided that any such structure shall be removed forthwith upon the completion or abandonment of the construction work. Any extension of said time limit shall require the approval of the Board of Appeals.
 - (2) The temporary use of a dwelling as a model home shall be permitted for a period of time not to exceed six months.
 - (3) Any temporary structure or use permitted by the Board of Appeals as authorized in Article VII.
- B. Limitations on automotive use areas. Any portion of a lot used for open off-street parking or reservoir space or for open sales, service or storage areas for motor vehicles, contractor's equipment or boats shall be deemed to be an automotive use area. New

automotive use areas or enlargements of existing automotive use areas shall be subject to the following requirements:

- (1) Surfacing. Every automotive use area and access driveway thereto shall be surfaced with a durable and dustless material and shall be so graded and drained so as to dispose of surface water accumulation.
 - (2) Lighting. Any fixture used to illuminate any automotive use area shall be so arranged as to direct the light away from the street and away from adjoining premises in any R District.
 - (3) Screening. Every such area, except off-street parking areas for less than five vehicles, shall be screened from any adjoining lot in an R District, including lots situated across the street, as follows:
 - (a) Along a street line, by a planting five feet wide; provided, however, that no shrub planting or tree foliage shall be placed or maintained which obstructs vision at an elevation between three feet and seven feet above the street level. Such screening may be interrupted by normal entrances and exits.
 - (b) Along a rear lot line or an interior side lot line which abuts an existing or future rear yard or side yard on such adjoining lots, by a compact evergreen hedge which will reach a height of five feet within three years, or by a solid fence or an unpierced masonry wall five feet in height. Such screening shall be maintained in good condition at all times.
 - (4) Access. No entrance or exit to any automotive use area shall be permitted within 30 feet of any intersecting street lines and, except for off-street parking areas for uses permitted in any R District requiring less than 10 parking spaces, no entrance or exit shall be within 10 feet of a lot in an R District. Access to automotive areas, except for off-street parking areas in R Districts for less than 10 vehicles, shall be approved by the Code Enforcement Officer and shall be so arranged that vehicles shall not back into a street.
 - (5) Restriction on use. No automotive use area shall be used for auto wrecking or for the storage of motor vehicles which do not qualify for New York State motor vehicle inspection and registration.
- C. Lots divided by district boundaries. Where a lot is divided by any zoning district boundary so as to be in more than one zoning district and where such lot was an existing lot when such district boundary was established, a conforming use, occupying 50% or more of the area of said lot and having a street frontage in the district where permitted, may be extended on such lot not more than 25 feet (measured perpendicular to the district boundary) into any district where such use is not permitted, subject however to the open space regulations pertaining to such use.
- D. Lot frontage on street for dwellings. No dwelling shall be erected on any lot which does not have immediate frontage on a street as defined in this chapter.
- E. Special permits. For special use permits, see § 250-41B.

- F. Lot for every dwelling. Every building used as a dwelling shall be located on a lot; except for permitted accessory dwellings or dwelling groups, there shall be not more than one such building on a lot.

§ 250-27. Schedule of regulations. [Amended 10-19-1989 by L.L. No. 3-1989; 1-29-1991 by L.L. No. 1-1991¹³]

The schedule of regulations following,¹⁴ which defines the height of buildings, the yards and other open spaces, the area of lots and the width of the same and all other matters contained therein, as indicated for the various districts, is hereby adopted and declared to be a part of this section of this chapter, subject, however, to open space and area modifications herein. Unless otherwise indicated, such requirements shall be deemed to be minimum requirements. Regulations pertinent to the W, WC-1, WC-2 and B Districts are contained in §§ 250-21 through 250-24.

§ 250-28. Lot size and open space modifications.

- A. Lot size exception for existing small lots. The lot width or area requirements of this chapter may be automatically waived by the Board of Appeals to permit the erection of a single-family dwelling or the restoration, enlargement (but not including additional dwelling units), moving, repair or alteration of an existing single-family dwelling on any lot of record which was owned separately and individually from all other tracts of land on the effective date hereof or on the effective date of any subsequent amendment increasing the lot size requirements.
- B. Front yard modification. Where there are existing principal buildings on adjoining lots on each side of a parcel of land less than 100 feet in width having a front yard setback or exterior side yard setback less than the required front yard depth for the zoning district in which said parcel is located, the required front yard depth of said parcel shall equal the average setback from the street line of such existing buildings on said adjoining lots.
- C. Side yard modification for corner lots. On a corner lot where the rear lot line coincides with a side lot line of the adjoining lot for a distance from the street line, the required width of the exterior side yard shall equal 30% of the lot width and shall be not less than 15 feet but need not exceed 30 feet.
- D. Rear yard modification for through lots. On a through lot, where the rear lot line coincides with a street line, a front yard equivalent shall be provided. The rear yard depth requirements in the district regulations shall not apply on that portion of a through lot where a front yard equivalent is required.
- E. District in which abutting lot lies. For the purpose of determining side and rear yard requirements, when an abutting lot is divided so that substantial segments thereof are located in two or more districts, the Board of Appeals shall determine in which district such abutting lot is located.

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

14. Editor's Note: Said schedule is included at the end of this chapter.

§ 250-29. Height modifications. [Amended 10-19-1989 by L.L. No. 3-1989]

For all districts with the exception of the Waterfront District and Waterfront Commercial Districts, the height limitations of this chapter shall not apply to:

- A. Chimneys, flues, spires or belfries.
- B. Elevator of stair bulkheads, roof water tanks or cooling towers (including enclosures), provided that such structures, in the aggregate, do not occupy more than 10% of the roof area.
- C. Flagpoles, radio or television antennae, masts or aerials, located on a building and extending not more than 20 feet above the roof of such building.

§ 250-30. Miscellaneous open space regulations.

- A. Visibility at intersections. No sign, fence, wall, hedge, shrub, planting or tree foliage which obstructs vision at elevations between three feet and seven feet above the street level shall be placed or maintained within the triangular area formed by two intersecting street lines and a line connecting points on such street lines 30 feet distant from their point of intersection. This regulation shall not apply to any necessary retaining wall or to buildings existing on the effective date of this chapter.
- B. Permitted obstructions in required open space. Except for the purposes of Subsection A of this section, none of the following uses, structures or parts of structures shall be considered as obstructions when located as specified:
 - (1) In any required open space:
 - (a) Access drives or walks.
 - (b) A fence, wall, hedge or shrub planting shall be set back two feet from the front lot line and shall not exceed 3 1/2 feet in height across the front property line and from the starting point to the front line of the building. Such fence, wall, hedge or shrub planting may be a maximum of six feet in height to the rear property line and across the rear property line. Such construction/planting shall not be constructed within two feet of private property line abutting a public right-of-way. All fences so erected will have posts facing in toward the building, and all pickets, slats, mesh, planks or any finish shall face outward from the property. [Amended 3-10-1977 by L.L. No. 2-1977; 9-24-1992 by L.L. No. 5-1992]
 - (c) Flagpoles not exceeding 20 feet in height.
 - (d) Retaining walls of any necessary height.
 - (e) Permitted signs.
 - (f) Unenclosed steps or terraces not extending more than one foot above the adjoining finished grade.

- (g) Projections from a principal building as follows, provided that no projection is nearer than five feet to a side lot line:
 - [1] Awnings or canopies.
 - [2] Chimneys or roofs projecting not more than two feet into a required open space.
 - [3] Window sills and architectural features projecting not more than four inches into a required open space.
 - [4] Unenclosed steps not extending above the first floor level.
 - (h) In any C District, gasoline pumps or open accessory off-street parking spaces.
- (2) In any required interior side yard:
- (a) A one-story garage, not more than 12 feet in height, attached to a dwelling and projecting not more than three feet into a required interior side yard, provided that such garage shall not be nearer any side lot line than a distance of five feet.
 - (b) An open fire escape projecting not more than four feet into a required interior side yard, but not nearer to any side lot line than five feet.
- (3) In any rear yard, not a front yard equivalent, or in any part of an interior side yard which exceeds a required side yard:
- (a) A fence or wall not to exceed six feet in height or eight feet in height when approved by the Board of Appeals (except as required for screening).
 - (b) Any accessory use or structure permitted in the district regulations subject to Subsection C of this section, Limitations on obstructions in open spaces.
 - (c) Projections. Balconies, bay windows, nonweatherproofed porches or breezeways, or attached garages, not exceeding 12 feet in height, may extend into a required rear yard for a distance not to exceed 1/3 the required depth of such yard.
 - (d) Flagpoles or accessory radio or television antennae of any height, provided that such structure shall be set back from any property line a distance equal to its height.

C. Limitations on obstructions in required open space.

- (1) No storage or processing of any kind shall be permitted in any required yard in any C District. This provision shall not apply to uses accessory to a permitted dwelling, but such accessory uses shall be subject to the following limitations on obstructions in required open spaces in R Districts.

- (2) In any R District accessory buildings and roofed projections shall not occupy more than 30% of a required rear yard of an interior lot or more than 40% of a required rear yard of a corner lot.
- (3) In any R District no part of an accessory building shall be nearer than three feet to a rear or side lot line, except that where such lot line abuts a side yard of an adjoining lot in any R District, the setback shall not be less than a distance equal to 1/2 the height of the accessory building or five feet, whichever is greater.
- (4) In any R District, detached accessory buildings shall be at least 10 feet from any dwelling and five feet from any other building.

ARTICLE IV Off-Street Parking

§ 250-31. Required off-street parking spaces.

- A. After the effective date of this chapter, off-street parking spaces shall be provided as hereinafter specified at the time a building or structure is erected, or at the time a new use of open land is established. In the case of an enlargement of any existing building, structure or use after the effective date of this chapter, off-street parking spaces shall be provided as hereinafter specified for the enlarged portion of such building, structure or use.
- B. No existing off-street parking area shall be reduced in capacity so as to be less than required by this chapter, or, if such parking capacity is already less than herein required, such parking area shall not be further reduced; provided, however, that a reduction in such existing parking area shall be allowed if equivalent parking space is provided for the use involved.
- C. In the case of a change of use which would result in a requirement for a greater parking area than is provided, the Board of Appeals shall determine the number of additional spaces to be required.
- D. Notwithstanding anything to the contrary hereinabove or elsewhere contained in this chapter or amendments thereto, the off-street parking spaces heretofore required by this section shall remain intact and not removed from use, without approval of the Board of Appeals, but said off-street parking space requirements shall not apply to or be required of any of the present or future permitted uses within the areas designated and zoned as follows: **[Added 1-23-1992 by L.L. No. 1-1992]**
 - (1) Waterfront District consisting of Tax Map Parcel Numbers 45.18-1-26, 45.18-1-34, 45.18-1-35, 45.18-1-39, 45.18-1-40, 45.18-1-41, 59.06-1-31, 59.06-1-32, 59.06-1-33 and 59.06-1-79 to the point where they fall into the Bluff Overlay District.
 - (2) Waterfront Commercial 1 District (west side of Main Street) consisting of Tax Map Parcel Numbers 45.18-1-26, 45.18-1-27, 45.18-1-29, 45.18-1-30, 45.18-1-31, 45.18-1-32.1, 45.18-1-33, 45.18-1-36, 45.18-1-37, 45.18-1-38, 45.18-1-39, 45.18-1-40, 45.18-1-42 and 45.18-1-43 (Commercial).

- (3) Waterfront Commercial 2 District (east side of Main Street) consisting of Tax Map Parcel Numbers 45.18-3-31, 45.18-3-32, 45.18-3-33, 45.18-3-34, 45.18-3-35, 45.18-3-37, 45.18-3-38, 45.18-3-39, 45.18-3-40, 45.18-3-41 45.18-3-42 and 45.18-3-43.
- (4) Commercial District (Lockport Street) consisting of Tax Map Parcel Numbers 45.18-3-15, 45.18-3-16, 45.18-3-17, 45.18-3-24, 45.18-3-25, 45.18-3-26, 45.18-3-27, 45.18-3-28, 45.18-3-29, 45.18-3-36, 45.18-3-51, 45.18-3-52, 45.18-3-53, 45.18-3-55, 45.18-3-56 and 45.18-3-57.

E. Schedule of required spaces.

Dwellings

Single-family or two-family dwelling
Multifamily dwelling

Tourist home hotel, motel, rooming or lodging house village inn [Amended 10-19-1989 by L.L. No. 3-1989]

Additional spaces for accessory uses:

Office for treatment of humans
Other offices

Parking Spaces

1 space for each dwelling unit
2 spaces for each dwelling unit
1 space for each unit accommodation

5 spaces for each office
2 spaces for each office

Institutional Uses

Hospital
Sanitarium, convalescent home
Home for aged or orphanage

1 1/2 spaces for each bed
1 space for each 5 beds
1 space for each 5 persons in residence

Places of Assembly

School

1 space for each classroom, plus 1 space for each 5 seats in the auditorium or stadium, whichever is greater.

Churches; principal or accessory auditorium, theater, stadium or sports arena

1 space for each 5 seats

Library, museum or art gallery

1 space for each 300 square feet of gross floor area

Bowling alley

10 spaces per alley

Dance hall or studio, skating rink or other places of public amusement not otherwise specified

1 space for each 100 square feet of gross floor area

Eating or drinking establishments, principal or accessory:

Drive-in type

3 spaces for each 25 square feet of gross floor area

Other types

2 spaces for each 5 seats

Dwellings

Club or lodge

Mortuary or funeral parlor

Swimming pools, principal or accessory,
other than private pools**Business or Industrial Uses**Furniture, floor covering or appliance
stores; custom shops; wholesale business

New or used car sales

Gasoline station, public garage or repair
garage, principal or accessoryFood store, shopping center, or group of
stores over 20,000 square feet of gross floor
area

Individual retail stores

Doctor, dentist or real estate office

Other business or professional offices or
banks**General**All other principal uses not above
enumerated or excepted**Parking Spaces**1 space for each 100 square feet of floor
area used for club or lodge purposes,
plus 1 space for each sleeping room

10 spaces for each parlor

1 space for each 25 square feet of pool
area1 space for each 700 square feet of gross
floor area1 space for each 700 square feet of sales
area within a building, but not less than
5 spaces for customer parking and 1
space for each 2 employees; such spaces
shall be clearly marked and shall not be
used for the parking of unregistered
motor vehicles

3 spaces for each service bay

1 space for each 100 square feet of gross
floor area1 space for each 175 square feet of gross
floor area

5 spaces for each office

1 space for each 175 square feet of gross
floor area1 space for each 350 square feet of gross
floor area

- F. Mixed uses. Except as otherwise provided in § 250-33, where any building or lot is occupied by two or more uses having different parking requirements, the parking requirement for each use shall be computed separately to determine the total off-street parking requirement.

§ 250-32. Units of measurement.

- A. Size of parking space. For the purpose of computing gross parking area for required off-street parking, 350 square feet of unobstructed net standing, maneuvering or access area shall be considered one parking space. However, a lesser area may be considered as one space if the Code Enforcement Officer certifies that the layout and design of the parking area are adequate to permit convenient access and maneuvering. In any event,

the size of a parking space shall be at least 20 feet long and nine feet wide, exclusive of access or maneuvering area.

- B. Gross floor area. Gross floor area shall include all areas of a building used or occupied by any traffic generator mentioned in § 250-31; provided, however, that basement or cellar floor area not used for processing, servicing or sales of goods or merchandise shall not be counted as gross floor area.
- C. Seats. In places of assembly where bench-type seats are provided or where standing patrons are served at a counter or bar, each 20 linear inches of such seating or standing space shall be considered as one seat for the purpose of determining off-street parking requirements.
- D. Employees. In any case where there is more than one work shift, the total number of employees used to compute off-street parking requirements shall include the maximum number of employees on two shifts.
- E. Fractional units. When application of the units of measurement to determine required off-street parking spaces results in a fractional parking space of 1/2 or more, one parking space shall be required.

§ 250-33. Modification of required parking.

A. Accessory uses.

- (1) No off-street parking shall be required for uses accessory to any institutional use specified in the schedule in § 250-31E, or for an accessory restaurant used primarily for students, patients, tenants or employees occupying a principal building.
- (2) In the case of accessory retail sales, restaurants or swimming pools, the parking requirement for either the accessory use or the principal use, whichever requirement is less, shall be reduced by 50%.

B. Joint facilities.

- (1) In the case of a church and school on the same lot, the lesser parking requirement shall be waived.
- (2) Where places of assembly specified in the schedule in § 250-31E are located on the same lot with other uses, the Board of Appeals may permit a reduction in the number of required off-street parking spaces for such places of assembly.
- (3) Where public off-street parking facilities are available, other than off-street parking provided for a public building, the Board of Appeals may permit a reduction in the number of required off-street parking spaces for uses located on any lot within 600 feet of such public parking facility.

§ 250-34. Site requirements.**A. Location of required parking spaces.**

- (1) General provision. All required off-street parking spaces shall be provided on the same lot with the building or use they serve, except as provided in Subsection A(2) of this section, Group facilities.
- (2) Group facilities. In any C, W or WC District, required off-street parking spaces may be provided in group parking facilities designed to serve two or more buildings or uses on different lots, provided that: [Amended 10-19-1989 by L.L. No. 3-1989]
 - (a) The total parking spaces in such group facility shall not be less than the sum of the requirements for the various uses computed separately.
 - (b) All required parking spaces shall be not more than 600 feet from the boundary of the lot on which such buildings or uses are located.

B. Setback for all off-street parking spaces.

- (1) In any R District:
 - (a) Enclosed off-street parking spaces shall be subject to the regulations for accessory buildings. (See § 250-30C.)
 - (b) No open off-street parking space shall be permitted in a required front yard or exterior side yard.
 - (c) No open off-street parking area for five or more motor vehicles shall be located within five feet of any side or rear lot line of an adjoining lot in any R District.
- (2) In any C District: No open or enclosed off-street parking space shall be permitted within 10 feet of any street line or within 10 feet of any R District boundary.

- C. Encroachment of required parking spaces prohibited. All areas counted as required off-street parking area shall be unobstructed and free of other uses, except off-street loading or unloading.
- D. Guaranty for off-site parking spaces. In any case where required off-street parking spaces are not provided on the same lot with the building or use they serve, such off-street parking spaces shall be subject to deed, lease or contract restrictions acceptable to the Village Attorney of the Village of Youngstown binding the owner, his heirs or assigns to maintain the required number of spaces available throughout the life of such use.
- E. Additional requirements for all open off-street parking spaces. All open off-street parking spaces shall be considered as automotive use areas and shall be subject to the requirements of § 250-26B in addition to the provisions of this section.

ARTICLE V
Nonconforming Use Regulations

§ 250-35. Nonconforming uses.

- A. Continuation of use. Any use which is made nonconforming by any use regulations of this chapter or by any subsequent amendments thereto may be continued except as hereinafter provided.
- B. Change in use. Such nonconforming use may be changed to a permitted use in the same district as contains the listing for the nonconforming use. Once a nonconforming use is changed to a conforming use or to a more restricted use, such use thereafter shall not revert to a less restricted use. Uses shall be considered "more restrictive" to "less restrictive" in accordance with the districts in which they are first permitted in the order that such districts are listed in § 250-4.
- C. Enlargement or extension. A nonconforming use shall not be enlarged or extended, but nothing herein shall be deemed to prevent normal maintenance of a building or other structure containing a nonconforming use, including nonstructural repairs and incidental alterations not extending the nonconforming use, but structural alterations may be made: when required by law; to restore to a safe condition any building or structure declared unsafe by the Code Enforcement Officer; or to accomplish a change to a use first listed in a more restricted district.
- D. Restoration. A nonconforming building or other structure which has been damaged or destroyed by any means to the extent of 50% or more of its equalized assessed value, as determined by the Village Assessor, shall not be rebuilt or repaired except in conformance with the regulations of this chapter. If such damage is less than 50% of such value, neither the floor area nor the cubical content shall be increased from the original nonconforming building or other structure; provided, however, that unless a building permit is obtained within six months and restoration commenced within one year of said damage, such right of restoration shall expire.
- E. Discontinuance. The discontinuance of a nonconforming use of land, building or other structure for a period of six months or more shall be considered to be an abandonment of such use, and such nonconforming use shall not thereafter be established, and all future use shall be in conformity with the provisions of this chapter.¹⁵

§ 250-36. Nonconforming structures.

- A. Continuation. Any building, other structure or use of land which is made nonconforming by any lot size, open space or height of building regulations of this chapter, or by any subsequent amendments thereto, may be continued, except as hereinafter provided.
- B. Enlargement or extension. Such nonconforming building, other structure or use of land may be enlarged or extended only in compliance with the regulations of this chapter.

15. Editor's Note: Former Section 4-06, Cessation, as amended 11-18-1963, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- C. Repair or alteration. Such nonconforming building or other structure may be repaired or structurally altered, provided that alterations creating enlargements or extensions shall conform to the regulations hereof.
- D. Restoration. Such nonconforming building or other structure which has been damaged or destroyed by any means to the extent of 75% or more of its equalized assessed value as determined by the Village Assessor shall not be rebuilt or repaired except in conformance with the regulations hereof. If such damage is less than 75% and restoration is undertaken, the degree of nonconformance of the original building or other structure shall not be increased; provided, however, that unless a building permit is obtained within six months and restoration commenced within one year of said damage, such right of restoration shall expire.

ARTICLE VI

Administration, Enforcement and Violations

§ 250-37. Administration and enforcement.

- A. Administrative and enforcement officer. Unless otherwise provided, the provisions of this chapter shall be administered and enforced by the Code Enforcement Officer of the Village of Youngstown. The Code Enforcement Officer shall keep a complete file of all applications, permits, orders, certificates, requirements and decisions affecting each and every application filed pursuant to this chapter and § 7-712 of the Village Law.¹⁶
- B. Building permit required. The provisions of Chapter 83, Building Construction, of the Code of the Village of Youngstown and other applicable regulations of the Village of Youngstown shall control the issuance of building permits. In addition to such provisions, every application for a building permit shall be accompanied by a plat, in duplicate, drawn to scale, and showing the dimensions of the plot to be built upon, the size and location of the building or other structure on the plot and such other information as may be necessary to provide for the enforcement of the regulations contained in this chapter. No building permit shall be issued unless the provisions of this chapter are complied with.
- C. Certificate of zoning compliance required.
 - (1) No permit for excavation for, or the erection or alteration of, or repairs to any building or other structure shall be issued until an application has been made for a certificate of zoning compliance.
 - (2) No land shall be occupied or used and no building or other structure, hereafter erected, altered, extended, enlarged or restored, shall be used or changed in use until a certificate of zoning compliance shall have been issued by the Code Enforcement Officer stating that the building, other structure or proposed use thereof complies with the provisions of this chapter.

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

- (3) All applications for a certificate of zoning compliance shall be in writing, signed by the property owner or his duly authorized agent, on forms furnished by the Code Enforcement Officer, and shall contain the following information:
 - (a) Nature and definite purpose of the building, other structure or use.
 - (b) Description of the property and buildings or other structure thereon and to be placed thereon.
 - (c) Statement of any restrictions by deed or other instrument of record.
 - (d) An agreement to comply with this chapter and all other laws, ordinances and regulations that may be applicable.
 - (4) Certificates of zoning compliance.
 - (a) Upon written request and application for a certificate of zoning compliance by the property owner or his duly authorized agent, the Code Enforcement Officer shall inspect any building, other structure or tract of land existing on the effective date of this chapter and shall issue a certificate of zoning compliance therefor, certifying:
 - [1] The use of the building, other structure or tract of land.
 - [2] Whether such use conforms to all the provisions of this chapter.
 - (b) However, no certificate of zoning compliance shall be issued if there are any pending violations of law or orders of the Code Enforcement Officer, the Board of Appeals or the Village Board.
 - (5) A certificate of zoning compliance shall be issued within 10 days after the erection, alteration or repairs shall have been approved as complying with the provisions of this chapter and shall void any previous certificate of zoning compliance for the same premises.
- D. Inspection. The Code Enforcement Officer is hereby empowered to cause any building, other structure or tract of land to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this chapter. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to comply with such order.

§ 250-38. Site plan review. [Added 10-19-1989 by L.L. No. 3-1989; amended 1-24-1991 by L.L. No. 1-1991]

A. Site plan submittal. A site plan must be submitted for all:

- (1) Residential developments which contain three or more dwelling units. However, any residential development which requires the subdivision of land or which is proposed for construction within a previously approved subdivision pursuant to

Chapter 197, Subdivision of Land, of the Code of the Village of Youngstown does not require a site plan.

- (2) New business or commercial development or exterior alterations to existing business, commercial or industrial establishments which meet or exceed one or more of the following thresholds:
 - (a) The gross floor area, developed land area or any combination thereof increases by 25% or more.
 - (b) Five or more parking spaces or loading docks or any combination thereof which totals five spaces or docks.
 - (c) The value of the land and building improvements meets or exceeds \$10,000.
 - (3) New development, additions to any existing use or exterior alterations in the Waterfront Commercial 1 District, Waterfront Commercial 2 District or Waterfront District which exceed one or more of the thresholds listed in Subsection A(2).¹⁷
 - (4) New development or additions to any existing use within the Bluff Overlay District, except for minor structures, walkways, stairways and small sheds to store boating supplies not to exceed 75 square feet in gross floor area.
- B. Required information. The content of the site plan shall be approved by the Code Enforcement Officer prior to filing. The approved submission shall be filed with the Village Clerk who, upon payment of the required fees, shall transmit it to the Code Enforcement Officer for distribution to officials and agencies as he or she may deem appropriate for their review, report and recommendation. Unless otherwise noted, the site plan shall include the following information prepared by its licensed engineer, architect, landscape architect, surveyor or attorney, as appropriate. The number of copies shall be determined by the Code Enforcement Officer.
- (1) Title of drawing, including name of development, name and address of applicant and person who prepared the drawing.
 - (2) North point, scale and date.
 - (3) A survey plotted to scale of the proposed development, including its acreage and a legal description thereof.
 - (4) The location and names of existing and proposed streets and sidewalks immediately adjoining and within the proposed site.
 - (5) Layout, number and dimension of lots.
 - (6) Location, proposed use, height and floor plan of all nonresidential and all residential structures containing three or more dwelling units, location of all parking, loading and stacking areas with access drives.

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

- (7) Location and proposed development of all open spaces, including parks, playgrounds and open reservations.
- (8) Existing and proposed watercourses and direction of flow.
- (9) Topographic map and drainage plan showing existing and finished grades, engineering calculations and the impact on the surrounding area. Slope calculations at ten-foot intervals for existing grades shall be provided for proposed development within the Bluff Overlay District.
- (10) Water supply plan, including location of fire hydrants.
- (11) Paving, including typical cross sections and profiles of proposed streets, pedestrian walkways, bikeways and parking lots.
- (12) Sewerage disposal plans.
- (13) A landscape plan indicating location, type and size of existing trees and vegetation, identifying those to be preserved and location, type and size of trees, vegetation and other amenities to be provided.
- (14) Location and design of lighting facilities, fences, walls and signs.
- (15) Location and dimension of all signs.
- (16) Proposed easements, restrictions, covenants and provisions for homeowners' association and common ownership, if required.
- (17) Land and building improvement cost.
- (18) Upon the request of the Board of Trustees, the applicant shall prepare and submit, to the satisfaction of the Board, a market feasibility study for the proposed use. Said study shall be prepared by a professional market consultant with experience in development economics.
- (19) Upon the request of the Board of Trustees, the applicant shall prepare and submit, to the satisfaction of the Board, soil boring information especially for those activities proposed within the Bluff Overlay District.

C. Site plan review and fees required.

- (1) The Code Enforcement Officer shall review the site plan to ensure that it is in conformance with this chapter and all other applicable laws. Thereafter he or she shall forward the plan to the Board of Trustees for referral within 15 days to the Planning Board, Village Engineer and other agencies for review as appropriate.
- (2) Upon acceptance of the site plan as complete by the Code Enforcement Officer, the applicant shall submit a fee within two days to the Village Clerk equal to .25% of the total building and land improvement cost, up to a maximum of \$2,000.
- (3) Within 30 days of its receipt of the application for site plan approval from the Board of Trustees, the agencies shall review it and notify the Board of Trustees in writing of its comments or recommendations.

- (4) Within 60 days of its receipt of the application for site plan approval, the Board of Trustees shall act on it and notify the Planning Board, Code Enforcement Officer, Village Clerk and applicant of its action. This time period may be extended by the Board of Trustees or by written request of the applicant. In determining its action, the Board of Trustees may conduct a public hearing if deemed appropriate. The Board of Trustees' action shall be in the form of a written report of approval or disapproval of the site plan. In approving the site plan, the Board of Trustees may impose conditions limiting the use and the occupancy of the land or proposed buildings consistent with the intent and purposes of this chapter. If the Board of Trustees disapprove, it shall state its reasons.
- (5) Except for subdivisions that have been duly filed in the office of the County Clerk, if construction of the approved development has not commenced within two years from the time of site plan approval, that approval shall be deemed revoked. Extensions of this period may be granted by the Board of Trustees.
- (6) The Board of Trustees' review of the site plan shall include but not be limited to the following general considerations:
 - (a) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 - (b) Adequacy and arrangement of vehicular traffic, access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 - (c) Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - (d) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - (e) Adequacy of stormwater and drainage facilities.
 - (f) Adequacy of water supply and sewage disposal facilities.
 - (g) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the development parcel and adjoining lands, including the maximum retention of existing vegetation.
 - (h) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 - (i) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
 - (j) Use of proper and adequate screening devices between parking and service areas as such are viewed from public roads or public parklands.

- (k) Consistency between the site plan and the village's adopted Local Waterfront Revitalization Program (LWRP).¹⁸
- (l) Quality and adequacy of views from those scenic vistas described in Policy 25A of the village's adopted Local Waterfront Revitalization Program (LWRP).
- (m) Attractiveness of the proposed use or structure(s) as viewed from the Niagara River.
- (n) Adequacy of design and function of waterfront improvements, such as bulkheads, docking facilities, launch ramps and seawalls.
- (o) For development within the Waterfront District, Waterfront Commercial 1 District or Waterfront Commercial 2 District, compliance with the design standards listed in §§ 250-21E, 250-22E and 250-23E, respectively.¹⁹
- (p) For development within the Waterfront Bluff Overlay District, compliance with the provisions of § 250-24.

§ 250-39. Penalties for offenses. [Amended 10-19-1989 by L.L. No. 3-1989; 1-24-1991 by L.L. No. 1-1991]

A. Penalties for offenses.²⁰

- (1) A violation of this chapter is hereby declared to be an offense, punishable as follows:
 - (a) First offense: by a fine not exceeding \$350 or imprisonment for a period not to exceed six months or both.
 - (b) Second offense within a period of five years: by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months or both.
 - (c) Third or subsequent offense, all of which were committed within a period of five years: by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months or both.
- (2) A person shall be subject to the penalties imposed by this section in any case where an order to remove any violation of any of the provisions of this chapter has been served by the Code Enforcement Officer upon the owner, general agent, lessee or tenant of the building, other structure or tract of land, or any part thereof, and where such person shall fail to comply with such order within 10 days after the service thereof. Each week's continued violation shall constitute a separate additional violation and shall be punishable hereunder.

18. Editor's Note: See Ch. 245, Waterfront.

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

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

- B. Other remedies. In addition to the foregoing remedies, the Village of Youngstown may institute any appropriate action or proceeding to prevent, correct or restrain any violation of this chapter.

ARTICLE VII
Board of Appeals

§ 250-40. Creation and organization. ²¹

The Board of Appeals, as constituted and empowered under § 7-712 of the Village Law on the effective date of this chapter, shall be continued. Vacancies occurring in such Board shall be filled in accordance with Village Law. The Board of Appeals shall have all the powers and perform all the duties prescribed by statute and by this chapter.

§ 250-41. Powers and duties.

A. Appellate jurisdiction.

- (1) Appeals for interpretation. The Board of Appeals shall hear and decide appeals where it is alleged that there is an error or misinterpretation in any order, requirement, decision or determination by any administrative official of the Village of Youngstown charged with the enforcement of the provisions of this chapter. The Board of Appeals may reverse, modify or affirm, in whole or in part, any such appealed order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as in its opinion ought to be made in strictly applying and interpreting the provisions of this chapter and for such purposes shall have all the powers of the officer from whom the appeal is taken.
- (2) Appeals for variance.
 - (a) On an appeal from an order, requirement, decision or determination of any administrative official charged with the enforcement of this chapter, where it is alleged by the appellant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict application of any provision of this chapter, the Board of Appeals may grant a variance in the strict application of such provisions, provided that all of the following findings are made:
 - [1] That there are unique circumstances or conditions peculiar to the particular property and that the practical difficulties or unnecessary hardships are not due to circumstances or conditions generally created by the provisions of this chapter in the zoning district in which the property is located.

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

- [2] That such circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the property, and that the granting of the variance is therefore necessary to realize a reasonable use of the property.
 - [3] That the variance, if granted, will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or impair the appropriate use or development of adjacent property and will not be detrimental to the public welfare.
 - [4] That such practical difficulties or unnecessary hardships are not self-created by any person having an interest in the property through disregard for or ignorance of the provisions of this chapter, or the previous zoning ordinance; provided, however, that, where all other required findings are made, the purchase of property subject to a variance grant shall not itself constitute a self-created hardship.
 - [5] That within the intent and purposes of this chapter, the variance, if granted, is the minimum variance necessary to afford relief.
- (b) The following types of cases shall be construed as eligible for consideration cases within the meaning of this chapter:
- [1] Unusual size or shape of lot. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, at the time of the effective date of this chapter, or by reason of exceptional topographic conditions or other exceptional physical difficulties in the development of such piece of property, the liberal enforcement of the requirements of this chapter pertaining to yards or other space relationships would result in peculiar practical difficulties or exceptional undue hardship upon the owner of such property. No use variance shall be granted in such case.
 - [2] Adjacent nonconforming uses. Where an adjoining lot on both sides, in the case of an interior lot, or where on both the side and rear of the lot or on all other corners of an intersection, in the case of a corner lot, there are buildings or uses which do not conform to regulations prescribed in this chapter for the district in which said lot is located. In considering such appeal, the Board of Appeals shall give due regard to the nature and conditions of all adjacent uses and structures; and in granting any such appeal, the Board of Appeals may impose special requirements and conditions for the protection of conforming uses and the ultimate removal of nonconforming uses and structures. In any case, the variance as to the use or uses permitted on any lot, whether principal or accessory, shall not allow a use of combination of uses more intensive or less restricted than any use which is legally existing on premises adjoining on either side of said interior lot, or of premises

adjoining on the side or rear of the lot on any other corner of the intersection in the case of said corner lot.

[3] Nonconforming building. Where, because the principal building on any premises was originally lawfully erected and intended for a principal use which would now be a nonconforming use in the district in which located and the right to continue or reestablish such nonconforming use in such building is denied by the provisions of Article V of this chapter, the literal enforcement of such provisions would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of such property. In considering such appeal, the Board of Appeals shall give due regard to the age and condition of such building and its adaptability for or convertibility to a conforming use. In approving any such appeal, the Board of Appeals shall specify the time limit during which such grant of a variance shall be effective, which time limit shall in no case exceed the estimated useful life of such building. In case the building has been officially condemned and ordered to be demolished, the Board of Appeals shall not grant any such appeal.

[4] Any other case involving unnecessary hardship in the way of carrying out any provision of this chapter pursuant to and in accord with the intent and purpose of § 7-712 of the Village Law.²²

(c) In granting a variance, the Board of Appeals may vary or modify the provisions of this chapter so that the spirit of the law shall be observed, public safety secured and substantial justice done. Toward this end, the Board of Appeals may prescribe such conditions or restrictions as it may deem necessary. Such conditions or restrictions shall be incorporated in the building permit and the certificate of zoning compliance.

B. Original jurisdiction.

(1) General provisions.

- (a) The Board of Appeals shall hear and decide, in accordance with the provisions of this article, all applications for special permits or for modifications of provisions of this chapter in all such cases upon which the Board of Appeals is specifically authorized to pass or shall make any other determination required by this chapter.
- (b) In authorizing any specified special permit, or specified modification or in making any required determination, all required findings shall be made, and, in the case of special permits or modifications, the Board of Appeals may prescribe appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience or general welfare.

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

- (c) No special permit or modification of the provisions of this chapter shall be authorized by the Board of Appeals unless, in addition to other findings specified in this chapter, it finds that such special permit or modification:

- [1] Will be in harmony with the general purposes and intent of this chapter.
- [2] Will not tend to depreciate the value of adjacent property.
- [3] Will not create a hazard to health, safety or the general welfare.
- [4] Will not alter the essential character of the neighborhood nor be detrimental to the residents thereof.
- [5] Will not otherwise be detrimental to the public convenience and welfare.

(2) Special permits.

- (a) Temporary structures or uses. The Board of Appeals may authorize a temporary and revocable permit for not more than two years for a use or structure that does not conform with the regulations of this chapter for the district in which it is located, provided that the following findings are made:

- [1] Such use is of a temporary nature and does not involve the erection or enlargement of any permanent structure.
- [2] In case of a renewal of such permit, that all conditions and safeguards previously required have been complied with.

- (b) Permitted temporary structures or uses, extension of time limit. The Board of Appeals may authorize the continuation of temporary structures or uses incidental to construction work, provided that the following findings are made:

- [1] That the nature and scale of the construction is such as to require a longer period of time for completion.
- [2] That such construction has been diligently prosecuted or that any delays have been unavoidable.

(c) Modification of regulations.

- [1] Reduction of parking spaces for places of assembly. The Board of Appeals may authorize a reduction of not more than 50% in the number of required off-street parking spaces for places of assembly when located on the same lot with other uses, provided that the following findings are made: that in accordance with times of operation and times of peak demand, there will be no conflict in the joint use of such off-street parking spaces.
- [2] Reduction of parking spaces where public off-street parking facilities are available. Where public off-street parking facilities are available,

other than parking provided for a public building, the Board of Appeals may reduce on a pro rata basis the parking requirements for all uses within 600 feet of any boundary of such public parking facility.

- [3] Exception from exterior side yard requirement. The Board of Appeals may modify the exterior side yard requirements for principal buildings on deep corner lots, provided that the following findings are made:
 - [a] That the rear yard is at least 50 feet in depth.
 - [b] That such modification will not adversely affect the adjoining property.
- [4] Exception from fence height limitations. The Board of Appeals may permit a fence up to eight feet in height in any rear yard, not a front yard equivalent, or in any part of a side yard, not a minimum required side yard, provided that such fence is at least 10 feet from any property line and that the following findings are made:
 - [a] That such fence shall not unduly shut out light or air to adjoining properties.
 - [b] That such a fence shall not create a fire hazard by reason of its construction or location.
- [5] In accordance with § 250-28A, the Board of Appeals may waive the lot width or lot area requirements for single-family dwellings on any lot of record which was owned separately and individually from all other tracts of land on the effective date hereof or on the effective date of any subsequent amendment increasing the lot size requirements of such lot, provided that the following findings are made:
 - [a] Such lot was not created in violation of any ordinance then in effect.
 - [b] All other requirements of this chapter are complied with.
 - [c] Dwellings are a permitted principal use in the district where such lot is located.

§ 250-42. Procedure.

- A. General provisions. The Board of Appeals, consistent with law and ordinance, may adopt rules of conduct and procedure.
- B. Filing appeals. An appeal to the Board of Appeals from any ruling of any administrative officer charged with the enforcement of this chapter may be taken by any person aggrieved or by any officer, department, board or bureau of the village. Such appeal shall be taken, within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal, specifying the ground thereof. The officer from whom the

appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

- C. Filing applications. An application for any matter upon which the Board of Appeals is required to pass may be made to the Village Clerk by the owner or tenant of the property (or a duly authorized agent) for which such appeal or application is sought. Such appeal or application shall be accompanied by a fee as set forth from time to time by resolution of the Board of Trustees.²³ [Amended 1-6-1966²⁴]
- D. Meetings, witnesses and records.
- (1) Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board of Appeals may determine. All meetings shall be open to the public. The Chairman of the Board of Appeals, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses.
 - (2) The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official action. Every rule, regulation, amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall immediately be filed in the office of the Village Clerk and shall be a public record.
- E. Stay of proceedings. Any appeal to the Board of Appeals shall stay all proceedings in furtherance of the action appealed from, except as otherwise provided in § 7-712 of the Village Law.²⁵
- F. Public hearing. The Board of Appeals shall fix a reasonable time for a hearing of an appeal, applications for special permits or modifications of regulations, or other matters referred to it, and shall give public notice thereof by publication in the official paper at least five days prior to the date of such hearing and shall, at least five days before such hearing, mail notices thereof to the parties thereto.
- G. Decisions of the Board of Appeals. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from, or to decide in favor of the applicant any matter upon which it is required to pass under this chapter, or to effect any variation in this chapter. Every decision of the Board of Appeals shall be by resolution. Decisions shall be rendered by the Board within 62 days after the date of public hearing on the appeal, in accordance with Subdivision 8 of § 7-712-a of the Village Law. Where findings are required, the decision shall set forth each required finding, supported by substantial evidence or other data considered by the Board of Appeals, in each specific case, or, in the case of denial, the decision shall include the findings which are not satisfied.²⁶

23. Editor's Note: The current fee resolution is on file in the office of the Village Clerk.

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

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

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

- H. Lapse of authorization. Any variance, special permit or modification of regulations authorized by the Board of Appeals shall be automatically revoked unless a building permit conforming to all the conditions and requirements established by the Board of Appeals is obtained within six months of the date of approval by the Board of Appeals and construction commenced within one year of such date of approval.
- I. Violation of conditions or restrictions. Failure to comply with any condition or restriction prescribed by the Board of Appeals in approving any appeal for a variance or application for a special permit or a modification of regulations shall constitute a violation. Such violation may constitute the basis for revocation of a variance, special permit or modification or for imposing penalties and other applicable remedies.

ARTICLE VIII

Amendments

§ 250-43. Authorization.

The Village Board may from time to time on its own motion, or on petition, after proper public notice and public hearing, amend, supplement or repeal the regulations, provisions or boundaries of this chapter as provided by the Village Law.

§ 250-44. Provisional amendments.

In the case of a proposed amendment which involves the reclassification or transfer of any area from any R District to a C District, the Village Board may require the petitioner to submit a development plan showing the extent, location and character of proposed structures and uses. The Village Board may require that such plan be modified to meet the objections raised at any public hearing thereon, or subsequent thereto, and may qualify its approval of any such amendment by attaching a special endorsement thereto. Within a period of six months from the approval of such a provisional amendment, no building permit or certificate of zoning compliance shall be issued for any property within the area described by said amendment except in accordance with the approved development plan and with all conditions and limitations placed thereon by the Village Board, or in accordance with the zoning regulations applicable prior to said reclassification action. Unless application for a building permit for such special development is made within six months from the Village Board's approval and unless development of the area included in such development plan is commenced within a period of one year after the Village Board's approval, said approval shall be void, and the zoning classification shall be as it was when the petition for amendment was filed.

§ 250-45. Procedure.

- A. Filing of petition. A petition to amend, change or supplement the text of this chapter, or any zoning district as designated on the Zoning Map²⁷ established herein, shall be filed

27. Editor's Note: Said Zoning Map is on file in the office of the Village Clerk. In addition, a Table of Zoning Map Amendments is included at the end of this chapter.

with the Village Clerk on forms obtained from his office and shall be transmitted by him to the Village Board.

- B. Rehearing on petition. The disposition of a petition for amendment by the Village Board shall be final, and disapproval or denial of the proposed amendment shall void the petition. No new petition for an amendment which has been previously denied by the Village Board shall be considered by it, except for a vote to table or to receive and file, and no public hearing shall be held on such amendment within a period of one year from the date of such previous denial, unless the Village Board shall find that there have been substantial changes in the situation which would merit a rehearing.



ZONING

250 Attachment 1 Village of Youngstown Schedule of Regulations [Amended 3-11-1976 by L.L. No. 1-1976; 10-12-1978 by L.L. No. 6-1978; 4-24-1986 by L.L. No. 1-1986; 10-19-1989 by L.L. No. 3-1989]

District	Lot Width for Dwellings and Buildings of Mixed Occupancy (§ 250-28A) (feet)	Lot Areas for Dwellings and Buildings of Mixed Occupancy (§ 250-28A) (square feet)	Front Yard (§ 250-28B) (feet)	Side Yard (§ 250-28C) (feet)	Rear Yard (§ 250-28D) (feet)	Maximum Height of Buildings (§ 250-29) (feet)	Minimum Area Requirement for All Structures Erected for Dwelling Purposes (square feet) ¹
A	125	40,000	60	25% of total width; minimum of 15 feet per side	—	—	—
C	50	6,000 square feet, plus 2,000 square feet for each incidental dwelling unit	40 feet or consistent with existing and adjacent building setbacks	A. 15% of lot width; minimum of 7.5 feet per side B. Where side yard abuts a lot in any R District, 30 feet or a distance equal to height of principal building, whichever is greater (§ 250-28E) C. Where used for vehicular ingress or egress: 12 feet D. Where used for vehicular ingress and egress: 25 feet	10 feet, but where rear yard abuts a lot in any R District, 30 feet or a distance equal to height of principal building, whichever is greater (§ 250-28E)	Same as R-20	—
RCL-3 ²	Per Ch. 197, Art. III, Cluster Housing Regulations	—	—	—	—	—	900 per unit ³
R-8	60	8,000 for first dwelling unit; 4,000 for each additional dwelling unit	40	Total: same as R-11 Each yard: not less than 5 feet	Same as R-11	Same as R-20	1,000 for first unit; 650 for second unit

NOTES:

¹ Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D). Square footage of a dwelling unit on an existing lot of record that is of substandard size may automatically be waived by the Board of Appeals, taking into consideration the lot and dwelling sizes in the immediate area. In computing the square footage, open porches and garages which extend beyond the main body of the structure shall not be included.

² Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

³ Business establishments and personal service establishments are to be a maximum of 5,000 square feet. See § 250-18A(3).

⁴ For provisions regarding the W, WC-1, WC-2 and B Districts, see §§ 250-21 through 250-24.

YOUNGSTOWN CODE

Village of Youngstown Schedule of Regulations

District	Lot Width for Dwellings and Buildings of Mixed Occupancy (§ 250-28A) (feet)	Lot Areas for Dwellings and Buildings of Mixed Occupancy (§ 250-28A) (square feet)	Front Yard (§ 250-28B) (feet)	Side Yard (§ 250-28C) (feet)	Rear Yard (§ 250-28D) (feet)	Maximum Height of Buildings (§ 250-29) (feet)	Minimum Area Requirement for All Structures Erected for Dwelling Purposes (square feet) ¹
R-8A	60	Same as R-8	40	Total: same as R-11 Each yard: not less than 5 feet for single- or two-family dwelling; 8 feet for all others	Same as R-11	Same as R-20, but buildings of mixed occupancy shall have 400 square feet of open space per dwelling unit to be used exclusively for household service activities and not required for off-street parking	1,000 for first unit; 650 for second unit
R-11	80	11,000	40	Total: 25% of width of lot, but need not exceed 25 feet Each yard: not less than 8 feet	25% of depth of lot, but need not exceed 40 feet	Same as R-20	1,250
R-15	90	15,000	40	25% of total width, with a minimum of 10 feet per side	--	--	1,500
R-20	100	20,000	40	Total: 25% of width of lot, but need not exceed 50 feet Each yard: not less than 10 feet	25% of depth of lot, but need not exceed 50 feet	Dwelling: 30 feet; Other principal buildings: 40 feet; Accessory buildings: 15 feet	1,850
R-40 ⁴	125	40,000	60	25% of total width, with a minimum of 15 feet per side	--	--	2,500

NOTES:

¹ Added at time of adoption of Code (see Ch. 1, General Provisions, Art. D). Square footage of a dwelling unit on an existing lot of record that is of substandard size may automatically be waived by the Board of Appeals, taking into consideration the lot and dwelling sizes in the immediate area. In computing the square footage, open porches and garages which extend beyond the main body of the structure shall not be included.

² Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

³ Business establishments and personal service establishments are to be a maximum of 5,000 square feet. See § 250-18A(3).

⁴ For provisions regarding the W, WC-1, WC-2 and B Districts, see §§ 250-21 through 250-24.

ZONING

250 Attachment 2

**Village of Youngstown
Table of Zoning Map Amendments**

Adoption Date	Enactment Number	Description
3-11-1976	L.L. No. 2-1976	Establishes and locates changes in boundary lines of zoning districts in that portion of the village west of South Lake Street and Third Street extended and also that portion of the village south of Swain Road and east of Third Street extended.
6-10-1976	L.L. No. 5-1976	Property located within the area bounded by William Street on the north, Lockport Street on the south, Second Street on the west and Third Street on the east, except properties located within 300 feet north of the north line of Lockport Street, is designated to be an R-8A District.
3-10-1977	L.L. No. 3-1977	The following parcels are removed from the Environmental Protection District and placed in the Commercial District: Parcels No. 1, 2, 3, 4, 5 and 7, located in Section 8, as they appear on Tax Map No. 102 of the village.
1-22-1981	L.L. No. 1-1981	All parcels of land on the east side of South Lake Street, as shown on Tax Map No. 45.14-1-3 and Tax Map No. 45.14-1-2, now classified as RCL in the north portion of the village be reclassified from RCL-3 to R-11.
3-12-1981	L.L. No. 2-1981	The Environmental Protection District is modified by removing the westerly portions of the following described parcels and designating them to be in the Commercial District: Parcels 38, 39 and 40 in Section 1 at page 045.18 of the Official Tax Map of the village.
11-8-1984	L.L. No. 1-1984	The Environmental Protection District is modified by removing the westerly portion of the following described parcel and designating it to be in the Commercial District: Parcel numbered and designated as 059.06-1-1 of the Official Tax Map of the village.
4-24-1986	L.L. No. 1-1986	The Environmental Protection District (EPD) is removed from the Zoning Map. All former EPD areas fronting the Niagara River from the south right-of-way line of the south end of Water Street extending to the northern boundary of Tax Map No. 045.18-1-43 are designated as being in the CR District. All other properties formerly designated as EPD areas revert to their particular Residential District classification. The portions of those properties along the east side of

YOUNGSTOWN CODE

Adoption Date	Enactment Number	Description
		Water Street and below the bank from Main Street are designated as being in the CR District.
10-19-1989	L.L. No. 3-1989	Establishes the Waterfront District, Waterfront Commercial District and the Bluff Overlay District.
8-23-1990	L.L. No. 3-1990	The R-40 District located in the north portion of the village is amended as follows: That portion of land measuring 311+/- feet by 539+/- feet lying east of South Lake Street and along the north boundary line of the village and being the northwest corner of an existing parcel of land shown on Tax Map No. 45.15-1-1, now classified as R-40, is reclassified to R-8A classification.
1-24-1991	L.L. No. 1-1991	Establishes the Waterfront Commercial 1 District and the Waterfront Commercial 2 District.
1-30-1992	L.L. No. 2-1992	The R-40 District is modified by changing the westerly portion of the Tax Map No. 45.15-1-2, comprised of approximately 18 acres of the 53.10 acre parcel, more specifically that area of land designated as Lots 602 through 638 on a proposed extension map of Section III of Lakeside Manors, from the R-40 classification to an R-11 classification.
8-11-1994	L.L. No. 2-1994	A parcel of land on the north side of Elliott Street and being part of Village Lot No. 19 is changed from commercial classification to an R-11 classification and becomes part of property identified as Tax Map No. 59.01-1-50. A parcel of land on the north side of Elliott Street and being Village Lot No. 136, having dimensions of 21 feet by 51 feet, is changed from an R-11 classification to a commercial classification and becomes part of property identified as Tax Map No. 59.06-1-17.
5-29-2003	L.L. No. 2-2003	The R-CL3 District located in the Village as shown on the official Zoning District Map of the Village and with the following precise legal description is hereby reclassified to R-11: that tract or parcel of land, situate in the Village of Youngstown, Town of Porter, County of Niagara and State of New York, being part of Lots No. 1 and 2 mile reserve and according to a map made by Jesse P. Haines filed March 3, 1890, under Cover No. 171 now in Book 6 of microfilmed maps at Page 545, also known and distinguished as Lot Nos. 183, 184, 185, 186 and 187, being situate on the north line of Oak Street and together being 920.7 feet front and rear by 473.22 feet in depth, commencing 796.62 feet east from the intersection of said north line of Oak Street with the east line of Third Street as shown on

ZONING

Adoption Date	Enactment Number	Description
		said map; excepting therefrom Lot Nos. 1 through 10 both including as shown on map made by Wallace P. Keller filed September 13, 1948, now in Book 31 of microfilmed maps at Page 3029; together with all right, title and interest of, in and to any streets and roads abutting the above described premises. Tax Map No. 45.18-4-28.
2-27-2005	L.L. No. 1-2005	The R-40 District located in the Village as shown on the official Zoning District Map of the Village and with the following precise legal description is hereby reclassified to R-15: that tract or parcel of land, situate in the Village of Youngstown, Town of Porter, County of Niagara, State of New York, being part of Lot B, of the Fort Niagara Tract bounded and described as follows: Beginning at a point in the north line of said Lot B, distant 2219.89 feet east of the point of intersection of the said north line of Lot B with the east line of South Lake Street, said point being the northwest corner of Lakeside Manors-Section 3 filed in the Niagara County Clerk's office in microfilm book 53 at pages 5401 and 5402; thence easterly along the north line of said Lot B a distance of 1420.65 feet to a point in said north line of Lot B at its intersection with the lands appropriated by Niagara Frontier State Park Commission, Proposal 141, Liber 1409 of deeds at page 58, Map 22R-231 Parcel 131; thence southerly at an interior angle of 93 degrees 14'02" with the last described line, a distance of 839.67 feet to a point; thence continuing southerly at an exterior angle of 183 degrees 56'40" with the last described line, a distance of 220.40 feet to the north line of Lot No. 1 of the New York State Mile Reserve and the south line of Lot B Fort Niagara Tract, said point being an angle point in lands appropriated by Niagara Frontier State Park Commission, Proposal 139, Liber 1360 of Deeds at page 487, Map 22R-229 Parcel 129; thence westerly along the north line of Lot No. 1 of the New York State Mile Reserve and the south line of Lot B Port Niagara Tract, a distance of 1667.32 feet to the southeast corner of Lot No. 1105 as shown on a map of Section 1, Lakeside Manors, a Subdivision of Lands in part of Lot B of the Fort Niagara Tract and part of Lot 1 of the New York State Mile Reserve, Village of Youngstown, New York by Wallace P. Keller, filed in the Niagara County Clerk's Office on September 7, 1961, now in Book 41 of Microfilmed Maps at Page

YOUNGSTOWN CODE

Adoption Date	Enactment Number	Description
		4074; thence northerly along the east line of Subdivision Lot No. 1105, a distance of 115 feet to the south line of Brookshire Road; thence westerly along the south line of Brookshire Road 48.75 feet to a point where said south line is intersected by the east line of Lot No. 601 as extended southerly to the south line of Brookshire Road; thence northerly along the east line of said Lot 601 and its extension southerly, a distance of 66.00 feet to the southeast corner of Lot No. 601, said point being on the north line of Brookshire Road; thence easterly along the north line of Brookshire Road extended a distance of 40.00 feet to a point; thence northerly parallel with the east line of Lot 601 a distance of 124.84 feet to a point, said point being on the north line of Lot 601 extended easterly; thence westerly along the north line of Lot 601 extended a distance of 40.00 feet to the northeast corner of Lot 601; thence northeasterly along Lots 602 and 603 a distance of 181.57 feet to the northeast corner of Lot 603; thence northerly along Lot 604 a distance of 120.35 feet to the northeast corner of Lot 604; thence northerly along Lot 605 a distance of 120.00 feet to the northeast corner of Lot 605; thence northerly along Lots 606 and 607 a distance of 180.00 feet to the northeast corner of Lot 607, said point being a point on the south line of Carrollwood Drive; thence northeasterly along the easterly line of Carrollwood Drive a distance of 72.54 feet to the southeast corner of land reserved for a Detention Basin, said point being a point on the north line of Carrollwood Drive; thence northerly along the lands reserved for the detention basin a distance of 163.19 feet to the point or place of beginning. Containing 37.785 acres more or less. Premises known as Tax Map No. 45.15-1-2.
11-10-2005	L.L. No. 2-2005	A parcel of land on the west side of Main Street, located at 301 Main Street and designated as Tax Map No. 45.18-1-43, is hereby changed from a commercial classification to an R-8A classification.

APPENDIX



**DISPOSITION
LIST**

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Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

[The following is a chronological listing of legislation of the Village of Youngstown adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Village Clerk. The last legislation reviewed for the original publication of the Code was L.L. No. 1-1998, adopted 4-9-1998. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the Village Clerk.]

§ DL-1. Disposition of legislation.

Local Law Number	Adoption Date	Subject	Disposition
2-1998	9-10-1998	Adoption of Code	Ch. 1, Art. I
1-1999	3-11-1999	Vehicles and traffic amendment	Ch. 232
2-1999	3-11-1999	Zoning Board of Appeals alternate members	Ch. 50, Art. I
3-1999	3-11-1999	Planning Board	Ch. 34
4-1999	4-8-1999	Vehicles and traffic amendment	Ch. 232
5-1999	4-8-1999	Safe Boating Zone	Ch. 79, Art. I
1-2000	2-10-2000	Zoning amendment	Ch. 250
1-2001	9-27-2001	Zoning amendment	Ch. 250
2-2001	10-11-2001	Skateboards, scooters and in-line skates	Ch. 194
3-2001	10-25-2001	Water amendment (backflow prevention devices)	Ch. 241
1-2002	1-10-2002	Vehicles and traffic amendment	Ch. 232
2-2002	1-24-2002	Zoning amendment	Ch. 250
	6-13-2002	Water amendment	Ch. 241
3-2002	8-22-2020	Retirement incentive	NCM
4-2002	9-12-2002	Noise	Ch. 145
1-2003	5-22-2003	Vehicles and traffic amendment	Ch. 232
2-2003	5-29-2003	Zoning Map amendment	Ch. 250 (table)
3-2003	9-25-2003	Vehicles and traffic amendment	Ch. 232

Local Law Number	Adoption Date	Subject	Disposition
1-2005	2-27-2005	Zoning Map amendment	Ch. 250 (table)
2-2005	11-10-2005	Zoning Map amendment	Ch. 250 (table)
1-2006	11-9-2006	Sex offenders	Ch. 163
1-2007	2-22-2007	Terms of office: Mayor and Trustees	Ch. 45, Art. I
1-2009	9-10-2009	Abandoned vehicles amendment	Ch. 226
2-2009	9-10-2009	Building construction amendment	Ch. 83
3-2009	10-22-2009	Vehicles and traffic amendment	Ch. 232
4-2009	11-12-2009	Vehicles and traffic amendment	Ch. 232
1-2010	8-12-2010	Animals: public defecation of dogs, horses and other domestic animals amendment	Ch. 67, Art. III
2-2010	8-12-2010	Flood damage prevention	Ch. 119
1-2011	5-12-2011	Zoning amendment	Ch. 250
2-2011	10-13-2011	Licensed occupations amendment	Ch. 141
3-2011	10-13-2011	Vehicles and traffic amendment	Ch. 232
1-2012	10-25-2012	Animals: raising fowl	Ch. 67, Art. IV
2-2012	10-25-2012	Animals: keeping birds of prey	Ch. 67, Art. V
	11-8-2012	Procurement Policy amendment	Ch. 36
1-2013	10-24-2013	Drainage	Ch. 120

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DEFINITIONS NOTE: For the convenience of the Code user, all terms defined in this Code are included in the Index under the heading "Definitions and Abbreviations."

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